



LIVE

YOU HAVE THE RIGHT TO LIVE WHERE YOU CHOOSE.

REPORT HOUSING DISCRIMINATION.
1-800-669-9777 TTY 1-800-972-9275
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LIVE FREE
EQUAL HOUSING OPPORTUNITY

REUSING TO RENT TO PERSONS BECAUSE THEY HAVE CHILDREN IS ALMOST ALWAYS ILLEGAL.

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REPORT HOUSING DISCRIMINATION
RACE - COLOR - NATIONAL ORIGIN - SEX - RELIGION - DISABILITY - FAMILY STATUS

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REASONABLE ACCOMMODATIONS ARE YOUR RIGHT BY LAW.

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Outline:

1. FHEO AND ERC: WHO WE ARE
2. OVERVIEW OF FAIR HOUSING LAWS
3. IMMIGRANT COMMUNITIES AND NATIONAL ORIGIN DISCRIMINATION
4. TITLE VI AND LIMITED ENGLISH PROFICIENCY
5. AFFIRMATIVELY FURTHERING FAIR HOUSING
6. STATE AND LOCAL IMMIGRATION RELATED LAWS



FHEO's Mission

To create equal housing opportunities for all persons in America by administering laws that prohibit discrimination in housing on the basis of race, color, religion, national origin, sex, disability, and familial status.



FHEO's Jurisdiction

Extends to all aspects of housing including sales, advertising, financing, rental, design, and construction.

In a given year this potentially extends to:

- 1,840,000 homes for sale*
- 34,073,000 rental units across the United States**
- 2,030,000 mortgage originations***

*National Association of Realtors

**US Housing Market Conditions Data

***Mortgage Bankers Association of America



The Equal Rights Center

- The Equal Rights Center (ERC) is a non-profit civil rights organization dedicated to promoting equal opportunity in housing, employment, public accommodations, and government services through education, research, testing, counseling, enforcement, and advocacy.



• The Equal Rights Center

Programs

- Fair Housing
- Fair Employment
- Disability Rights
- Immigrant Rights

Areas

- Housing
- Employment
- Public Accommodations
- Government Services

Activities

- Counseling and Advocacy
- Education and Outreach
- Testing
- Compliance Services
- Research
- Enforcement



Poverty & Race Research Action Council

- The Poverty & Race Research Action Council is a civil rights policy organization based in Washington, DC, working to analyze and address the racial impacts of federal policy in housing, education, and health – and the continuing impacts of racial and economic segregation on low income communities of color.



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The image is a black and white advertisement for the Equal Housing Opportunity. It features a photograph of a woman holding a young child. The text is arranged in a clean, sans-serif font. At the top, it states that refusing to rent to people with children is almost always against the law. Below this, it says "LIVE FREE" and shows the Equal Housing Opportunity logo, which is a house with an equals sign inside. At the bottom, it provides contact information for reporting housing discrimination, including a phone number, a TTY number, and a website URL.

The State of Fair Housing

Discrimination Because of Race, Color and National Origin

When attempting to rent an apartment:



