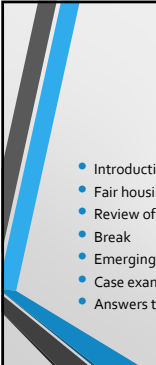




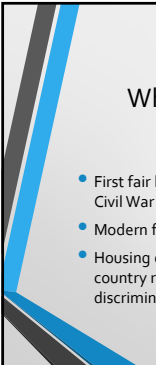
Fair Housing Training for Real Estate Professionals

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Agenda

- Introduction
- Fair housing quiz
- Review of the state and federal fair housing laws
- Break
- Emerging issues, legislative changes to the law
- Case examples (if time permits)
- Answers to fair housing quiz



Introduction

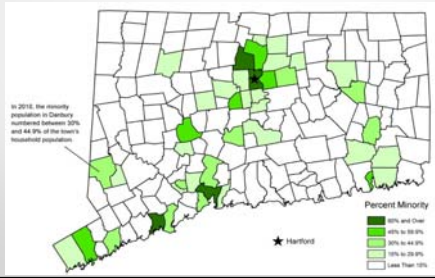
Why is fair housing training mandatory?

- First fair housing laws were passed in 1866 as part of Reconstruction after the Civil War
- Modern fair housing laws were first passed in 1968 and updated in 1988
- Housing discrimination is still a problem, fair housing groups across the country receive more than 25,000 calls every year alleging housing discrimination

Introduction, cont'd

- The United States and Connecticut remain highly segregated
- 67% of State's population of color lives in 8% of Connecticut's towns
- People with disabilities and people who have housing vouchers experience discrimination at higher rates than every other protected class

Segregation Map of Connecticut



Introduction, cont'd

- Housing discrimination affects where people live, where children go to school, where a person is employed, and other quality of life issues
- Giving someone access to housing in every neighborhood regardless of membership in a protected class ensures that every person has access to the resources they want







Begin by Asking Three Questions

- Is the person covered?
- Is the property covered?
- Is the behavior covered?

If the answer to all three questions is yes, then the fair housing laws apply.

Is the Person Covered?

Civil Rights Act of 1866

- Outlaws discrimination against anyone who is not Caucasian—African-Americans, Latinos, Native Americans, people from Central and South America, Asians
- States that it is illegal to refuse to enter into a contract with someone if the person would contract with someone who is Caucasian

Federal Fair Housing Act

- Passed in 1968 (amended in 1974)
- Prohibits discrimination based on race, color, national origin, sex, religion

State Fair Housing Laws

- Race
- Creed
- Color
- National origin
- Ancestry
- Sex

Fair Housing Amendments Act of 1988

- Two new protected classes added—familial status and disability
- Connecticut law is similar to FHAA of 1988

Familial Status

- Definition of familial status
 - Household that includes a parent or guardian and children under 18, or someone standing in the place of a parent or guardian
 - Household that includes a pregnant woman
 - Household in the process of obtaining custody of a child under the age of 18

Disability

- Three definitions
 - First—physical or mental impairment that substantially limits one or more major life functions

Disability, cont'd

- Physical or mental "impairment"
 - a condition or disease that affects the mind or the body
- That "substantially" limits
 - for a long period of time or to a great degree
- One or more "major life functions"
 - walking, talking, breathing, seeing, hearing, self-care, paying bills, etc.

Is the Person Covered--Disability, cont'd

- Second, record of having a substantial impairment.
 - E.g. receipt of SSI, SSDI, history of treatment or hospitalization, etc.
- Third, considered by others to be disabled.
- Person in recovery from drug or alcohol abuse is considered disabled.

Is the Person Covered—Disability

- Person is a threat to the health or safety of others is not protected
 - Do not have to rent or sell to a person who is a threat to the health of safety of others
- Must have evidence this person is a threat to the health of safety of others

Is the Person Covered—Conn. Fair Housing Act

- Marital Status
 - Does not protect an unmarried, unrelated man and woman
- Sexual Orientation
 - Having a preference for heterosexuality, homosexuality, or bisexuality
- Age (except minors)

Is the Person Covered—Conn. Fair Housing Act

- Lawful Source of Income
 - Includes housing vouchers, security deposit guarantee program, SSI, Social Security Disability, trust funds, disability pension, etc.
- Gender identity or expression
 - A person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth

Is the Property Covered?

