

Fair Housing 101

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Agenda

- Fair Housing Laws
- Reasonable Accommodation
- Source of Income
- Other Protected Classes
- Advertising
- Case Studies
- Q&A

Fair Housing Laws



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Fair Housing Laws

- ***Federal Fair Housing Act***: Covers most housing in the United States
 - Citation: 42 USC § 3601 et seq. Most commonly known as Title 8 of the Civil Rights Act.
 - Enforcement Agency: U.S. Department of Housing and Urban Development (HUD)
- ***Illinois Human Rights Act***: Covers most housing in Illinois
 - Citation: 775 ILCS 5/3-101 et seq.
 - Enforcement Agencies: Illinois Dept. of Human Rights; Illinois Human Rights Commission

Fair Housing Laws

- ***Chicago Fair Housing Ordinance***: Covers nearly all housing in the City of Chicago
 - Citation: Chi. Mun. Code 5-8-010 et seq.
 - Enforcement Agency: City of Chicago Commission on Human Relations
- ***Cook County Human Rights Ordinance***: Covers most housing in Cook County
 - Citation: Cook County Mun. Code 42-30 et seq.
 - Enforcement Agency: Cook County Commission on Human Rights

Protected Classes

Combined, Chicago, Cook County, Illinois and Federal fair housing laws and ordinances prohibit discrimination based on:

- Race
- Color
- National Origin
- Disability
- Ancestry
- Religion
- Familial Status
- Age (40 and over)
- Ancestry
- Sex
- Gender Identity
- Pregnancy
- Marital Status
- Housing Status
- Sexual Orientation
- Military Status
- Unfavorable Military Discharge
- ***Covered Criminal History***
- ***Source of Income***

Who is covered under these laws?

- Real Estate Owners
- Managers
- Salespersons
- Brokers
- Rental Agents
- Other Agents or Employees of the Owner or the Owner's Agents
- Builders
- Appraisers

Types of real estate covered:

- Houses
- Apartments
- Condominiums
- Mobile Home Parks
- Vacant Land
- Other Types of Residential Property

Examples of Prohibited Activities:

- Refusing to engage in a real estate transaction
- Refusing to receive or transmit a bona fide offer
- Misrepresenting the availability of property for inspections, rental or sale when in fact the property is available
- Failing to disclose property listings
- Expressing orally or in writing an intent to engage in unlawful discrimination directly or indirectly

Reasonable Accommodation



Definition of Disability

- The Fair Housing Act defines disability as a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
- Major life activities include; learning, breathing, walking, caring for oneself, etc.
- Disabilities can be apparent or hidden

*ADA, IHRA, CCHRA, CHRO definitions all consistent

Definition: Reasonable Accommodation

A reasonable accommodation is a change, exception, or adjustment to a program, service, or procedure that allows a person with a disability equal enjoyment of housing.

Examples of Disability Discrimination:

- Refusing to rent to people with disabilities
- Discriminating in rental terms and conditions
- Refusing to rent to blind, hearing impaired persons or persons who use guide, hearing or support animals
- Charging extra for service animals
- Failure to make reasonable accommodations in rules, policies, practices and services to afford persons with disabilities equal opportunity and housing enjoyment

Reasonable Accommodations

- Property owners must consider *reasonable accommodation* requests from their tenants with disabilities.
- The law *requires* property owners to grant tenants with disabilities a reasonable accommodation.
 - 2 Exceptions:
 - *accommodating the request would fundamentally alter* the nature of the provider's operations.
 - the accommodation would create an *undue financial and administrative burden*.

Examples of Reasonable Accommodations

- *Live-In Aides*

- HUD Definition: a live-in aide is “a person who resides with one more elderly persons, or near-elderly persons, or persons with disabilities, who:
 1. Is determined to be essential to the care and well-being of the person,
 2. Is not obligated for the support of the person,
 3. Would not be living in the unit except to provide the necessary supportive services.

Source of Income

Source of Income Discrimination:

- In January 2023, the Illinois Human Rights Act was expanded to provide protection against discrimination related to source of income in housing and real estate transactions.
- The Act prohibits discrimination against a person based on their source of income when renting an apartment or receiving housing-related services. The Act also prohibits real estate brokers and appraisers from discriminating against a person based on their source of income.

Examples of Source of Income:

- Income from employment
- Housing Choice Vouchers (aka Section 8)
- Federal, state, local or private housing assistance
- Emergency housing assistance payments
- Spousal support
- Retirement income
- Veteran's benefits
- Social Security (Retirement benefits, Supplemental Income, Disability)

Violations Based on Source of Income:

- Making any statements or written communications such as “No Section 8,” “Not Section 8 approved,” or “Not set up for Section 8.”
- Refusal to rent to an otherwise qualified person because that person would use a voucher to rent.
- Refuse to cooperate with administrative requirements of the voucher program, such as completing routine paperwork and allowing inspection of the property.
- Engage in a different treatment in the price, terms, conditions, or privileges of tenancy based on use of a voucher or any other source of income.