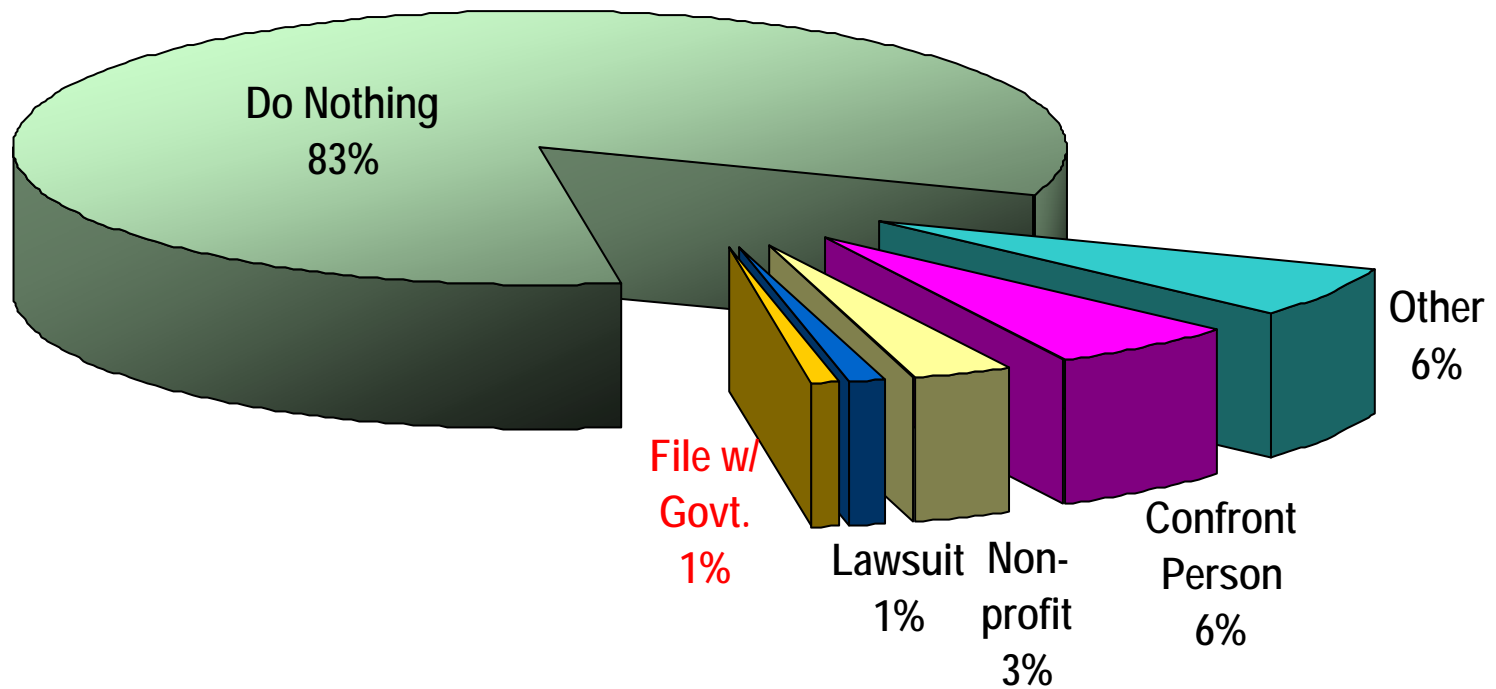
- Whites are consistently favored over blacks 20% of the time*
- Whites are consistently favored over Hispanics 25% of the time*
- Whites are consistently favored over Asian American and Pacific Islanders 21.5% of the time**

*Source: “Discrimination in Metropolitan Housing Markets, Phase I”, 2002

**Source: “Discrimination in Metropolitan Housing Markets, Phase II”, 2003



Action Taken by People Who Believe They Have Experienced Discrimination



* Source: "How Much Do We Know," 2002



The State of Fair Housing

83% of people who believe they have experienced housing discrimination **do not report it.**

This is for a variety of reasons:

- Lack of knowledge of how to report it
- Belief that nothing will come from reporting it
- Mistrust of the government
- Belief that fighting it will cost too much

* Source: "How Much Do We Know," 2002



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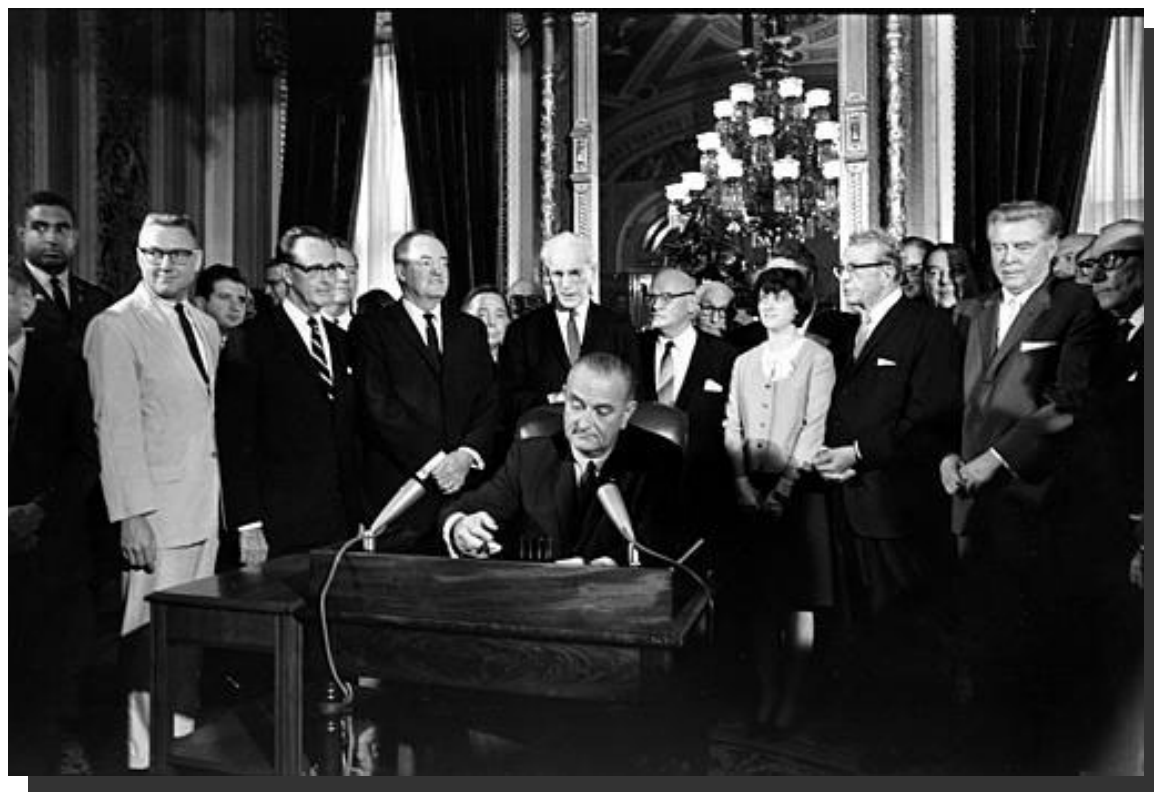
**EQUAL HOUSING
OPPORTUNITY**

