



# Fair Housing Guide





# Acknowledgements

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# Introduction

**T**his Fair Housing Guide is a resource for professionals who provide housing counseling, search assistance, and other services to people seeking to rent or purchase housing. The Guide provides information about fair housing rights that can be shared with the consumers you serve and includes an overview of



federal, state, and local fair housing laws. This Guide also provides information about the Fair Housing Justice Center (FHJC) and describes how the FHJC may be able to assist you and your clients to identify and overcome discriminatory barriers that persist in the housing market.

Fair housing laws are civil rights laws. Housing discrimination not only restricts housing choice, but it can be a painful, humiliating, and costly experience for any individual or family. Discrimination in housing may limit access to important life opportunities. A discriminatory policy or practice that hurts one individual or family may have harmed others in the past and, unless stopped, may harm

more people in the future. Indeed, discrimination that illegally divides or segregates people does immense harm to the entire community.

Fair housing laws protect all of us. In your work, you may come across situations where people are being prevented from obtaining housing as a result of illegal housing discrimination. You may find other situations where a discriminatory housing practice threatens people with the loss of their current housing. Effective enforcement of fair housing laws can have a powerful, positive, and lasting impact by enabling people to retain their existing housing or obtain a new place to live. But fair housing laws only work if discrimination is reported.

You serve the best interest of consumers when you provide information about fair housing rights and encourage people to report illegal housing discrimination. When you help others assert their civil rights, you are helping to empower the people you serve while simultaneously improving the community for everyone.

When you or your clients decide to report illegal housing discrimination, you should remember that you are not alone. There are resources and tools available to support and assist you throughout the process. The FHJC may be able to help you by providing fair housing counseling, investigative assistance, legal referrals, and/or assistance with filing administrative complaints. FHJC's counseling and investigative services are provided to the general public free of charge without regard to household income.



# Who is Protected by Fair Housing Laws?

In the New York region, there are federal, state, and local laws that prohibit discrimination in the rental, sale, insuring, and financing of housing. In addition to these laws, there are fair lending laws that apply to the provision of credit and home mortgage financing. There are other federal civil rights laws that prohibit housing discrimination when federal financial assistance is involved.



For your convenience, here is a list of protected characteristics under local, state, and federal fair housing laws. Housing discrimination is illegal when it is based on any the following protected characteristics.

The Federal Fair Housing Act prohibits discrimination based on:

- Race
- Religion
- Color
- Sex
- National Origin
- Familial Status (Presence of children)
- Disability



The New York State Human Rights Law includes the federally protected characteristics above and also prohibits discrimination based on:

- Sexual Orientation
- Age
- Marital Status
- Military Status

The New York City Human Rights Law includes all of the federal and state protected characteristics (except Military Status) and prohibits discrimination based on:

- Gender Identity
- Domestic Partnership Status
- Alienage/Citizenship Status
- Lawful Occupation
- Lawful Source of Income  
(including housing subsidies)

Several other localities in the New York region have fair housing ordinances and most mirror the federal protected classes. Some similarities and differences are worth

mentioning. The Nassau County Human Rights Law additionally protects people based on source of income, including rental subsidies. The Suffolk County Human Rights Law includes protection based on alienage/citizenship. The Westchester County Human Rights Law adds protections based on alienage/citizenship and domestic violence, sexual abuse, and stalking.



# What Housing is Covered by Fair Housing Laws?

**M**ost housing for rent or sale is covered by fair housing laws including, but not limited to, rental buildings, nursing homes and assisted living facilities, condominiums, cooperatives, single room occupancy (SRO) buildings, supportive housing, transitional housing, publicly assisted housing, mobile home parks, and retirement communities.

There are some narrow exemptions for certain types of housing, but you should know that housing not covered by one law may be covered by another. For example, when it comes to housing discrimination based on race, color, and/or national origin, virtually all housing is covered.

Housing for older persons is exempt from renting to families with children. However, there are only two ways to meet this exemption:

- All of the housing units must be occupied by people 62 years of age or older; or
- 80% or more of the housing units must be occupied by at least one person who is 55 years of age or older.



Also, some state and federal housing programs that are specifically designed and operated for elderly persons are not required to rent to families with children.

