

"HOUSING DISCRIMINATION"
WHAT IS RENTAL HOUSING DISCRIMINATION?

Housing discrimination occurs when individuals are treated differently because of their belonging to a "protected class". These "protected classes" are categories that describe characteristics of individuals.

WHAT ARE PROTECTED CLASSES? Local, state and federal laws provide protection from discrimination and/or harassment based on these protected classes:

- Race or Color
- Religion
- National Origin
- Sexual Orientation
- Gender
- Ancestry
- Familial Status
- Marital Status
- Age [Except legally designated senior communities (Civil Code 51.12)]
- Source of Income (a Landlord may not discriminate against, or harass you because you receive government assistance such as AFDC, SSI, etc.)
- The California Supreme Court has ruled that the Unruh Civil Rights Act (Civil Code §51) also forbids "arbitrary" discrimination based on some personal Characteristics (such as sexual orientation or appearance).

If you believe you are a victim of discrimination, contact the Human Rights/Fair Housing Commission (HR/FHC), the Department of Fair Employment & Housing (DFEH) or the Department of Housing and Urban Development (HUD).

RENTAL HOUSING: In residential rental housing, California landlords may not treat tenants or lodgers differently based on factors that have nothing to do with their ability to do the following:

- Pay rent in full and on time.
- Treat neighbors and the landlord with common courtesy.
- Take reasonable care of the rented property.
- Be honest in the application process.

Landlords will sometimes attempt to keep certain people from moving into their units by using illegal discrimination tactics to avoid renting to them. If you feel you have been subjected to these tactics, you may file a complaint with the Human Rights/Fair Housing Commission, the California Department of Fair Employment and Housing or the Department of Housing and Urban Development (HUD.)

FEDERAL AND STATE LAWS: Various federal and state laws address different protected class combinations to prevent illegal discrimination. Discrimination may include being denied a rental unit or a housing loan, when that denial is based upon any of the above criteria. Following is a summary of the fair housing laws, which apply to rental housing discrimination.

THE FEDERAL FAIR HOUSING ACT OF 1968

The Federal Fair Housing Act of 1968 protects against discrimination on the basis of race, color, religion, sex and national origin. The Fair Housing Act was expanded in 1988 by the Fair Housing Amendments Act, which added the protected classes of physical handicap, mental handicap, and familial status. Together these two laws are generally referred to as "The Fair Housing Act:" and they extend beyond renting to include selling, leasing, and all assistance

provided by financial institutions. One example of the requirements of the Fair Housing Act is that a landlord must allow a person with a disability to make reasonable modifications to the unit in which she/he lives (e.g. install grab bars, build a ramp, etc.).

The Fair Housing Act outlaws intentional discrimination and discriminatory practices which impact members of the above mentioned protected classes. It applies to most housing except single family homes when the owner is not represented by a broker or rental agent, and buildings containing four units or less when the owner lives on the premises (owner-occupied dwellings). However, this exception does not apply if the owner advertises the property for sale, rent, or lease, and indicates a preference, limitation, or discrimination based on one or more of the classes protected by the Act.

CALIFORNIA FAIR EMPLOYMENT & HOUSING ACT (FEHA)

The FEHA prohibits discrimination on the basis of race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, sexual orientation, and disability.

Practices specifically prohibited by the Act include:

- Conditions in contracts which restrict the sale or occupation of a dwelling on the basis listed above.
- Exclusionary zoning.
- Asking an applicant to identify his/her race, color, etc.
- Blockbusting (attempts by sellers or landlords to encourage a class of people to leave an area)
- Steering (placing members of a protected class in segregated sections of an apartment complex or area of a city).
- Redlining (practices by banks that limit lending in particular areas because of the demographic character of the area).
- Discriminatory advertising.
- Providing different terms or conditions in a rental or sales agreement.
- Misrepresenting the availability of housing.
- Sexual orientation discrimination is also against public policy.
- Source of income includes lawful, verifiable income paid directly to a tenant or a representative of a tenant. Where the tenant receives a government rent subsidy, financial or income standards used for determining rental eligibility must be based on the portion of the rent to be paid by the tenant.
- A housing provider must also account for the aggregate income of persons residing together (or proposing to) on the same basis as the aggregate income of married persons residing together.
- Discrimination based on a protected class (race, color, religion, etc.) includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have any of those characteristics. Failing to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons.

