

disABILITY LAW CENTER

OF VIRGINIA



Protection & Advocacy for Virginians with Disabilities

FAIR HOUSING

“FAIR HOUSING, IT’S NOT AN OPTION,
IT’S THE LAW”

FAIR HOUSING ACT

- ▶ The Fair Housing Act was established to protect people from discrimination when renting or buying property.



WHO IS PROTECTED?

Discrimination based on the following factors is prohibited:

- ▶ Race
- ▶ Color
- ▶ National Origin
- ▶ Religion
- ▶ Sex
- ▶ Disability
- ▶ Familial Status

*Virginia law includes the elderly as a protected class. (Elderly means older than 55).



FAIR HOUSING ACT

Familial Status includes:

- ▶ Someone with one or more children under the age of 18
- ▶ A pregnant woman
- ▶ Someone who has custody or guardianship of a child
- ▶ Someone in the process of adopting a child
- ▶ Foster parents



FAIR HOUSING ACT

- ▶ Discrimination based on sex includes a protection against sexual harassment.
 - Deliberate or repeated verbal comments, gestures or physical contact that create a hostile environment.
 - Example: asking for sexual favors in exchange for an apartment.

FAIR HOUSING ACT

- ▶ Disability” means a person who has a physical or mental impairment that substantially limits one or more major life functions.
- ▶ One can have either a history of the impairment or can be viewed by others as having an impairment.

MAJOR LIFE FUNCTIONS INCLUDE:

- ▶ Walking
- ▶ Seeing
- ▶ Hearing
- ▶ Speaking
- ▶ Breathing
- ▶ Learning
- ▶ Working
- ▶ Caring For Your Daily Needs



WHO IS **NOT** PROTECTED?

Discrimination based on the following factors is not covered by the Fair Housing Act:

- ▶ Marital status
- ▶ Sexual orientation
- ▶ Source of income
- ▶ Criminal History, including Sexual
- ▶ Offenders and Juvenile Offenders
- ▶ Non-recovering users of illegal substances



WHAT IS PROTECTED?

The following types of dwellings are covered:

- ▶ Group Homes
- ▶ Nursing Homes
- ▶ Assisted Living Facilities
- ▶ Residential Hotels
- ▶ Dormitories



FAIR HOUSING ACT EXCLUDES

- ▶ An owner-occupied building with up to four units.
- ▶ A home sold or rented by the owner as long as he or she does not own more than three homes or use a real estate agent or has not sold a home in the last 24 months.
- ▶ A housing development operated by an organization or club.
- ▶ A housing development for older adults.



LIMITED EXCEPTION

Renting out rooms in your home:

- ▶ Example: A woman who rents rooms in her house can advertise for females only, but she cannot exclude any woman because of race. The person advertising the room must actually live in the house in order to apply this exception.



Under the Fair Housing Act, it is against the law to:

- ▶ Refuse to rent to you or sell you housing.
- ▶ Tell you housing is unavailable when in fact it is available.
- ▶ Deny a person with children under the age of 18 a specific unit in an apartment building for which he or she has otherwise qualified.



Under the Fair Housing Act, it is against the law to:

- ▶ Show you apartments or homes in certain neighborhoods only.
- ▶ Advertise housing to preferred groups of people only.
- ▶ Threaten, coerce, intimidate, or interfere with someone who is advocating for his or her fair housing rights.



Under the Fair Housing Act, it is against the law to:

- ▶ Impose different terms or conditions on a mortgage loan.
- ▶ Make assumptions about your ability to pay based only on your race or national origin.
 - Note: A bank does not have to loan you money if you cannot show that you can repay that loan.
- ▶ Deny you property insurance.



Under the Fair Housing Act, it is against the law to:

- ▶ Ask you about a disability unless you are requesting an accommodation or applying for housing that gives priority to persons with disabilities.
- ▶ Ask you to provide more documentation than is necessary to prove your disability and its connection to your requested reasonable accommodation.
- ▶ Ask a person with a disability to prove he can live independently.



Under the Fair Housing Act, it is against the law to:

- ▶ Refuse a reasonable accommodation unless it is not related to the person's disability or it would fundamentally alter the nature of the provider's operations or would impose an undue financial and administrative burden.
- ▶ Discriminate against residents because of the disability associated with them. ("Associated" means children, parents, friends, spouses, roommates, patients, etc.).