Many fair housing laws offer exemptions for smaller, owner-occupied housing structures. For example, in New York City, the prohibition against source of income discrimination (including rent subsidies) applies only to buildings that have six or more units or to all housing (regardless of the number of units) if the person offering the housing controls at least one building in New York City that has six or more units.



Persons licensed by the State of New York to rent or sell property such as real estate brokers, real estate salespeople, and apartment listing services must comply with all fair housing laws. Fair housing laws also apply to entities providing real estate related services such as lenders, insurance companies, appraisers, and other real estate services.

Fair housing laws have other exemptions that may apply depending on the specific facts or circumstances presented. If you are uncertain about whether a particular housing provider is covered by fair housing laws, please contact the FHJC. We can assist you by sorting out the facts, applying the fair housing laws to your situation, and determining if the housing is covered by any fair housing law.

# What Conduct is Prohibited by Fair Housing Laws?

Some illegal discrimination is quite blatant and obvious, but most housing discrimination today is more subtle and difficult to detect. Discrimination can take many different forms and occur at different stages of a housing transaction. Of course, not all “unfair” treatment constitutes illegal housing discrimination. It is important to understand the type of conduct that is prohibited by fair housing laws. Here is a partial list of practices that are prohibited under fair housing laws if based on any of the protected characteristics.

- Refusing to rent or sell or refusing to negotiate for the rental or purchase of housing or otherwise making housing unavailable
- Advertising or making any statement that indicates a preference, limitation, or discrimination
- Falsely stating that housing is unavailable to show, rent, or purchase
- Steering applicants into or away from certain areas of a building or to different buildings or neighborhoods to segregate populations
- Setting terms and conditions that are less favorable than those offered to other renters or buyers
- Denying or providing less favorable services and facilities



- Refusing to provide a reasonable accommodation in rules, policies, practices or services for persons with disabilities
- Failing to design and construct new multi-family housing built since 1991 in an accessible manner
- Refusing to allow a reasonable modification to the premises for persons with disabilities
- Failing to take corrective action regarding complaints about harassment by other tenants or by the agents for the housing provider
- Threatening, coercing, intimidating, interfering with or retaliating against someone for asserting fair housing rights or for assisting others to exercise their fair housing rights



Housing providers may adopt policies and qualifications for prospective buyers and renters provided these policies 1) are applied in a uniform and neutral manner to all applicants; 2) do not discriminate on the basis of any of the protected characteristics; and 3) do not have the effect of discriminating against groups of people on the basis of any of the protected characteristics. For instance, rental housing providers may require prospective tenants to have good credit histories, sufficient income, and references. Landlords, co-ops, and condominium developments may establish a variety of policies, rules, and procedures that apply to existing residents. For example, a condo association or co-op may adopt a rule that pets are not permitted in a building or that a fee is required for any occupant owning a pet. These rules would not violate fair housing laws provided that the rules were not applied to or used to exclude service or assistance animals used by persons with physical or mental disabilities.

## What is a Reasonable Accommodation or Reasonable Modification?

Fair housing laws define a disability as a physical or mental impairment that substantially limits one or more major life activities. The definition also includes being regarded or perceived as having a disability. Although fair housing laws differ slightly in their application and protections for persons with disabilities, they all prohibit housing discrimination based on disability.

Under fair housing laws, a person with a disability may make a “reasonable accommodation” request to alter a rule, policy, practice, or service if such a change is necessary

to provide the person with the disability an equal opportunity to use and enjoy the housing. For example, let’s say that a rental management company has a rule that only tenants are allowed to use the laundry room in the apartment building. A tenant residing in the building is unable to do her own laundry because of a physical disability. The tenant

with the disability requests that management make an exception to the rule and allow one of her relatives to assist her with her laundry and use the laundry facilities in the building. In this case, the tenant makes the request and attaches a letter from a medical professional who describes why the accommodation



is needed based on the nature of the tenant's disability. If the management company refuses the request, this action may violate fair housing laws.

