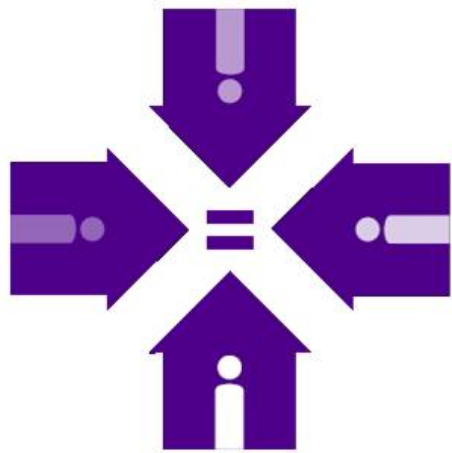




Housing Discrimination:
Advocating for your clients' civil rights



**Fair Housing
Contact Service, Inc.**

...on the path to equality.

April 18, 2012



Agency Mission

Fair Housing Contact Service strives to prevent and eliminate housing discrimination and to promote equal housing opportunity.

We are a non-profit agency providing educational opportunities, counseling and support to people concerned about fair housing in our communities.



Agency Services

- Fair Housing Enforcement
 - Complaint Assistance
 - Preliminary Investigation
 - Advocacy
- Tenant-Landlord Counseling
- Housing Counseling
 - First-Time Homebuyer
 - HECM Reverse Mortgage
 - Foreclosure Intervention



Fair Housing Act

Federal, state, and local fair housing laws ensure equal housing opportunity, or non-discrimination, in housing for the “protected classes” within each of their jurisdictions.

Applies to ALL housing-related transactions, including: rental, sale, lending, insurance, homeowners associations, etc.



Protected Classes

- Federal and Ohio law:
 - Race
 - Color
 - National Origin
 - Religion
 - Sex
 - Family Status
 - Disability
- Additional protected classes in Ohio:
 - Ancestry
 - Military Status



Protected Classes

- Additional protected classes in Akron:
 - Sexual Orientation
 - Gender Identity
 - Ancestry
- Additional protected classes in Medina County, Rittman, and Chippewa Lake:
 - Age
 - Marital Status
 - Creed
- Protected in some other states and municipalities:
 - Source of income
 - Economic status
 - Student status
 - Et cetera.



Actions Prohibited when Connected to a Protected Class

42 U.S.C. § 3604

- a. To refuse to sell or rent after the making of a bona fide offer, or to otherwise make unavailable or deny a dwelling.
- b. To discriminate in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities.
- c. To make, print, or publish any statement, notice, or advertisement that indicates any preference, limitation, or discrimination.
- d. To falsely deny the availability of a dwelling.



Actions Prohibited when Connected to a Protected Class

42 U.S.C. § 3604 (cont'd.)

- e. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons.
- f. Additional disability-related actions:
 1. Failure to meet accessibility requirements in multi-family housing built for 1st occupancy after 3/13/1991.
 2. Refusal to permit reasonable modifications.
 3. Refusal to grant reasonable accommodations.

42 U.S.C. § 3617 – Prohibits retaliation against persons who file complaints.



LGBT Rule

- “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity”
- Effective Date: March 5, 2012
- Enforced by local HUD Offices
- Changed definition of “family” in HUD programs

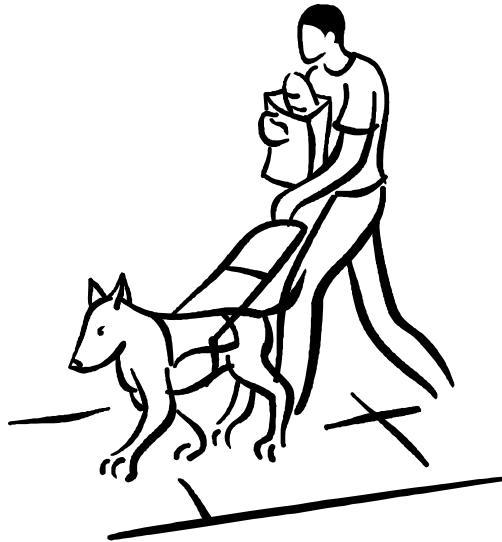


LGBT Rule

- Prohibits discrimination because of:
 - Sexual Orientation
 - Gender Identity
 - Marital Status
- Provides equal access to HUD-assisted or insured housing.

i.e. Public Housing, Subsidized Housing, HCVP, CDBG, HOME, HOPWA, Sec. 236, & Supportive Housing for the Elderly and Persons with Disabilities as well as FHA-insured mortgages
- No exemption for religious entities

Fair Housing Rights of People with Disabilities





Disability Defined within the Fair Housing Act

“‘Handicap’ means, with respect to a person --

- 1. a physical or mental impairment which substantially limits one or more of such person’s major life activities,*
- 2. a record of such an impairment, or*
- 3. being regarded as having such an impairment....”*



What is a “major life activity”?