NON-DISCRIMINATING STANDARDS

- ▶ Landlords can set standards for renters. However, they must apply them to everyone equally.
 - Examples include: income range, credit checks including owing too much money, landlord references, and criminal background check.

NON-DISCRIMINATING STANDARDS

- ▶ If there is a lease violation, housing providers that suspect that you have a disability cannot automatically evict you from your housing until they first ask you if there is an accommodation that they can make that would alleviate or modify your behavior that caused the lease violation.

NON-DISCRIMINATING STANDARDS

- ▶ An apartment does not have to be made available to a person who is a direct threat to the health or safety of others or who uses illegal drugs.
- ▶ If a person's threat can be successfully eliminated or significantly reduced by a reasonable accommodation, then they can be protected under the Act.

PROVIDING DOCUMENTATION OF DISABILITY

Generally, a landlord may NOT ask. . .

- ▶ “Do you have a disability?”
- ▶ “How severe is your disability?”
- ▶ “May I have permission to see your medical records?”
- ▶ “Have you ever been hospitalized because of a mental disability?”
- ▶ “Who will pay your rent if you are hospitalized?”
- ▶ “Have you ever been in a drug rehabilitation program?”
- ▶ “Do you take medications?”
- ▶ “Why do you receive SSI?”



PROVIDING DOCUMENTATION OF DISABILITY

- ▶ If your disability is obvious to others, you should not have to provide documentation, otherwise, you can:
 - ▶ Show your SSI or SSDI check to the provider;
 - ▶ Provide a statement from a doctor, case manager, a peer support group, etc.

PROVIDING DOCUMENTATION OF DISABILITY

- ▶ You should not have to provide copies of your medical records.
- ▶ Information that you provide should be kept confidential, except in cases of an emergency.



VISIT-ABILITY

- ▶ Providing a level of accessibility that allows persons with disabilities to visit friends, relatives, and neighbors in their homes within a community.



VISIT-ABILITY

- ▶ Unlike other forms of accessible design, visitability does not ensure total accessibility. Instead, it refers to the entrance, entry-level floor and washroom facilities and that they are accessible to a person in a wheelchair. Other accessible features, such as a roll-in shower or accessible kitchen features, are not requirements for visit-ability.

Part Two

Self-Advocacy



Where do I start?

- ▶ Know Yourself
- ▶ Choose your battles
- ▶ Be self-aware
 - Are you shy and have trouble talking to others? Or, are you outgoing and approach others easily?
 - Do you think things through or are you more impulsive?
 - Are there things that when mentioned will trigger feelings of anger, sadness, or excitement?



How do I advocate for myself?

- ▶ You have to know your rights to be able to stand up for yourself.

What does the law say?

- Use reliable resources and contacts.
- Find out how to make a complaint.
- Just because you believe it to be true or because you know it is the right thing to do, does not make it a violation of your rights.



How do I learn about my rights?

- ▶ You can go to the library.
- ▶ You can look it up on the internet.
- ▶ You can call an advocacy agency, like dLCV.
- ▶ You can write a letter, call, or e-mail someone who can help.
- ▶ Talk to a friend or family member.



Self-Advocacy

- ▶ What do you want to see happen and what steps do you take to resolve the problem?
- ▶ What is your strategy? What will work best for you?
 - Are you going to deal with this in person, by letter, or over the phone?
 - What type of support will you need, if any, like someone going with you.
- ▶ Be sure to document what happened and have the needed paperwork with you.



Part Three

Scenarios



Scenario 1

“In checking references on an application for a vacant apartment, an apartment building owner learns that an applicant does not have the best housekeeping habits; he does not always keep his current apartment neat and clean. The owner does not want to rent to such a person.”



Scenario 1 Discussion

- ▶ This is lawful.
- ▶ There is no discrimination in this case because the denial to rent the apartment is not based on race, color, religion, sex, nationality, familial status, or disability.
- ▶ Persons who do not keep their apartments clean are not protected by federal law.