CALIFORNIA UNRUH CIVIL RIGHTS ACT

The Unruh Civil Rights Act applies to race, color, religion, sex, national origin, ancestry, and/or disability. Courts have also interpreted Unruh to prohibit other forms of arbitrary discrimination in public accommodations, not just the ones specified by the Act. The renting of houses and apartments is considered to be a public accommodation. A violation of the "Americans with Disabilities Act" is also a violation of the Unruh Act.

LOCAL ORDINANCES

- In the City of Sacramento, ordinances prohibit discrimination in housing on the basis of HIV/AIDS status

- In the City of Sacramento it is an unlawful real estate practice for any person to discriminate in the provision of housing wholly or partially on the basis of sexual orientation. "Sexual orientation" means actual or supposed homosexuality, heterosexuality, or bisexuality.

SENIOR CITIZEN HOUSING

Fair housing laws allow complexes to designate themselves as "seniors only". The Federal Fair Housing Act requires senior housing to be intended for and occupied exclusively by persons age 62 or older or intended and operated for people 55 years of age or older where at least one of the occupants in 80% or more of the units in the complex is 55 years of age or older. The Act further requires complexes to create written policies demonstrating an intention to provide housing for people over age 55. These requirements also apply to senior mobile home parks in California.

A senior citizen housing development may require that all dwelling units be occupied by at least one senior and that each other resident be a qualified permanent resident, a permitted health care resident, or a person under 55 who had residence in the unit prior to January 1, 1999 in a development which relied on a special design requirement exemption.

SPECIAL ISSUES IN HOUSING DISCRIMINATION

Housing Discrimination Based on Familial Status occurs because the individual has children, or because of the number of children they have. This type of discrimination may also occur when an apartment complex imposes different rules upon children than they apply to adults.

Housing Discrimination Based on Disability The Americans with Disabilities Act (ADA) requires that common areas of apartment buildings and complexes, such as laundry rooms and clubhouses, be accessible and have an accessible path of travel through the complex and to the units for those tenants whose mobility is impaired. This falls under the landlord's responsibilities unless she/he could show that it would create an undue hardship to make this accommodation (i.e., it would be significantly difficult or expensive to make the accommodation).

The Fair Housing Act requires landlords make common areas accessible (some exceptions may apply), and to allow tenants with disabilities to build a ramp, or make other reasonable modifications to and within the unit itself. Under the Fair Housing Act, a landlord must also make reasonable modifications to the policies and services provided. (One court has even held that a landlord may be required to waive a mandatory fee for a disabled tenant.)

Consequently, under California law a landlord may not reject the rental application of an individual based on the fact that she/he uses a service animal, even if the complex has a no-pets policy. Landlords have also been required to provide disabled parking and/or parking closest to or most convenient to the unit occupied by a person whose mobility is impaired.

Housing Discrimination Based on Marital Status The FEHA also outlaws discrimination in housing on the basis of whether tenants or buyers are single, married or unmarried cohabitants.

ENFORCEMENT OF HOUSING DISCRIMINATION VIOLATIONS

Federal and State There are several options for individuals who believe they have experienced housing discrimination. The individual may file a complaint with the California Department of Fair Employment and Housing (DFEH) or the United States Department of Housing and Urban Development (HUD). Both have the power to make decisions, which are legally enforceable.

An individual has one year from the date the discrimination occurred to file a complaint with HUD or the DFEH.

An individual generally has 2 years from the date the discrimination occurred to file a lawsuit in court.

People who believe they have been the victims of housing discrimination can also file a lawsuit in either federal or state court and also in Small Claims Court.

In either State or Federal Court, an individual can obtain monetary damages and a court order to stop the discriminatory actions if the court believes that discrimination has occurred. The court may also award the prevailing party reasonable attorneys' fees and costs against any party other than the state.

LOCAL

If the discrimination occurred within the City or the County of Sacramento, a complaint can be filed with the Human Rights/Fair Housing Commission. The Commission will investigate, which may include testing, to determine if there is merit to the complaint. If merit is found, the Commission may attempt to mediate, or it may bring suit on its own behalf to end the discriminatory conduct.

REMEDIES

Victims of housing discrimination may receive an order for the discrimination to stop; for the individual to get, or remain in the unit; money damages; and payment of attorney's fees and court costs.