Fair Housing Laws



The Fair Housing Act

One week after Dr. Martin Luther King, Jr. was assassinated, Congress passed the nation's first fair housing law, Title VIII of the Civil Rights Act of 1968—known as the Fair Housing Act



The Fair Housing Act

The Fair Housing Act: prohibits discrimination
on the basis of:

1. Race
2. Color
3. Religion
4. National Origin
5. Sex
6. Family Status
7. Disability





D.C. Human Rights Act of 1977

- The D.C. Human Rights Act protects individuals from discrimination for any of the protected categories mentioned above, regardless of if the protected category is actual or perceived.
- In addition, the Human Rights Act protects individuals from retaliation and coercion, as well as from harassment based on any of the above protected categories.



Additional Protect Classes in DC

- Age
- Family Responsibilities
- Gender Identity or Expression
- Genetic Information
- Marital Status
- Matriculation
- Personal Appearance
- Place of Residence or Business
- Political Affiliation
- Sexual Orientation
- Status as a Victim of Intrafamily Offense
- Source of Income (SOI)



Defining Family Status

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www.hud.gov/fairhousing

- The presence of one or more children under the age of 18 in the household
- Pregnant woman or someone in the process of acquiring legal custody of a child



Discrimination Against Families



- 62% of the public is unaware that it is illegal for an apartment owner to assign families with children to a particular building.
- 16% incorrectly believe that such a practice is permissible.

* Source: "How Much Do We Know," 2002



Defining Disability



- A physical or mental impairment which substantially limits one or more “major life activities”
- A record of having such an impairment
- Does not include current illegal drug use or addiction



Defining Disability Discrimination

Physical or mental impairments include, but are not limited to:

- Visual, speech, mobility or hearing impairments
- Mental/Emotional illness
- AIDS
- Drug addiction (other than addiction caused by current, illegal use of controlled substances)
- Alcoholism



Reasonable Accommodation

- Discrimination can also mean a failure to reasonably accommodate a person's disability
 - A person with a disability may need the landlord to waive or change their rules, practices or procedures to afford that person equal access to the dwelling or public and common areas



Defining Sex Discrimination

Discrimination based on gender, male or female

- Includes sexual harassment in housing
- May apply to housing actions against victims of domestic violence who are most often female (and often persons of color)
- Although sexual orientation is not covered by the Fair Housing Act, sex discrimination may also cover adverse actions against members of the LGBT community because their treatment is based on their gender



Fair Housing and Domestic Violence

- DC Human Rights Act amended to include status as a “victim of an intra-family offense” as a protected class.
- DC Rental Housing Act amended to allow an individual’s status as a domestic violence victim to serve as a defense against eviction, or terminate a lease early, without financial penalty in order to flee abuse.



Fair Housing and LGBT Equality

- Progress made recently at the state and local level such as marriage Equality in New York.
- However, protections are inconsistent in the DC metro area:
 - DC – Marriage equality since 2010
 - Maryland – Recognizes same sex marriages performed in other states
 - Virginia - Amendment in place outlawing same sex marriage in the commonwealth.
 - Gender Identity – Protected in DC, and local jurisdictions in Maryland (Montgomery County and City of Baltimore)
- Legislative Initiatives – bill introduced to amend the FHA to include sexual orientation (Cong. Jerry Nadler D-NY) – Unlikely to pass current congress.