Scenario 2

“An apartment building owner is renting to a tenant who uses a wheelchair. The building is old and does not have a wheelchair ramp, and the tenant wants a small wooden ramp constructed at the building door to more easily access the building. He asks the owner if it is okay to build a ramp. The tenant says he will pay all the costs, and agrees to have the ramp removed at his own expense when he leaves. The owner, however, believes such a ramp will not look good on his building, and decides he does not want it constructed on his property.”



Scenario 2 Discussion

- ▶ It is not legal for the landlord to deny the tenant the right to build the ramp. The tenant is responsible for the costs of building and removal of the ramp.
- ▶ A renter has the right to make reasonable disability-related accommodations to his or her apartment or common areas if they are necessary for that persons' use of that area.
- ▶ The landlord can require that the tenant remove the ramp when he moves out of the apartment.

Note: Section 504 of the Rehabilitation Act of 1973 may require the property owner to pay for the accommodation if the property has federal financial assistance.



Scenario 3

“In checking references on an application for a vacant apartment, an apartment building owner learns that the applicant has a history of mental illness. Although the applicant is not a danger to anyone, the owner assumes the he is potentially dangerous because of his mental illness and does not want to rent to such a person.”



Scenario 3 Discussion

- ▶ A landlord cannot refuse to rent an apartment to someone because he or she has a mental illness.
- ▶ A landlord cannot make assumptions about a person based on their disability.
- ▶ A landlord cannot refuse to rent to someone because of potential danger. The threat of danger must be imminent and real.



Scenario 4

- ▶ An apartment complex that has a “no pets” rule denies you an apartment because you have a service animal.



Scenario 4 Discussion

- ▶ It is not legal to refuse to rent you an apartment because of a “no pets” rule when you have a service animal.
- ▶ A service animal is **not** a pet!
- ▶ Housing providers cannot charge you a fee for having a service animal.
- ▶ You are responsible for damages to the property if they are caused by the animal.



Scenario 5

An apartment complex does not assign parking spaces. A mobility-impaired woman asked for a reserved space near her building. The landlord refused, stating that it would cause him difficulties with others who had wanted assigned spaces.



Scenario 5 Discussion

- ▶ An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near her apartment if necessary to assure that she can have access to her apartment.

Part Four

Filing a Complaint



Filing a Complaint

- ▶ If you believe your rights have been violated, you can file a complaint with HUD or a State or local fair housing agency.
- ▶ With HUD, you have one year from the date of the event to file your complaint.
- ▶ You can file a complaint by going online, mailing or faxing forms, writing letters, or by calling.



How to File a Complaint - HUD

- ▶ Online form:

<http://www.hud.gov/complaints/housediscrim.cfm>

- ▶ Or at the above website, you can print out a form, complete it, and mail it to:

- Office of Fair Housing and Equal Opportunity

Department of Housing and Urban

Development

Room 5204

451 Seventh St. SW

Washington, DC 20410-2000

- ▶ You can call toll-free 1-800-669-9777



Filing a Complaint - HUD

► **Or, you can write HUD a letter with:**

- Your name and address
- The name and address of the person your complaint is about
- The address of the house or apartment you were trying to rent or buy
- The date when this incident occurred
- A short description of what happened



Filing a Complaint - HUD

▶ **Then mail it to the Fair Housing Hub closest to you:**

Philadelphia Regional Office of FHEO

U.S. Department of Housing and Urban Development

The Wanamaker Building

100 Penn Square East, 12th Floor

Philadelphia, Pennsylvania 19107-3380

(215) 656-0663 ext 3241

1-888-799-2085 or TTY (215) 656-3450



Filing a Complaint - VIRGINIA

File a Complaint with the State Office

- ▶ You may file a complaint by downloading the Virginia complaint form (<http://www.fairhousing.vipnet.org/>).
- ▶ Once you print and complete the form, you can either fax it to (804) 367-0047 or you can send it to:

Virginia Fair Housing Office

3600 West Broad St., 5th floor, Room 554

Richmond, VA 23230



Filing a Complaint - VIRGINIA

File a Complaint with the State Office

▶ Or you can call; (804) 367-8530, or

Toll free (888) 551-3247, or

TDD (804) 367-9753.

Or send an email to: fairhousing@dpor.virginia.gov



FAIR HOUSING - Enforcement

- ▶ The Fair Housing Act is enforced by the U.S. Department of Housing and Urban Development (HUD)
- ▶ The U.S. Department of Justice (DOJ) has authorization through the Fair Housing Act to become involved in issues of discrimination.