A person with a disability may also request a "reasonable modification" of a dwelling unit or common areas if the modification would afford the person with the disability the opportunity to fully use and enjoy the housing. For example, a deaf person may need a light installed that flashes when someone rings the doorbell or a person with a mobility impairment who uses a wheelchair may need a ramp installed to overcome two steps at the entrance to a common area that all building residents use. Depending on the type of modification and housing involved, the landlord may have to pay for the physical modification. However, in some instances, the tenant may be required to pay. Fair housing laws vary on this issue. Also, for tenants who are low-income, programs may be available to assist with the cost of modifications. If you have a client with a disability who needs a physical modification made to an apartment or home, please call the FHJC.

Persons making requests for a reasonable accommodation or a reasonable modification should understand that making the request is supposed to initiate a "dialogue" between the parties to try to figure out how the accommodation or modification can be made. Also, a person making a request should be prepared to describe how the need for the accommodation or modification is related to his or her disability. Obtaining a letter from a medical professional, social worker, or other professional can be very helpful.

## **What is Sexual Harassment in Housing?**

In a highly competitive market, rental housing providers are at a distinct advantage and can often choose from many qualified tenants who are applying for a single rental unit. A few landlords have used this advantage to discriminate against women seeking rental housing. Fair housing laws prohibit sexual



harassment by a landlord, rental agent, building manager, superintendent or other employees or agents of a housing provider. Sexual harassment can include, but is not limited to, the following types of conduct:

- Requesting sexual favors in exchange for reduced rent, rental services, repairs, or other accommodations (sometimes referred to as “quid pro quo”)
- Making sexually inappropriate comments or lewd gestures, unwelcome touching, or other severe or pervasive conduct that creates a sexually hostile living environment
- Retaliating against a tenant who refuses the sexual overtures from an agent

Fair housing laws can be quite effective in stopping illegal harassment in housing, whether that harassment is based on sex, race, national origin, gender identity, sexual orientation, or some other protected characteristic. No person should have to tolerate illegal harassment. There are steps that can be taken to stop the harassment and the FHJC can help.

## **What is a Reasonable Occupancy Standard?**

Fair housing laws prohibit housing providers from discriminating against a family simply because there are children in the household. Does that mean that housing providers must accept a family in a two-bedroom apartment regardless of how many children they have? No. Housing providers can establish a reasonable occupancy standard for the number of persons who can occupy the dwelling unit. The federal government has suggested that if a housing provider adopts an occupancy standard that is more restrictive than “two persons per bedroom,” it may be an unreasonable occupancy standard and violate fair housing laws. Depending upon the size and configuration of rooms in a particular dwelling unit, it is even possible that a “two persons per bedroom” standard is too restrictive. Finally, occupancy standards must be based on number of persons and not the number of children in the household.

## What is Steering?

Steering occurs when real estate agents or other housing providers make decisions about where people should live based on their race, religion, national origin, or some other protected characteristic. Where consumers search for housing is their choice. It is a very personal decision. Every person should make an “informed” choice about where he or she would like to live. Perhaps the quality of the housing is most important. Maybe certain housing features, styles, or amenities are essential. Perhaps convenience to public transportation or commuting time to work is a paramount concern. The presence of quality schools, low crime rates, better health care, or employment opportunities can also be vital factors to consider when looking for a place to live. Whatever the case, it is unlawful for a housing provider to “steer” or direct home seekers to specific housing opportunities or communities based on any of the protected characteristics in order to segregate or separate populations. For example, it would be illegal for a landlord to implement a policy of only allowing families with children to rent apartments in certain buildings or floors of an apartment complex.

Some steering can be more subtle, but no less insidious. For example, a real estate agent runs afoul of fair housing laws when she informs an African American home buyer that she chose certain listings because she thought the buyer would be “more comfortable” in an area that is “mixed.” Consumers should take control of their housing search, consider all of their options, and resist efforts by agents to pressure them into limiting their choices or “steering” them into renting or buying a place that they will later regret.

# What Can be Done to Stop Housing Discrimination?

**R**eporting housing discrimination is the first step to ending it. When discriminatory housing practices are encountered, the FHJC should be contacted as soon as possible. FHJC's intake personnel can help sort out the facts, interview witnesses, review documents, and counsel individuals about their rights and options under all of the fair housing laws.