Exemptions from the Fair Housing Laws

- Real estate agents and brokers have no exemptions
 - A real estate agent or broker cannot discriminate even if the owner has an exemption

Civil Rights Act of 1866

- All properties covered, no exemptions
- No one can discriminate based on race

Federal Fair Housing Act

- Protected classes—race, color, national origin, sex, religion:
 - Not covered—single family home sold or rented without the use of a broker if the individual owner does not own more than three such single family homes at one time AND the owner does not advertise in a discriminatory way

Federal Fair Housing Laws

- Not covered—owner-occupied four family
 - Owner-occupied means owner maintains one unit as his or her living quarters
 - Not covered—private clubs and religious organizations so long as the club or religious organization is not open to the public

Connecticut Fair Housing Laws

- Protected classes—race, color, national origin, sex, creed
 - Not covered—owner-occupied two family
 - Not covered—owner-occupied rooming house

Reconciling Differences in the Law

- When in Connecticut, must follow the State law
 - E.g. Federal law exempts owner-occupied four family but State law exempts owner-occupied two family
 - Landlord must follow State law and cannot discriminate even though exempt under the Federal law

Is the Property Covered?

- Sex
 - Additional housing not covered--the rental of sleeping accommodations to the extent they utilize shared bathroom facilities when such sleeping accommodations are provided by associations and organizations which rent such sleeping accommodations on a temporary or permanent basis for the exclusive use of persons of the same sex based on considerations of privacy and modesty

Is the Property Covered—Familial Status

- Not covered—single family housing sold or rented without the use of a broker if the private individual owner does not own more than three such single family homes at one time AND the owner does not advertise in a discriminatory way (federal)
- Not covered—Owner-occupied four family (both state and federal)
- Not covered—Owner-occupied rooming house (state)

Familial Status

- Not covered—Elderly housing (federal and state)
 - Housing built and solely occupied by persons 62 or older
 - Housing where at least 80% of units are occupied by at least one person 55 or older

Disability

- Not covered—single family housing sold or rented without the use of a broker if the private individual owner does not own more than three such single family homes at one time AND the owner does not advertise in a discriminatory way (federal)
- Not covered—owner-occupied four family (federal)

Disability Exemptions, cont'd

- Not covered—owner-occupied two family (state)
- Property with federal operating subsidies (Section 202, Section 811) have additional obligations

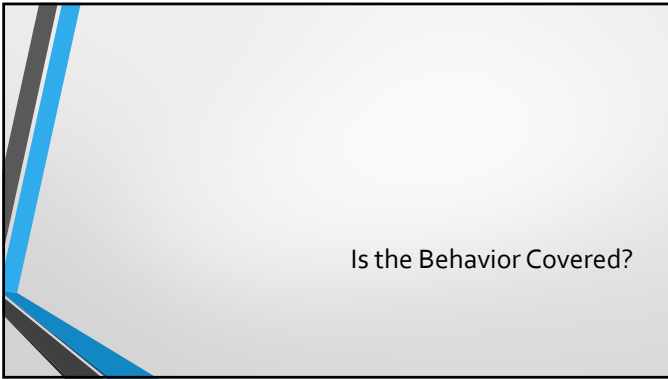
State Fair Housing Laws

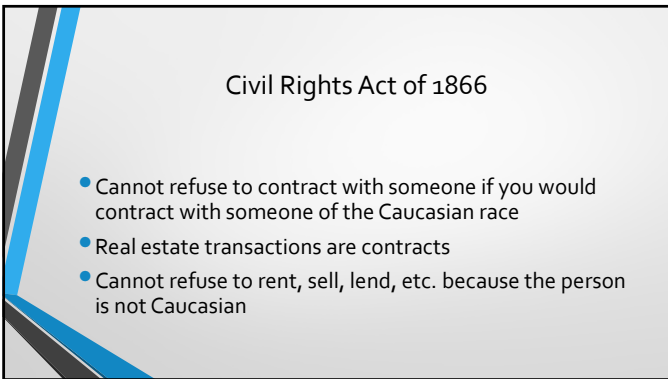
- Marital status
 - Not covered—owner-occupied two family
 - Not covered—owner-occupied rooming houses
- Sexual orientation
 - Not covered—owner-occupied four family
 - Not covered—owner-occupied rooming houses

State Fair Housing Laws

- Age, lawful source of income, gender identity or expression
 - Not covered—Owner-occupied two family
 - Not covered—Owner-occupied rooming houses







State and Federal Fair Housing Laws

- Differential treatment
 - Treating people differently because of membership in a protected class is illegal
 - Applies to all state and federal protected classes

State and Federal Fair Housing Laws

- Refusing to rent or sell
- Refusing to negotiate for the rental or sale of a dwelling
- Misrepresenting the availability of a dwelling

State and Federal Fair Housing Laws

- Having different terms and conditions for people in the protected classes
- Steering
- Discriminatory statements
- Discriminatory advertising

State and Federal Fair Housing Laws

- Differential treatment by brokers of people in the protected classes
 - Illegal to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings

Is the Behavior Covered?