Defining National Origin Discrimination



It is illegal to discriminate because of a person's:

- Place of Birth
- Ancestry
- And because language proficiency is associated with persons of different national origins, limitations based on English language proficiency may be covered



Prohibited Acts

In the sale or rental of housing, it is illegal to take any of the following actions based on a protected characteristic :

- Refuse to rent, sell, or negotiate
- Falsely state that housing is unavailable
- Provide different services or facilities
- Impose different qualifications, fees, or pricing
- Advertise or make any statement expressing a limitation or preference.



Disparate Treatment

- Being treated differently and less favorably than others
- Major issue as discrimination becomes more subtle
 - Charging higher rent
 - Increasing Security Deposits
 - Not disclosing “specials” or “incentives”



Disparate Impact

- Discrimination can also mean a landlord's neutral policy has a greater negative effect on one group of people of a certain protected class more than another group of people
 - For example, an overly restrictive occupancy policy has the effect of excluding families with children more than any other type of household
 - Manassas, VA "overcrowding" ordinance – disparate impact on Latinos



Threats, Intimidation & Coercion

- It is illegal to threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others to exercise that right



Lending

In mortgage lending, no one may take any of the following actions based on a protected characteristic:

- Refuse to make or purchase a mortgage
- Refuse to provide loan information
- Impose different loan terms or conditions



Predatory Loans

Predatory Loans:

- knowingly mislead borrowers
- hide loan terms that are highly unfavorable
- charge a borrower unreasonable fees and interest
- frequently designed to get the borrower to refinance multiple times or to get the borrower to default
- May be targeted to borrowers because of race, national origin, sex....



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LIVE FREE

 EQUAL HOUSING
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IMMIGRANT COMMUNITIES AND FAIR HOUSING



There are over 37 Million
foreign-born people living in
the United States

Source: U.S. Census, American Community Survey 2009:



Who is Covered by the Fair Housing Act?

Every “Person” in the U.S.

“Person” includes one or more individuals, corporations, partnerships, or associations



Immigration Status

Discrimination is about treating someone differently *because* they are a member of a protected class and immigration status does not affect that protection

- E.g., not lending on the same terms *because* of someone's race = violation of the Fair Housing Act regardless of immigration status
- E.g., not renting to someone *because* they are Muslim = violation of the Fair Housing Act regardless of immigration status



FHEO Does Not Ask About Immigration Status or Citizenship



Common Restrictions Faced by Immigrant Communities

- Immigration status
- Citizenship
- Language



Immigration & Citizenship Status

- Social Security Numbers – Proxy for status
- Disparate Treatment – Asking for documentation or other unequal treatment because of perceived national origin and not asking others
- Disparate Impact – Policy applied to everyone but excludes disproportionate numbers; is it justified and are there less discriminatory alternatives?



Language

- English only policies
 - Disparate Treatment – May only be applied to some. How do you determine who speaks enough English?
 - Disparate Impact – There are many ways to ensure that a landlord can communicate with their tenants



Alternatives to Individual Complaints

- Who can file? Any aggrieved party
 - Individuals
 - Organizations
 - Representational Standing
 - Organizational Standing



Representational Standing

Representational Standing: An organization can file a complaint on behalf on an injured member



Organizational Standing

Organizational Standing: The organization itself has been harmed – made to expend resources and its mission damaged because of discrimination



Title VI and People with Limited English Proficiency (LEP)

“Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.”*

* JFK - H.R. Misc. Doc. No. 124, 88th Cong., 1st Sess. 3, 12 (1963)



Title VI

Prohibits discrimination on the basis of:

1. Race
2. Color
3. National Origin

In programs and activities receiving federal financial assistance



Who Must Comply?

Recipients of HUD Federal Financial Assistance,
such as:

- Housing Authorities
- HUD Assisted Housing Providers
- Activities funded with Community Development Block Grants (CDBG)



Title VI and Limited English Proficiency

Failure to ensure LEP persons can effectively participate in or benefit from federally funded activities and programs may result in national origin discrimination under Title VI and the Fair Housing Act.



Executive Order 13166

August 11, 2000

Connection between language access and national origin discrimination was officially recognized by Executive Order 13166

- Federal *agencies and their recipients* must provide LEP Persons meaningfully access to their services.