In some instances, the FHJC may be able to gather additional information by conducting a fair housing testing investigation. Fair housing testing refers to the use of individuals who pose as prospective renters or buyers of real estate for the purpose of gathering information which may indicate whether a housing provider is complying with fair housing laws. Sometimes, testing evidence enables a victim of discrimination to meet his or her burden of proving that unlawful discrimination occurred.

The FHJC can also assist with referrals to government enforcement agencies and to cooperating attorneys on a case-by-case basis. A list of local,



state, and federal fair housing enforcement agencies appears in the back of this Guide. If your clients encounter unlawful housing discrimination, please encourage them to contact the FHJC as soon as possible to learn what they can do to protect and exercise their civil rights.

When you encourage individuals to report illegal housing discrimination, it is not unusual for people to express fears, apprehensions, or concerns that a housing provider might retaliate if a housing discrimination complaint or lawsuit is filed. In fact, it is a violation of fair housing laws to coerce, intimidate, threaten, interfere with or retaliate against anyone who is exercising his or her fair housing rights or assisting others to exercise their fair housing rights. It is illegal to retaliate against someone for filing a complaint, providing a witness statement, or for helping someone pursue a housing discrimination complaint. This means that you and your organization are also protected when assisting clients to assert their fair housing rights.

If you have information that illegal housing discrimination is occurring (*even if a consumer chooses not to file a housing discrimination complaint*), it is imperative that you report it. Individuals, including those who wish to remain anonymous, who possess information about possible housing discrimination, are urged to contact the FHJC. We all have a responsibility to make sure that housing in our community is open and equally available to everyone. Fair housing is the law.

# What Remedies and Penalties are Available under Fair Housing Laws?

**F**air housing laws were designed to open doors, break down barriers, and repair the harm caused by discriminatory housing practices. In general, when someone prevails with a housing discrimination complaint, the following types of remedies and penalties are available:

- **Court Orders or Injunctions** can be obtained to stop the illegal discrimination. These orders can require a housing provider to take steps to ensure discrimination will not occur in the future, such as adopting non-discriminatory policies, providing fair housing training for agents, affirmative advertising, using non-discrimination statements in publications, and other similar activities.
- **Monetary Compensation** can be ordered to be paid to the victim of discrimination for out-of-pocket expenses, economic loss, lost housing opportunity, emotional distress, and other similar damages.



- **Punitive Damages and Civil Penalties** are designed to punish the discriminating parties and deter others in the community from discriminating in the future. Punitive damages are paid to the victim of housing discrimination. A civil penalty is a monetary fine paid to the government.
- **Attorney Fees and Costs** can, in most instances, be recovered by prevailing plaintiffs in fair housing cases.

In situations where a person was illegally denied housing, harassed, or threatened with an eviction for discriminatory reasons, fair housing laws have been used to obtain court orders that enable an individual or family to obtain the housing sought or remain in their current housing.

If you have any questions about possible remedies available under local, state, or federal fair housing laws, please contact the FHJC.

# What Precautions Can Consumers Take?

**W**e all benefit when consumers are informed about their rights under fair housing laws. There are very few decisions we make in life that are more important than where we decide to live. It is a very personal decision and there are many factors to consider. In the New York region, searching for a place to rent or purchase is rarely a simple or easy matter. For many consumers, finding just the right apartment or home can be a time-consuming, confusing, costly, and often frustrating process. For other consumers, locating a place to live can be an exciting time, presenting new opportunities and challenges. In either case, searching for a place to live takes time and it is common for people to become discouraged. Encourage the consumers you work with to be patient and persistent as they exercise their right to fair housing and to always make an informed housing choice.

You and the consumers you serve should know that many housing providers train their employees and work hard to ensure that their agents comply with fair housing laws. Despite these efforts, not all housing providers are conscientious and compliant. Unfortunately, unlawful housing discrimination does still occur and it is not always obvious to the consumer.

While there is nothing that consumers can do to prevent housing discrimination, there are some steps that they can take to protect themselves in the unfortunate event that illegal discrimination occurs:

- **Keep a Written Record/Take Notes**

Whether a person is searching for housing, contending with a discriminatory eviction or the non-renewal of a lease, dealing with harassment or some other discriminatory practice, keeping a journal or

written record is generally a very good idea. Keeping track of dates and times of all contacts with housing providers and agents can be very useful should it be needed later to recount the events involving an alleged discriminatory housing practice. Whether renting or buying a home or apartment, consumers are advised to take notes during the housing search and keep the notes until the search has been concluded.