- Examples of differential treatment (not an exhaustive list)
 - Requiring Latinos to be preapproved for a loan before showing them houses but not requiring this of Whites
 - Refusing to rent someone an apartment because they are Muslim

Is the Behavior Covered?

- Some examples of illegal behavior
 - Discouraging people of color but not Whites
 - To someone who is African-American—They will not allow anyone in who has any kind of criminal record, I hope that's not a problem.
 - To someone who is White—They are really picky about who they let in. For instance, they check everyone's criminal record before they are accepted. Isn't that great?

Is the Behavior Covered?

- Examples of differential treatment
 - Blockbusting—for profit, to induce or attempt to induce someone to sell or rent a dwelling by representations regarding the entry into the neighborhood of people of a different race, color, religion, sex, disability, familial status, or national origin are moving in

Is the Behavior Covered?

- Steering (not an exhaustive list)
 - Not giving Whites information about homes in a majority African-American neighborhood
 - Telling someone that they would not be comfortable in a neighborhood because the people there are not the same race as the buyer

Is the Behavior Covered?

- Steering people of color toward or away from a neighborhood by pointing out problems
 - To someone who is Latino—The schools are really great but there are no ESL classes and very few people speak Spanish.
 - To someone who is White—The schools are really great. My kids really love going to school here.

Is the Behavior Covered?

- Illegal advertising
 - “Just right for a young couple starting out”
 - “Not Section 8 approved”
 - “Walking distance to Temple Beth-El”
 - “Mature tenants only”

Is the Behavior Covered?

- Disparate impact
 - Neutral rule that has a disparate impact (greater effect) on members of a protected class
 - Example, residency preferences—if municipality is majority White a residency preference for people from that town has a disparate impact on people of color

Is the Behavior Covered—Familial Status

- Examples of illegal behavior
 - Refuse to rent or sell to someone because there are children in their household
 - Have different terms and conditions for families with children
 - Steer families with children
 - Require boys and girls to have separate bedrooms

Is the Behavior Covered—Familial Status

- Examples of illegal behavior (not an exhaustive list)
 - Requiring a higher security deposit because there are children in the household
 - Steering a family with children away from a town because the schools are failing/low performing
 - Refusing to rent/sell units above the first floor to families with children
 - Refusing to allow children to be outside/ride bikes outside

Is the Behavior Covered—Lead Paint

- Cannot refuse to rent or sell to families with children under six because there is or may be lead paint in a unit
- Cannot steer families with children under six because there is or may be lead paint in a unit
- Cannot ask a family with children if there are children under six
- MUST delead if a family with children under six wants to move into the rental unit

Is the Behavior Covered—Familial Status

- Disparate impact
 - Neutral rule that has a disparate impact (greater effect) on members of a protected class
 - Occupancy standards
 - Example—two people per bedroom has a disparate impact on families with children

Is the Behavior Covered—Familial Status

- Occupancy standards—better to use square footage of the unit
 - For example, State Building Code Occupancy Standards
 - 150 for one person
 - 100 for each additional person
 - Rooms used for sleeping purposes—70 square feet for one person; 50 square feet if more than one person
 - Measure habitable space

Is the Behavior Covered—Disability

- Cannot refuse to rent or sell to a person because she is disabled or because a member of her household is disabled.
- Cannot have different rules for people who are disabled than for everyone else.
- Cannot steer people who are disabled.