Fair Housing References

- ▶ www.housingrights.org
- ▶ www.hud.gov
- ▶ www.access-board.gov/ufas/ufas-html/ufas.htm
- ▶ <http://concretechange.org/handout.htm>
- ▶ www.design.ncsu.edu/cud/univ_design/ud.htm
- ▶ www.usdoj.gov/crt/housing/hcehome.html
- ▶ <http://www.hud.gov/offices/ftheo/FHLaws/index.cfm>
- ▶ <http://www.hud.gov/complaints/housediscrim.cf>
- ▶ <http://www.dpor.virginia.gov/FairHousing/>
- ▶ www.bazelon.org/issues/housing/



Fair Housing References

- ▶ <http://www.hud.gov/offices/fheo/FHLaws/index.cfm>
- ▶ “Are you a Victim of Housing Discrimination? Fair Housing is Your Right!” -
Published by HUD’s Office of Fair Housing and Equal Opportunity, July 2004.
- ▶ U.S. Department of Justice, Civil Rights Division, May 2004



Fair Housing References

- ▶ <http://www.dpor.virginia.gov/FairHousing/>
- ▶ The scenarios for this presentation were published by HUD in “How Much Do We Know? Public Awareness of the Nations Fair Housing Laws” April 2002 or were from information obtained from www.hud.gov

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Train-the-Trainer



Related Protections

Title VI of the Civil Rights Act of 1964

does not allow discrimination on the basis of **race, color, or national origin** in programs and activities receiving **federal financial assistance**.

Examples can include: Community Services Boards and HUD-funded homeless and housing programs.



Related Protections

Section 504 of the Rehabilitation Act of 1973

does not allow discrimination based on **disability** in any program or activity receiving **federal financial assistance**.

For recipients of funding from HUD, there is a requirement that in new construction and substantial alterations at least **5%** of the housing units are accessible to people with **mobility impairments** and at least **2%** of the housing units are accessible to people with **vision or hearing impairments**.



Related Protections

Title II of the Americans with Disabilities Act of 1990

does not allow discrimination based on **disability** in programs, services, and activities provided or made available by **public entities**. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

– This can include Section 8, housing authorities, and public housing.



Related Protections

Architectural Barriers Act of 1968

requires that buildings and facilities designed, constructed, altered, or leased with certain **federal funds** after September 1969 must be accessible to and useable by “handicapped” persons.

- This includes things like steps, narrow doors, lower counters, and appropriate light systems as needed.



Related Protections

Other Things That Impact Housing

- ▶ Human Rights
- ▶ Policy and Procedures
- ▶ Regulations
- ▶ Licensing
- ▶ Consumer Choice



Required Accessibility Features



Required Accessibility Features

In multifamily housing consisting of **4 or more units** built for first occupancy after **March 13, 1991**, seven accessibility features are required.

- ▶ If the building has an elevator, **all** units must comply.
- ▶ If the building does not have an elevator, all **ground floor** units must comply



Required Accessibility Features

- ▶ Accessible Entrance on an Accessible Route
- ▶ Accessible Public and Common-Use Areas
- ▶ Usable Doors
- ▶ Accessible Route Into and Through the Dwelling Unit
- ▶ Accessible Light Switches, Electrical Outlets, Thermostats, and Environmental Controls
- ▶ Reinforced Walls in Bathrooms
- ▶ Usable Kitchens and Bathrooms



Accessible Entrance on an Accessible Route

- ▶ An accessible route means a continuous, unobstructed path connecting accessible elements and spaces within a building or site that can be negotiated by a person with a disability who uses a wheelchair, and that is also safe for and usable by people with other disabilities.
- ▶ An accessible entrance is a building entrance connected by an accessible route to public transit stops, accessible parking and passenger loading zones, or public streets and sidewalks.



Accessible Public and Common-Use Areas

- ▶ Public and common-use areas cover all parts of the housing outside individual units.

They include – for example – parking lots, building-wide fire alarms, storage areas, indoor and outdoor recreational areas, lobbies, mailrooms and mailboxes, and laundry areas.