HUD's Title VI Guidance

Four Factor Analysis

1. Number or proportion of LEP population
2. Frequency of contact with LEP persons
3. Importance of Service/Benefit
4. Resources Available



DC Language Access Act of 2004

- “Covered entities” are D.C. government agencies, departments, or programs that provide information, services, or activities directly to the public or contracts with other entities, directly or indirectly, to conduct programs, services, or activities
- “Covered entities”
 - must provide D.C.’s limited English proficient (LEP) residents with greater access to programs, services, activities
 - are required to take reasonable steps to provide LEP constituents with oral and written language services in their requested language.



DC Language Access Act of 2004

- 7 languages covered:

English

Amharic

French

Vietnamese

Spanish

Chinese

Korean

- LEP persons have the right to receive translation services in their preferred language free of charge from covered entities



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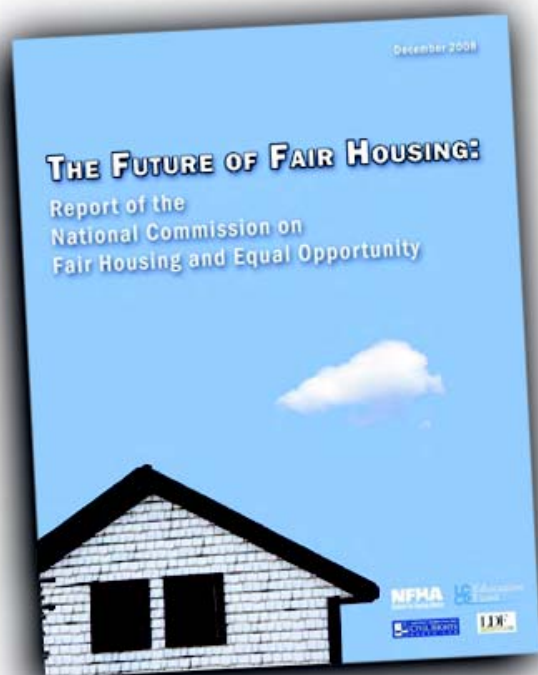
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AFFIRMATIVELY FURTHERING FAIR HOUSING



The National Commission on Fair Housing and Equal Opportunity (2008)

(NFHA, NAACP Legal Defense Fund, Lawyers Committee, and Leadership Conference)



Stresses the role of government policy in promoting segregation

...and different metropolitan contexts for “Affirmatively Furthering Fair Housing”



Affirmatively Furthering Fair Housing

- The Fair Housing Act was designed to overcome segregation and remove past discriminatory practices
- All housing and urban development activities must be operated to affirmatively further fair housing



Affirmatively Furthering Fair Housing

HUD defines affirmatively furthering fair housing as requiring a grantee to:

1. Conduct an analysis to identify impediments to fair housing choice within the jurisdiction
2. Take appropriate actions to overcome the effects of any impediments identified through the analysis
3. Maintain records reflecting the analysis and actions taken



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STATE AND LOCAL IMMIGRATION RELATED LAWS



State and Local Immigration Legislation

In 2010, every state legislature in regular session considered laws related to immigrants or immigration. (NCSL)

- Laws and resolutions related to immigration/immigrants:
 - 2010: 346
 - 2009: 333
 - 2005: 38



Common Types of Anti-Immigrant Housing Ordinances

- Licensing requirements making it illegal for landlords to rent to undocumented immigrants
(Hazelton, Pa., Ordinance 2006-10)
- Maximum occupancy ordinances
(Hoover, Ala., Ordinance 05-2082)
(Manassas, VA “overcrowding”)



Preemption

Before 2011: “preemption” arguments struck down anti-immigration employment and housing ordinances in Hazelton, Pa. and other cities.

2011: a preemption argument failed in a challenge to employer sanctions in *Chamber of Commerce v. Whiting*, 131 S. Ct. 1968 (2011) because of a clause in the federal Immigration Reform and Control Act allowing local “licensing” activities:

The provisions of this section preempt any state or local law imposing civil or criminal sanctions (*other than through licensing or similar laws*) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

2012: Will the Hazelton injunction against anti-immigrant housing ordinances survive?



Can the Fair Housing Act Be Used to Attack These Ordinances?

- Problem: Citizenship and legal status are not protected classes under the FHA
- Possible solution? Racial intent or racial impact claims (*See Espinoza v. Hillwood Square Mut. Assoc., 522 F. Supp. 559 (E.D. Va. 1981)*).
- Proxy for national origin discrimination



Questions and Discussion