Is the Behavior Covered—Disability

- Examples of illegal behavior
 - Requiring an occupant to get insurance because she is in a wheelchair
 - Requiring people with disabilities to get a cosigner/guarantor but not requiring this of anyone else
 - Asking for a letter from a doctor showing the person with a disability can live independently
 - Advertising "independent living"

Differential Treatment--Disability

- For purposes of the fair housing laws, differential treatment is a failure to make a reasonable accommodation
- Reasonable accommodation is a change in a rule, policy, or practice.
- Does not cost money
- Unreasonable—undue financial or administrative burden

Is the Behavior Covered—Disability

- How to request a reasonable accommodation (RA)
 - If the disability is obvious and the need for the change in the rule, policy or practice is obvious, does not have to be in writing
 - RA request does not have to be on a form prescribed by housing provider
 - Cannot require person requesting an RA to give access to medical records

Is the Behavior Covered—Disability

- Requesting a reasonable accommodation
 - If in writing, can get a description of the limitation (e.g. cannot walk more than 75 feet) and a description of the change in rule, policy or practice (e.g. assign a parking place within 75 feet of front door)
 - Change must be necessary for the person to live in the housing unit
 - Treating medical professional and patient decide what is necessary, not housing provider

Is the Behavior Covered—Disability

- Examples of illegal behavior—reasonable accommodation
 - Requiring an occupant to get insurance if she is permitted to get a companion animal or service animal
 - Refusing a parking permit because the person does not drive if the person has someone who drives her regularly
 - Mandating the breed type or size of a service or companion animal

Is the Behavior Covered—Disability

- For purposes of the fair housing laws, differential treatment is a failure to make a reasonable modification
- Reasonable modifications mean money—building a ramp, widening a doorway, or other change to make a unit more accessible

Is the Behavior Covered—Disability

- Who has to make modifications?
 - Owners of housing with federal operating subsidies must make modifications
 - Federal operating subsidies include for example, in-place Section 8 units, Section 236 housing, Section 221 housing, NOT Low-Income Housing Tax Credit housing

Is the Behavior Covered—Disability

- Owners who do not have federal operating subsidies must permit occupants to make modifications at their own expense
- Some towns have low-interest loans for people who need to make modifications
- VA has money for modifications sometimes

Is the Behavior Covered—Disability

- When an owner must make a reasonable modification
 - Look at cost to the owner v. usability to the tenant
 - But, bottom line or profit/loss is not the only consideration
 - Can be a reasonable cost even if owner must postpone improvements to the property

Is the Behavior Covered—Disability

- Maintaining a modification
 - Owner must maintain the modification if he/she would maintain that portion of the property anyway
 - Landlord/condo association must maintain a ramp if landlord/condo association maintains the sidewalk, steps to front door

Is the Behavior Covered—Disability

- If a tenant moves out, must restore inside of unit
- If modifications made to outside of unit, modification can stay
- If modification made to inside of a unit owned by occupant, owner can decide whether to restore inside of unit

Disparate Treatment—Disability

- For purposes of the fair housing laws, failure to construct covered multi-family housing built for first occupancy after March of 1991 in accordance with the accessibility requirements of the fair housing laws shall be considered discrimination

Accessibility Requirements

- Covered multi-family units—
 - All dwelling units in buildings containing four or more dwelling units if the buildings have one or more elevators AND
 - All ground floor units in other buildings containing four or more units, without an elevator.

Accessibility Requirements

- Accessible building entrance on an accessible route
- Accessible public and common use areas
- Accessible doors
- Accessible route into and through the unit

Accessibility Requirements

- Light switches, electrical outlets, thermostats and other environmental controls in accessible locations
- Reinforced walls in bathrooms for later installation of grab bars
- Usable kitchens and bathrooms

Disparate Treatment—Disability

- Group homes for people with disabilities
 - Is not a rooming house
- Cannot be prevented from buying or renting in single family neighborhoods
- Cannot refuse to rent or sell because of disability of people living in the home
- Cannot tell new buyers/renters that there is a group home for people with disabilities in the neighborhood

Is the Behavior Covered?

- Lawful source of income
 - Must rent to housing voucher holder even if landlord does not sign leases
 - Must rent to housing voucher holder even if program requires an inspection
 - Must rent to housing voucher holder even if program requires a lead free certificate
 - Must do repairs after housing quality inspection

Is the Behavior Covered?