Usable Doors

- ▶ All doors that allow passage into and within all premises must be wide enough to allow passage by persons using wheelchairs.
- ▶ If a room has two access doors, both of them have to be usable. For example, a bathroom that can be entered from the hallway and the bedroom.

Accessible Route Into and Through the Dwelling Unit

- ▶ There must be an accessible route into and through each covered unit.
- ▶ Hallways must be wide enough to accommodate a wheelchair (generally 32'' to 36'').

Accessible Light Switches, Electrical Outlets, Thermostats, and Environmental Controls

- ▶ Light switches, electrical outlets, thermostats and other environmental controls must be in accessible locations.
- ▶ Controls are accessible if they are at a height that is easily accessible for a person in a wheelchair (generally 15'' to 48'' above the floor).



Reinforced Walls in Bathrooms

- ▶ Reinforcements in bathroom walls must be installed, so that grab bars can be added when needed. The law does not require actual installation of grab bars in bathrooms.

Usable Kitchens and Bathrooms

- ▶ Kitchens and bathrooms must be usable - that is, designed and constructed so an individual in a wheelchair can maneuver in the space provided.



Local Review of Compliance Hampton Roads

- ▶ Twenty-six (26) sites evaluated
- ▶ Only one complex (a senior housing complex) was found to be in compliance with all the requirements.
- ▶ The remaining 25 sites were in violation of the requirements to some degree.
- ▶ Twelve out of 26 (46%) had **major deficiencies**, including a complex that advertises itself as accessible.



Local Review of Compliance Hampton Roads

- ▶ 96% of the apartments did not meet guidelines and were **out of compliance** with state and federal fair housing laws.
- ▶ In Hampton, Newport News, Yorktown, Williamsburg, Norfolk, Chesapeake and Portsmouth this was true for 100% of the test sites.
- ▶ In Virginia Beach, 90% of the sites did not meet the accessibility guidelines.



Local Review of Compliance Central Virginia

- ▶ Fifteen test sites were identified in [Roanoke](#), [Lynchburg](#), [Charlottesville](#) and [Fredericksburg](#).
- ▶ Only two complexes were found to be in compliance with all the requirements.
- ▶ The remaining 13 sites appear to all be in violation of the requirements to some degree.



Local Review of Compliance Central Virginia

- ▶ Seven of the fifteen (47%) had **major deficiencies**.
- ▶ 87% of the apartments tested did not meet guidelines and were **out of compliance** with state and federal fair housing laws.
- ▶ In addition, an agent at a complex built in 1997 told the tester that they had NO accessible units at all.



Visitability



Visitability

- ▶ One ZERO-STEP Entrance
- ▶ All main floor interior doors—including bathrooms-- with 32 inches of clear passage space
- ▶ At least a half bath, preferably a full bath, on the main floor



Visitability

- ▶ Hallways at least 36'' wide on entry level floor
- ▶ Reinforcements in bathroom walls for future installation of grab bars
- ▶ Accessible climate controls between 15 and 48 inches above the floor
- ▶ Lever handles on doorways



Visitability

- ▶ Currently only a recommendation in Virginia
- ▶ Has been added to state fair housing laws in some states
- ▶ Movement at the federal level to get it included as a requirement in the federal fair housing law

Accommodations and Modifications



Accommodations and Modifications

You may request an accommodation or modification:

- ▶ When you are **applying** for housing;
- ▶ At any time **during tenancy**; or
- ▶ When you face **eviction**.



Accommodations and Modifications

Examples of reasonable accommodations:

- ▶ A landlord notifies a tenant with multiple chemical sensitivity in advance of painting and pest treatments.
- ▶ A landlord waives “guest fees” and parking fees for a disabled tenant’s home health care aide.
- ▶ A landlord assists an applicant with mental retardation in filling out the standard application form.
- ▶ If the applicant needs oral reminders to pay the rent, the landlord agrees to call or visit to remind the person before each month’s rent is due.
- ▶ A tenant has no recent rent history because he has been in a psychiatric hospital for two years. Instead of asking for prior rent history, the landlord accepts a reference from the applicant’s employer or social worker.