- Self-care
- Manual tasks
- Walking
- Breathing
- Seeing
- Hearing
- Speaking
- Learning
- Thinking
- Understanding
- Working
- Etc.



Examples of disabilities

Orthopedic disabilities / injuries	Cancer
Visual	Heart Disease
Speech & Hearing	HIV/AIDS
Cerebral Palsy	Developmental Disabilities
Autism	Emotional Illness
Epilepsy	Alcoholism
Muscular Dystrophy	<u>Former</u> Drug Addiction
Multiple Sclerosis	<u>Current</u> Drug Treatment
Diabetes	Learning Disabilities

Reasonable Accommodation

A reasonable change in rules, policies, or practices that will allow a qualified person with a disability to fully use and enjoy a dwelling.





Examples of Accommodations

- Permission to pay rent on the 3rd of the month because income is derived from SSDI
- Providing a sign language interpreter for a potential tenant who is deaf
- Permitting a tenant's service or support animal regardless of a "No pet" policy
 - Housing providers are not permitted to charge a pet fee, pet deposit, or pet rent for an animal needed due to a disability
- Copying a third party on all correspondence to a tenant at the tenant's request

Reasonable Modification

A physical modification to an apartment or common area that is reasonable and necessary for a qualified person with a disability to use and enjoy a dwelling.





Examples of Modifications

- Ramps or curb-cuts
- Grab bars
- Lever-style door knobs
- Chair lifts
- Additional lighting
- Flashing doorbells or smoke detectors



Requesting reasonable accommodation or modification

Identify with your client what accommodations or modifications they might need within their unit and/or common areas.

- Provide a prescription or letter verifying client's need for requested accommodation/modification.
- Encourage your client to present their request in writing and to keep a copy of their request.
- Your client may tell you that their landlord or manager has requested verification that the requested accommodation/modification is necessary due to their disability. The law permits this, but does not grant housing providers the right to request their tenant's diagnosis.



Verifying the need for a requested accommodation or modification

If request is from a client's housing provider:

- Respond promptly in writing
- Place statement on prescription paper or letterhead clearly identifying your name and contact information
- Sign the prescription or letter
- Indicate that the tenant:
 - is a individual for whom you provide services,
 - has a disability covered by the Fair Housing Act, and
 - that the requested accommodation/modification is necessary due to their disability which limits their ability to [enter affected daily life activity here].
- Do not disclose additional personal health information such as diagnosis, medication prescribed, etc.



Verifying the need for a requested accommodation or modification

If request is from a Federal/State Agency:

- If your client's housing provider denied their request for accommodation/modification, they may have filed a charge of housing discrimination with the US Dept. of Housing & Urban Development (HUD), the Ohio Civil Rights Commission (OCRC), or other enforcement agency.
- Respond promptly to the request, likely a questionnaire from the enforcement agency with a release statement signed by your client authorizing disclosure of personal health information.
- Answer all questions on the form and review your original letter/prescription to ensure consistency.
- Your verification is required to support your client's request.



Verifying disability-based need

- Housing providers may:
 - Verify that a person has a disability
 - Verify that the request is needed due to the disability
- Housing providers may not:
 - Request a tenant's diagnosis or medical records
 - Request proof of an obvious/known disability
 - Share tenants' disability-related information with staff who do not need to know or with other tenants



Housing Providers must consider ALL accommodation & modification requests

The housing provider should review the request and determine whether it is reasonable.

- If granting the request would present an “undue burden” or “fundamental alteration” it can be denied as unreasonable.
- If determined to be unreasonable, the housing provider must explore whether an alternate modification/accommodation might be reasonable and meet the individual’s needs.



Who pays for a modification?