- Gender identity or expression
 - Cannot discriminate against someone because their gender identity or expression does not match the sex they were assigned at birth
 - Cannot refuse to rent/sell to someone because their Social Security number has the gender/name assigned at birth—can ask for proof it is the same person
 - Cannot require that the person use the gender assigned at birth on applications, etc.
 - Cannot reveal a person's gender assigned at birth to others without permission

Examples of Legal Behavior

- For real estate brokers and sales people
 - Create and enforce a non-discrimination policy—See Article 10 of National Association of Realtors Code of Ethics
 - Review compliance with the fair housing laws as part of annual review or supervision of other employees
 - Review and evaluate the location of homes shown and sold to determine if steering is going on

Examples of Legal Behavior

- For real estate brokers and sales people
 - Put any rules in writing and have available for clients, e.g. must be prequalified for a mortgage before you can look at houses, or client must choose homes to look at not real estate agent
 - Make sure all agents follow rules with all clients
 - Define service area so that it does NOT exclude neighborhoods of color

Examples of Legal Behavior

- For real estate brokers and sales people
 - Any client focused rules should include a statement that the agent and agency makes reasonable accommodations to a client's disability
 - Include information about how to request a reasonable accommodation

Examples of Legal Behavior

- For real estate agents involved in rentals
 - Review owner's qualification standards to determine if any violate the fair housing laws
 - Do not agree to represent the owner if he/she insists on illegal qualification standards
 - Ask that all qualification standards be in writing and available to give to applicants
 - Ask owner to define how he/she will decide among equally qualified applicants, e.g. first to see the unit, first to put down a security deposit, etc.

Examples of Legal Behavior

- For real estate agents involved in rentals
 - Be sure that any qualification standards include a statement on reasonable accommodations and how to request a reasonable accommodation
 - Discuss with the owner who will decide when a reasonable accommodation is requested

Enforcing the Fair Housing Laws

Who Must Follow the Law?

- Everyone involved in real estate transactions
 - Owners, buyers, sellers, landlords, management companies, real estate agents, maintenance people, municipalities, zoning commissioners, zoning boards of appeal, condominium associations, coops, home owner associations, tenants, occupants

Investigating Claims of Discrimination

- Interviewing victim
- Interviewing witnesses
- Review of public records, e.g. eviction records, deeds, lawsuits, etc.
- Fair housing testing

Who can be held liable for breaking the law?

- You can be held liable if you violate the law even if you did not know the law
- Can be held liable for someone else's illegal behavior if the person is your agent or employee (vicarious liability)
- Can be held liable even if you are following your client's, broker's, colleague's orders

Who can be held liable for breaking the law?

- What to do if owner/client/colleague/broker, etc. tells you to discriminate
 - Do not discriminate
 - Explain the fair housing laws and why you cannot do as asked
 - Put in writing that you will not discriminate
 - Stop representing the seller/broker/colleague, etc.
 - Put in writing when and why you stopped representation

Procedures for Enforcing the Law

- Victim of housing discrimination can file a complaint with:
 - Commission on Human Rights and Opportunities (federal and state law)
 - Department of Housing and Urban Development (federal law only)
 - State Superior Court (federal and state law)
 - Federal District Court (federal law only)
 - Connecticut Real Estate Commission

Enforcing the Fair Housing Laws

- Potential plaintiffs
 - Person experiencing discrimination
 - Spouse/partner of person experiencing discrimination
 - Children who were to live in the property
 - CHRO
 - HUD
 - Private fair housing group

Enforcing the Fair Housing Laws

- Potential Defendants
 - Real estate agent
 - Agent's employer
 - Agent's supervisor
 - Owner of property
 - Manager/Management company

Enforcing the Fair Housing Laws

- Potential Defendants
 - Condominium association
 - Cooperative
 - Homeowners' association
 - Individual members of management company, condo association, coop (depending on their conduct)

Enforcing the Fair Housing Laws

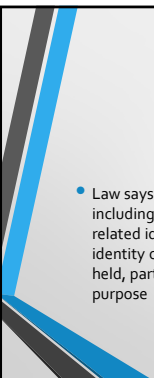
- Potential relief to the plaintiff
 - Actual damages—difference in price/rent between housing obtained and housing lost, cost of alternative housing, lost wages while dealing with discriminatory actions, storage costs of belongings (there may be other actual costs)
 - Consequential damages—emotional distress, loss of housing opportunity
 - Punitive damages—an amount designed to punish the wrongdoer and ensure that behavior does not recur; is not dependent on measure of actual or consequential damages

Enforcing the Fair Housing Laws

- Potential relief to the plaintiff
 - Civil penalty
 - Attorneys' fees for plaintiff's attorney
 - Injunctive relief
 - Declaratory relief
 - Fair housing education