Minimum Income Standard (HCV)

How to calculate the applicant's portion of the rent when using a minimum income standard:

- Example: Unit is advertised for \$2000. There is a minimum income requirement that income is 2x the rental amount. Participant has a housing choice voucher (CHA) for \$1800. The landlord would use 2x the \$200 tenant portion. \$400. Participant needs to show income of \$400.

Examples: Fair Housing Violations

- What constitutes *discrimination* under these laws?
 - Making discriminatory statements or publishing discriminatory communications.
 - Refusing to complete paperwork or process an offer for the unit based on a prospective tenant's protected class.
 - *Requiring voucher holders to make 3x the total rent*, as the voucher ensures the tenant's rent will be no more than 30-40% of their adjusted income.
 - Steering applicants to a particular property or area based on their protected class.
 - Charging additional fees, restricting access to amenities or common areas, and/or changing standard lease terms based on the tenant's protected class.

Fair Housing: Other Protected Classes



Familial Status and Pregnancy Discrimination

- Prohibit a prospective tenant from having children under 18 residing in their household
- Insert lease provisions that call for termination of the lease if children come to live in the household
- Discrimination against persons who are pregnant or persons who are in the process of adopting or securing legal custody of a child
- Limit the “number of children” under age 18 as opposed to total occupants of a particular unit

Prohibited Acts: Families with Children

- ***Steering***
 - Designating buildings or certain floors to only families with children.
- ***Different terms and conditions***
 - Applying different rules or policies to families with children.

National Origin

- *National origin* is the place in which a person or one of his or her ancestors was born.
- Being of a particular national origin means that a person has or is perceived to have the *physical, cultural, or linguistic characteristics* of a particular national origin group.
- Example of national origin discrimination: Property owners of one national origin group would prefer to rent to individuals of the same group.

Immigrants

- If property owners inquire about immigration status, *they must do so for all applicants.*
- It is illegal to require more documentation or fees for immigrants.
- If a prospective tenant brings along an interpreter, *the property owner or agent must work with them.*

Covered Criminal History

- The *Cook County Just Housing Amendment* establishes a *three-year threshold* for criminal history when screening a prospective tenant to rent a unit
- Property owners cannot consider criminal history that is *more than three years old* and must conduct an individualized assessment of any applicant with criminal history less than three years old.

Violence Against Women Act

- The ***Violence Against Women Act (VAWA)*** is a federal law that protects victims of domestic violence, dating violence, sexual assault and stalking who apply for or live in private housing with a voucher. Protections extend to the entire household, regardless of gender.
 - Protections include removal of the abuser from the voucher and issuance of emergency moving papers.
 - The ***Illinois Safe Homes Act*** also offers protections to victims regarding lease termination and changing locks.
 - Visit ***thecha.org/VAWA*** for more information.

Fair Housing and Advertising



Advertising Your Property

- The law prohibits making, printing, or publishing ads that indicate a preference, limitation, or discrimination based on a protected class.

The law applies to:

- Persons or entities placing ads (property owners, home sellers, realtors, lenders, etc.)
- Advertising agencies preparing ads

Advertising Best Practices

- The content of advertisements should describe the property, not the potential occupant
- Avoid words, symbols, and adjectives that suggest a preference
- Include the Fair Housing Logo and/or Statement
 - *“We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status or national origin.”*



Case Study



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Case Study

- A property owner advertises that he/she is seeking a “quiet, mature resident.”
- Is the property owner violating fair housing law?

Discussion

- Looking for someone who is “quiet” or “mature” is often used as code for “no children,” especially when it is used to describe a desired resident.
- Property owners should not describe the “type” of person he/she wants for the property. The property owner should only describe the amenities of the property when advertising a unit.

Case Study

- A property owner only shows an older, single woman a unit on the ground level, when a unit is available on the second floor.
- Is the property owner violating fair housing?

Discussion

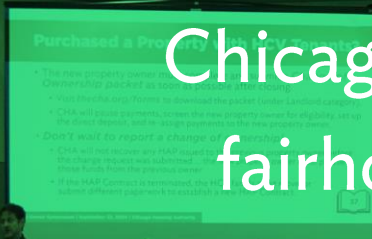
- The property owner is steering based on age and possibly other protected classes such as sex or marital status
- A perfectly sincere concern for this woman's safety may have led the owner to steer the tenant to the lower floor unit he perceives as safer for elderly people.

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