Accommodations and Modifications

Examples of reasonable **modifications**:

- ▶ installing an automatic water faucet shut-off for people who can't remember to turn off the water;
- ▶ installing pictures, color-coded signs or pathways for people whose cognitive disabilities make written signs impossible to use;
- ▶ installing carpeting or acoustic tiles to reduce noise made by a person whose disability causes him or her to make a lot of noise;
- ▶ disconnecting a stove and installing a microwave for a person unable to operate a stove safely.



Accommodations and Modifications

When can a landlord refuse?

When doing so would present an **undue burden** or would create a **fundamental alteration** of the services provided.



Accommodations and Modifications

An **undue burden** is an unreasonable financial or administrative cost. For example, a landlord could be required to accept rent a few days late if you have to wait for your Social Security check, but requiring the landlord to forgo rent entirely would likely be an undue burden.



Accommodations and Modifications

A **fundamental alteration** is an accommodation that would change the basic operation or nature of services provided—in this case, housing.

- ▶ For example, the FHA would probably *not* require a landlord to:
 - pay for a social worker or home care worker to help a tenant live independently if the housing does not normally provide such assistance; or
 - take care of a pet for a tenant with a disability who cannot care for the pet himself.



Accommodations and Modifications

In many circumstances a housing provider may condition approval of the modification on having the tenant establish an **escrow fund** to pay to have the unit restored to its original condition when the tenant moves. The housing provider can also ask for assurances that the modification will be done in a professional manner.



Accommodations and Modifications

“Mitigating Circumstances”

- ▶ If your previous landlord reported that you ignored reasonable building rules, a prospective landlord may legally reject you as a tenant.
- ▶ If you can provide evidence of “mitigating circumstances” that explain why a past history of inability to comply with lease obligations was related to your disability and is not likely to be repeated, the landlord must consider this evidence.
- ▶ Similarly, if a reasonable accommodation would enable you to comply with rules, the landlord may not reject your application for inability to comply.



Service Animals as Accommodation

The housing provider must allow the disabled resident to keep the service animal if three conditions are met:

1. The resident must meet the definition of disabled as defined in the fair housing law;
2. The housing provider must know about or should have known about the resident's disability; and
3. The accommodation may be necessary to afford the disabled resident an equal opportunity to use and enjoy the dwelling.



Service Animals as Accommodation

Two requirements to be classified as a service animal under federal law:

- ▶ Animal must be **individually trained** and
- ▶ Animal must **work for the benefit** of the disabled individual.
- ▶ There is no requirement as to the amount of training that the animal must take nor is there a requirement as to the amount of work that the animal must do for the disabled resident.



Complaint Process



Complaint Process

Who enforces the Fair Housing Act?

- ▶ U.S. Department of Housing and Urban Development (HUD)
- ▶ Many state and local fair housing enforcement agencies also have authority to investigate violations and bring enforcement actions
- ▶ The Act also authorizes federal lawsuits by the U.S. Department of Justice
- ▶ Private lawsuits can be filed in federal or state courts by individuals



Complaint Process

Information required for on-line and printed complaint form or a complaint letter:

- ▶ Your name and address
- ▶ The name and address of the person your complaint is about
- ▶ The address of the house or apartment you were trying to rent or buy
- ▶ The date when this incident occurred
- ▶ A short description of what happened



Complaint Process

- ▶ A HUD investigator will determine whether you and your situation meet the basic requirements for making a complaint.
- ▶ HUD (or the equivalent state or local agency) will conduct an investigation of your complaint within **100 days** of the filing date.



Complaint Process

Conciliation

- ▶ During the investigatory period, HUD will try to “conciliate” your case, using mediation or other forms of negotiation to try to get you and the landlord to reach an agreement that will resolve the complaint without going to an administrative hearing or to court.
- ▶ Neither you nor the landlord is required to engage in conciliation or to settle the complaint.



Complaint Process

- ▶ If no agreement can be reached, HUD issues a final report on whether or not there is “reasonable cause” to believe discrimination may have occurred.
- ▶ If HUD finds that there is reasonable cause, it will issue a “charge of discrimination.”



Complaint Process

- ▶ Once a charge of discrimination has been issued, either you or the landlord can choose, within **20 days**, to have the case moved to federal court.
- ▶ If the case goes to federal court, the Department of Justice will represent you.
- ▶ If you don't take the case to court, HUD attorneys will represent you in a trial before an administrative law judge.
- ▶ The trial will be held within **120 days** after the charge was issued.