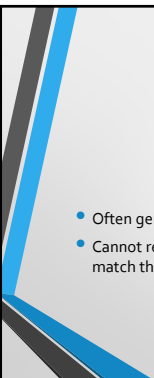


Emerging Issues in Fair Housing



Gender Identity and Expression

- Law says gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose



Gender Identity and Expression

- Often gender identity does not match gender on official documents or SSN
- Cannot refuse to assist someone because their gender identity does not match the gender on official documents

Maintenance and Marketing of REOs

- REO—real estate owned properties
 - Usually properties owned by a bank or loan servicer after foreclosure
- Cases have been filed against banks and servicers because maintenance and marketing of REOs are different depending on race/national origin of people living in the neighborhood
- Treat REO properties the same regardless of who lives in the neighborhood

Habitational Insurance

- Insurance companies refusing to write policies for multifamily housing if owner rents to people with housing choice vouchers
- Insurance companies increasing cost of insurance for multifamily housing of owner rents to people with housing choice vouchers
- Illegal source of income discrimination

Criminal Records

- HUD put out a memorandum in April that said:
 - People of color are arrested at a higher rate than Whites
 - Refusing to rent, sell or lend to anyone because they have a criminal record has a disparate impact on people of color
 - Instead must make a decision on a case by case basis

Criminal Records

- HUD recommends weighing the following factors
 - The type of criminal conduct
 - Length of time since the conviction
 - Behavior since the conviction
- http://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGC_GuidAppFHAStandCR.pdf

Legislative Changes

- 2016 Connecticut Legislative Changes
 - P.A. 16-16 goes into effect July 1, 2016
 - Requirement: Commencing sixty days after the date on which the Commission on Human Rights and Opportunities makes a disclosure form available pursuant to subsection (a) of this section, each person who offers a residential property containing two or more units in the state for sale, exchange or for lease with option to buy shall attach a photocopy, duplicate original, facsimile transmission or other exact reproduction or duplicate of such disclosure form, signed by the prospective purchaser, to any purchase agreement, option or lease containing a purchase option, at the time of closing.

Resources

- Fair housing posters that include State protected classes
<http://www.ctfairhousing.org/fact-sheets-brochures/>
- Fair housing case settlements and updates
<http://www.ctfairhousing.org>

Do you know what housing discrimination looks like?

"Just called for couples without children."

"We only take people who speak English clearly."

"This area is best for families in this neighborhood."

"We don't accept Section 8."

"Must be able to live independently."

Housing Discrimination is Illegal! Know your rights!

It is illegal for you to be denied the sale, rental, or financing of a home because of race, color, religion, national origin, sex, family status, age, disability, sexual orientation, gender identity or expression, marital status, ancestry, or age of a person with a disability.

Equal Housing Opportunity Act (Title VIII) and Equal Housing Lending Act (Title IX)
 U.S. Department of Housing and Urban Development (HUD) Hotline: (800) 669-4277 (English) or (800) 627-6275 (Spanish)

For the advice and a complaint, call the Department of Housing and Urban Development (HUD) at (202) 455-2424. HUD will take your complaint and refer you to the appropriate state or local fair housing agency for more information.

¿Sabe cómo es la discriminación en la vivienda?

"Preferimos a personas que no tienen hijos."

"Solo aceptamos a personas que pueden hablar bien el inglés."

"No cree que va a sentir a gusto en este vecindario."

"No aceptamos la Sección 8."

"Si un residente puede vivir independientemente."

Discriminación en la vivienda es ilegal! ¡Conozca sus derechos!

Es ilegal para usted ser denegado la venta, el alquiler o el financiamiento de una vivienda por su raza, color, religión, origen nacional, su sexo, su estado familiar, su edad, su discapacidad, su orientación sexual, su identidad o su expresión de género, su ascendencia o la edad de una persona con discapacidad.

Acta de Igualdad de Oportunidades de Vivienda (Título VIII) y Acta de Igualdad de Oportunidades de Préstamos de Vivienda (Título IX)
 U.S. Department of Housing and Urban Development (HUD) Línea de Ayuda: (800) 669-4277 (Inglés) o (800) 627-6275 (Español)

Para un consejo y una queja, llame al Departamento de Vivienda y Desarrollo Urbano (HUD) al (202) 455-2424. HUD tomará su queja y la referirá a la agencia de vivienda justa apropiada de su estado o local para más información.

Case Examples