- **Save Documents**

Consumers should save receipts, copies of advertisements or listings, rental applications, leases, business cards, correspondence, emails, brochures, and any other materials obtained from a housing provider or agent. These documents might be needed in the future.

- **Obtain Names**

When a home buyer or renter initiates contact with a housing provider in person, over the telephone, or even by email, it is always a good idea for the consumer to offer his or her name early on in the conversation and ask for the name of the person with whom he or she is communicating. Proving discrimination claims can be particularly challenging if the identity of the housing provider or agent is unclear or unknown.

- **Call the FHJC**

If you suspect that you or your clients have encountered illegal housing discrimination or have questions about fair housing rights, please call the FHJC as soon as possible.



# Incorporating Fair Housing into Your Housing Program

**W**hether you are working in a program that provides rental assistance, homeless prevention services, community development activities, affordable housing, or other housing search assistance, your activities in providing housing services are vital to this community. As a housing professional, we know you take your work very seriously and you undoubtedly strive to deliver the best possible services to the people you serve. This Fair Housing Guide was written for housing professionals who want reliable information about fair housing laws.

By reading this Guide, you are taking the first step toward becoming more familiar with fair housing laws. Please put this Guide to daily use as you assist your clients to locate and maintain housing. If a fair housing issue arises that is not addressed in this Guide, please do not hesitate to call the FHJC for assistance and advice. Finally, the FHJC urges you to examine your own housing program and ask yourself the following questions:

1. Are there any existing program policies or procedures that present barriers or raise fair housing concerns? Does our program make our policy of complying with fair housing laws abundantly clear to the consumers we serve?
2. Has our program established a policy that allows consumers to make a reasonable accommodation request when it is necessary to alter a policy, procedure or practice so that persons with disabilities can fully access and use our services?

3. Is there any special outreach or affirmative marketing that we should consider doing that would expand the population of people we serve so that we are more inclusive?
4. Is there any additional search assistance that we could offer to assist consumers who participate in our program to identify or overcome discriminatory barriers in the housing market?
5. Is there something more we could do as a program or organization to make sure that the consumers we serve are more aware of their fair housing rights?
6. Are referral procedures in place to contact the FHJC when possible housing discrimination is encountered by the program or by the people we serve?

If, in answering these questions, you have identified areas that you believe warrant more attention or action by your organization and you have questions about how best to proceed, please contact the FHJC. By working together, our organizations can ensure that people have equal access to housing and foster open, accessible, and inclusive communities throughout the New York region.

# Where to Go For Help With Housing Discrimination

The Fair Housing Justice Center (FHJC) is a private, non-profit civil rights organization dedicated to challenging systemic housing discrimination, advocating policies that promote open communities, and strengthening the enforcement of fair housing laws. The FHJC's service area includes all five boroughs of New York City as well as Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester Counties.

The FHJC assists individuals and organizations with allegations of illegal housing discrimination by providing counseling on fair housing rights, investigative assistance (including testing), and referrals to cooperating attorneys and/or administrative agencies on a case-by-case basis.

There are various time limits for filing administrative complaints and/or lawsuits depending upon the applicable law, so it is important to report the discrimination as soon as possible. Contact the FHJC for help in determining the time limits that apply in your situation.

## **FOR HELP WITH HOUSING DISCRIMINATION, CONTACT:**

### **Fair Housing Justice Center (FHJC)**

5 Hanover Square, 17th Floor

New York, New York 10004

Phone: (212) 400-8201

Fax: (212) 400-8203

Email: [fhjc@fairhousingjustice.org](mailto:fhjc@fairhousingjustice.org)

Website: [www.fairhousingjustice.org](http://www.fairhousingjustice.org)

If your client prefers to go directly to a government agency or another fair housing organization for assistance with a housing discrimination complaint, a list containing contact information for local, state, and federal fair housing enforcement agencies and private fair housing organizations is provided below for your convenience.