Complaint Process

Federal Lawsuit

- ▶ The Fair Housing Act gives you the right to file a discrimination complaint directly in federal district court.
- ▶ You must file your complaint within two years of the date the discrimination occurred.
- ▶ Although not required, it is best to have a lawyer represent you in court.



Complaint Process

What must you prove to win your case?

- ▶ That you have a disability—must present documentation or medical opinion that that you have a physical or mental impairment;
- ▶ That the accommodation is necessary to cure or lessen some limitation experienced because of the disability;
- ▶ That you asked for an accommodation; and
- ▶ That a housing provider's alternative accommodation is not effective because it does not cure the limitations you experience.



Complaint Process

What must the housing provider prove to win?

- ▶ That the accommodation offered by the tenant is unreasonable (“undue burden” or “fundamental alteration”);
- ▶ That a reasonable, less intrusive alternative exists;
or
- ▶ That no accommodation will minimize the risk the disabled tenant poses to other tenants.



Complaint Process Remedies

If the person with a disability wins the case, what remedies are possible?

- ▶ compensatory damages (sometimes numbering in the hundreds of thousands of dollars);
- ▶ Orders for comprehensive corrective action;
- ▶ Awards of punitive damages;
- ▶ Civil penalties to the government;
- ▶ In design and construction cases, remedies also may require retrofitting housing that has already been constructed to make it comply with the Act's design and construction requirements



Case Examples

Virginia landlord ordered to pay \$14,625 in damages and fees for sexually harassing female tenant

- ▶ Landlord told tenant he would be willing to accept sexual favors from her in exchange for her rent, because he knew that she had recently lost her job.
- ▶ He explained that he had other tenants who had accepted similar offers in the past.



Case Examples

Illinois, June 20, 2006

- ▶ Jury found that defendants violated the Fair Housing Act when they told a tenant that they would not rent an available apartment to her because she used a wheelchair
- ▶ Award: **\$15,000** to tenant and **\$10,000** in punitive damages



Case Examples

Texas, March 28, 2006

- ▶ Owners and managers of an apartment violated the Fair Housing Act when they refused repeated requests by the tenants to transfer to a first floor unit.
- ▶ Husband, a double leg amputee who uses a wheelchair, and his wife who is also disabled, requested transfer from 3rd floor to 1st floor.
- ▶ Defendants denied the requests despite the availability of two first floor units.
- ▶ Award (Settlement): requires defendants to transfer the tenants to a first floor unit, to pay **\$125,000** in damages and attorneys' fees, to implement a comprehensive reasonable accommodation policy and to attend fair housing training.



Case Examples

Washington, D.C., February 1, 2006

- ▶ Owner and manager of apartments violated the FHA by refusing to rent an apartment to a man with a vision impairment who relies upon a guide dog for assistance.
- ▶ Award (Consent Decree): Defendants will pay **\$25,000** to compensate victims of discrimination at the complex, pay a **\$20,000** civil penalty, and establish and follow non-discriminatory tenancy procedures.



Case Examples

Michigan, September 2005,

- ▶ Major housing developer and several architectural firms in Michigan, Indiana, Illinois, Ohio, Wisconsin, **Virginia**, and Nebraska, engaged in a pattern or practice of discrimination against persons with disabilities by failing to include accessibility features required the Fair Housing Act and the Americans with Disabilities Act in apartment complexes.
- ▶ Award (Settlement): Developer and architectural firms will retrofit 49 apartment complexes and pay **\$1,060,000** in compensation and penalty fees. Specifically, the defendants will (1) retrofit 5,400 ground-floor apartments to make them more accessible, (2) pay up to \$950,000 to individuals harmed by the lack of accessible features at the properties, and (3) and pay a \$110,000 civil penalty.



Case Examples

Nationwide Insurance and “Redlining”

- ▶ Nationwide has been sued in several states including Michigan, Kentucky, Ohio and Virginia
- ▶ In the Virginia suit, a **\$100.5 million** judgment was rendered against Nationwide-- the largest punitive damage award ever given in a fair housing lawsuit.
- ▶ The case was eventually settled for **\$17.5 million**.



disABILITY LAW CENTER

OF VIRGINIA



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