Generally:

- **Private Market** – The tenant pays.
- **Subsidized Housing** – The Housing Provider pays unless it presents a great financial or administrative hardship.
- **Multi-family Housing first occupied after March 13, 1991** - The housing provider must pay costs of bringing it into compliance with the Fair Housing Act's Accessibility Guidelines.



Fair Housing Act Accessibility Guidelines

Require covered multifamily housing built for first occupancy after March 13, 1991 to meet these minimum accessibility standards:

- Building entrance wide enough for a wheelchair accessed via a route without steps
- Accessible public and common-use areas
- Doors that allow passage by a person in a wheelchair



Fair Housing Act Accessibility Guidelines

Accessibility standards (continued):

- An accessible route into and through a dwelling unit
- Light switches, thermostats, etc in accessible locations
- Reinforcements in bathroom walls for later installation of grab bars
- Kitchens and bathrooms that allow a wheelchair to maneuver about the space



Questioning Prospective Tenants About Illegal Drug Use

- Drug addiction and alcoholism are considered disabilities under the fair housing laws. An individual is protected from discrimination on these bases if they were treated in the past or if they are currently in recovery.
- **Current** substance abuse is not protected.
- Housing providers may not ask about a potential tenant's **past** illegal drug use.



Fair Housing Practices: Families with Children





Who is protected under “family status”?

- Households with children under 18
- Pregnant women
- People who are in the process of securing custody or guardianship of children under 18



Examples of discrimination on the basis of family status

- Charging fees on a per-child basis
- Steering households with children to certain units
- Forbidding normal child conduct
- Instituting restrictive rules regarding children
- Disallowing bedroom-sharing, unless other occupancy guidelines govern



Fair Housing Practices: Discrimination on the basis of National Origin





Who is protected by “national origin”?

- National Origin protection makes it illegal to discriminate against someone in housing based upon what country they are from.
- US citizens and immigrants (refugees, international students, exchange students, and other foreign-born people) in the country are protected from discrimination in housing on this basis



Examples of Discrimination on the Basis of National Origin

- Differential treatment because of a noticeable accent
- Requiring proof of citizenship, US birth certificate, or social security number to rent
- Asking prospective tenants about citizenship or immigration status unless all tenants are asked for that information
- Providing less maintenance or worse housing to people on the basis of their national origin
- Information is available on working effectively with people with limited English proficiency from the federal government at: www.lep.gov



Landlords must act to address harassment by neighbors who are their tenants

FHA doesn't just make it illegal for landlords and property managers to discriminate; it also says that housing providers can not ignore discrimination among residents in their rental properties.



Advocating for Fair Housing Rights





You can make a difference!

- By knowing the Fair Housing laws you can help advocate for your clients' housing rights
- If you suspect something is illegal or inappropriate, contact Fair Housing Contact Service for assistance. Our office is here to provide support for you and your clients.

Housing Discrimination Complaints





Administrative Complaint Process

1. Complaint filed with OCRC or HUD
2. Mediation offered
3. If complaint cannot be resolved, investigation is conducted
4. OCRC / HUD issues "Probable Cause" or "No Probable Cause" determination
5. If "Probable Cause" conciliation offered
6. If conciliation fails, complaint filed with Administrative Law Judge or in court



Potential Outcomes

- *Civil penalties*
- *Money damages paid to the Complainant*
- *Future reporting requirements/monitoring*
- *Fair Housing training*
- *Provide Complainant the housing initially denied them, or next available unit*
- *Approve accommodation/modification*
- *Change discriminatory policies/rules*
- *Verbal or written apologies*



Helpful Websites

- Fair Housing Contact Service
www.fairhousingakron.org
- Rental Housing Network In Ohio (RHINO)
home.rhino.com
- National Fair Housing Alliance
www.nationalfairhousing.org
- National Fair Housing Advocate Online
www.fairhousing.com
- US Dept. of Housing & Urban Development
www.hud.gov



Legal Disclaimer

If you have any further questions about this presentation please call the office at 330-376-6191.

This presentation is not intended as legal advice. If you have questions about a particular legal situation, contact an attorney.

This presentation is not intended to create an attorney-client relationship. This presentation is intended for informational purposes.



Fair Housing Contact Service

441 Wolf Ledges Parkway

Suite 200

Akron, OH 44311

Phone: 330-376-6191

Fax: 330-376-8391

Toll-Free Long Distance: 1-877-376-6191

info@fairhousingakron.org

www.fairhousingakron.org