## FEDERAL GOVERNMENT

### **U.S. Department of Housing and Urban Development (HUD)**

Office of Fair Housing & Equal Opportunity  
26 Federal Plaza, Room 3532  
New York, New York 10278  
Phone: (212) 264-1290  
Toll-Free: (800) 496-4294  
TDD: (212) 264-0927 or (800) 927-9275  
[www.HUD.gov](http://www.HUD.gov)

## STATE GOVERNMENT

### **New York State Division of Human Rights (NYS DHR)**

Bronx (Headquarters)  
One Fordham Plaza, 4th Floor  
Bronx, New York 10458  
Phone: (718) 741-8400  
TDD: 1-718-741-8300  
[www.dhr.state.ny.us](http://www.dhr.state.ny.us)

## NYS DHR – REGIONAL OFFICES

### **Adam Clayton Powell State Office Building**

163 West 125th Street, 4th Floor  
New York, NY 10027  
Phone: (212) 961-8650  
(Manhattan – North of 42nd St. and the Bronx)

### **55 Hanson Place, Room 1084**

Brooklyn, New York, NY 11217  
Phone: (718) 722-2856  
(Brooklyn, Manhattan – South of 42nd St. and Staten Island)

### **55 Hanson Place, Room 900**

Brooklyn, New York, NY 11217  
Phone: (718) 722-2060  
(Queens and All Sexual Harassment Cases)

### **8 John Walsh Blvd., Ste. 204**

Peekskill, New York 10566  
Phone: (914) 788-8050  
(Dutchess, Orange, Putnam, Rockland, and Westchester Counties)

### **175 Fulton Ave., Ste. 404**

Hempstead, New York 11550  
Phone: (516) 538-1360  
(Nassau County)

### **250 Veterans Memorial Hwy, Suite 2B-49**

Hauppauge, New York 11788  
Phone: (631) 952-6434  
(Suffolk County)

## LOCAL GOVERNMENTS

### **New York City Commission on Human Rights**

Law Enforcement Bureau  
40 Rector Street, 9th Floor  
New York, New York 10006  
Phone: (212) 306-7450  
TDD: (212) 306-7686 or (212) 306-7589  
[www.nyc.gov/cchr](http://www.nyc.gov/cchr)

### **Nassau County Commission on Human Rights**

240 Old Country Road, Suite 606  
Mineola, New York 11501  
Phone: (516) 571-3662  
[www.nassaucountyny.gov/agencies/hrc](http://www.nassaucountyny.gov/agencies/hrc)

### **Rockland County Commission on Human Rights**

Bank of New York Building  
2 New Hempstead Road  
Second Floor-Suite 208  
New City, New York 10956  
Phone: (845) 708-7200  
[www.co.rockland.ny.us/human/humdefault](http://www.co.rockland.ny.us/human/humdefault)

### **Suffolk County Human Rights Commission**

H. Lee Dennison Building, First Floor  
100 Veterans Memorial Hwy.  
Hauppauge, New York 11788  
Phone: (631) 853-5480  
[www.suffolkcountyny.gov/departments/humanrightscommission](http://www.suffolkcountyny.gov/departments/humanrightscommission)

### **Westchester Human Rights Commission**

112 East Post Road, 3rd Floor  
White Plains, New York 10601  
Phone: (914) 995-7710  
[humanrights.westchestergov.com](http://humanrights.westchestergov.com)

## FAIR HOUSING ORGANIZATIONS

### **Fair Housing Justice Center**

5 Hanover Square, 17th Floor  
New York, New York 10004  
Phone: (212) 400-8201  
[www.fairhousingjustice.org](http://www.fairhousingjustice.org)  
(New York City, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester Counties)

### **Long Island Housing Services**

640 Johnson Ave, Suite 8  
Bohemia, New York 11716  
Phone: (516) 292-0400  
[www.lifairhousing.org](http://www.lifairhousing.org)  
(Nassau and Suffolk Counties)

### **Westchester Residential Opportunities, Inc. (WRO)**

470 Mamaroneck Avenue  
White Plains, New York 10645  
Phone: (914) 428-4507 Ext. 306  
[www.wroinc.org](http://www.wroinc.org)  
(Putnam and Westchester Counties)







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