



FAIR HOUSING LAW

Has A Landlord Discriminated Against You and What Can You Do About It?

Two laws make it illegal for a landlord to discriminate against you, based on certain of your personal traits or qualities, when you rent or try to rent a place to live. They are the federal Fair Housing Act and the Illinois Human Rights Act. These laws identify those personal traits or qualities and specify what conduct is unlawful housing discrimination. They also have provisions that let you complain about such conduct and possibly help you to get some relief or an award of damages for what happened to you. We explain in more detail below.

What Personal Traits or Qualities Cannot Be A Basis for Discrimination?

It is not necessarily illegal for a landlord to treat different tenants differently. But in virtually any housing-related matter, it is illegal for a landlord to treat tenants differently because of one or more of the following personal traits or qualities:

- **race**
- **national origin**
- **color**
- **disability**
- **religion**
- **familial status**
- **sex**

“Familial status” applies if you are a parent or other person with legal custody of minor children who live with you. Familial status also applies to any person who is pregnant or is in the process of securing legal custody of a minor child.

The Illinois Human Rights Act also prohibits discrimination in housing based upon ancestry, age, military status and marital status (effective January 1, 2006, sexual orientation will also be a protected category). Some cities or towns have their own fair housing laws that may prohibit other bases of discrimination, such as source of income or Vietnam veteran status.

What Kinds of Conduct Are Illegal Housing Discrimination?

Generally, the above laws cover most kinds of housing transactions, including rentals. However, the law does not apply to certain landlords, who are considered “exempt.” One such exemption applies to buildings the owner lives in, if there are four apartments or less in the building. Also, when an organization or private club provides housing, it can lawfully limit occupancy to its members only. Furthermore, housing that is designated as housing strictly for older persons can refuse to rent to families with children.

Most landlords are not exempt and must comply with these laws. There are many ways that these landlords can discriminate in a rental situation, if the discrimination is based on one or more of the above personal traits or qualities. For example, it is illegal for a landlord to:

Refuse to rent to you or refuse to negotiate for a rental.

Example:

A management company fails to call back persons with ethnic accents.

Make an apartment more difficult to obtain.

Examples:

- 1) *A landlord requires credit checks only of his minority applicants.*
- 2) *A landlord fails provide a minority applicant with the necessary information to apply to become a tenant, or delays in providing that information, and in this way discourages his or her application.*

Mislead you as to the availability of a rental unit.

Examples:

- 1) A landlord has available apartments, but tells a African-American person inquiring into apartment availability that all apartments are taken.
- 2) A management company fails to show you certain rental properties because it doesn't want children living there, or "steers" you only to certain neighborhoods.

Have terms in the lease or put conditions on renting that the landlord does not have for more favored groups of persons.

Examples:

- 1) A landlord charges minority tenant more in rent or for a security deposit than charged to a white tenant for the same apartment.
- 2) A landlord evicts a tenant because he has guests who are Hispanic.

Engage in sexual harassment.

Examples:

- 1) A landlord offers a reduction in rent in return for sexual favors.
- 2) A landlord makes sexual advances or demands upon a tenant, by touching her in a sexual way or by otherwise harassing her because of her sex.

Discriminate in the privileges, services or facilities provided at the apartment building or complex.

Examples:

- 1) A landlord refuses to allow a person with a disability to use the swimming pool in an apartment complex where the pool is open to all other tenants.
- 2) A landlord fails to make repairs or delays the repairs because you are Hispanic.

Discriminate in advertising for the apartment.

Example:

An ad indicates a preference or an objection to a certain group by including the phrase "no wheelchairs" or "no children."

Threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others who are exercising that right.

Example:

A landlord attempts to evict you because you filed a fair housing complaint against him.

What Additional Rights Do People with Disabilities Have?

The above laws protect people with disabilities from discrimination only if the person's physical or mental condition meets the legal definition of disability or "handicap." Not all impairments necessarily meet this definition. In general, these terms refer to a person who: a) has a physical or mental impairment which substantially hinders or impairs one or more of his or her **major life activities**, or b) has a record of such an impairment, or c) is regarded as having such an impairment.

Examples of major life activities:

Caring for yourself, walking, seeing, hearing, speaking, breathing, learning, working, bathing, dressing, eating, interacting with others, reading, sitting, standing, sleeping, thinking and concentrating.

You may need a lawyer to help you make this determination or to establish that you have a disability.

These laws give persons with disabilities additional rights. The violation of any of these rights is considered housing discrimination:

With certain exceptions, a landlord cannot legally ask whether you have a "handicap," or its nature or severity.

Example:

A public housing authority violates the law by using an application form that asks about handicaps and requires all applicants to sign medical record release forms.

The right to have a guide, hearing or support dog.

Example:

A support dog is for a person who needs stability and momentum while walking.

The right to make reasonable modifications to places they rent, if those modifications are necessary to let them use or enjoy the premises.

Generally, landlords are not required to pay for these modifications, but they must allow them to be made at the expense of the tenant. If the building was financed with federal funds, however, the landlord must pay for the modifications.

Examples of modifications:

Installation of a flashing light to enable a person with a hearing impairment to see that someone is ringing the door bell; the construction of a ramp to enable a person in a wheel chair to enter the unit; the replacement of door knobs with lever handles for a person with severe arthritis.

The right to request reasonable accommodations from landlords.

This means reasonable changes or exceptions in rules, policies, practices or services, when this is necessary to allow a disabled person an equal opportunity to use or enjoy the premises.

Examples:

A landlord must reserve a parking space for a tenant with disabilities who otherwise is not entitled to one. A landlord may be required to waive guest fees that would otherwise be charged for a tenant's home health care aide or personal attendant.

The right to have certain kinds of buildings be designed and constructed so that they are readily accessible to persons with disabilities.

Federal law requires that buildings having four or more living units first occupied after March 13, 1991, be designed and constructed so that they are readily accessible to persons with disabilities. If such a building has one or more elevators, then every unit is covered. If the building has no elevator, then only the ground floor units are covered. The law has some very specific "adaptive-design" requirements.

Examples:

Public and common areas must be accessible to persons with disabilities. Doors and hallways must be wide enough for wheelchairs. All units must have an accessible route into and through the unit; accessible light switches, electrical outlets, thermostats, and other environmental controls; reinforced bathroom walls to allow later installation of grab bars; and kitchen and bathrooms that can be used by people in wheelchairs.

Similarly, Illinois law requires that buildings having four or more stories and containing ten or more units constructed after September 25, 1985, must comply with certain accessibility standards. These standards are contained in the Illinois Accessibility Code, which can be downloaded from the Internet at www.cdb.state.il.us/download/iac.pdf.

How Can I Enforce My Rights?

If you think your rights have been violated, either the U.S. Department of Housing and Urban Development (HUD) or the Illinois Department of Human Rights (IDHR) is ready to help. You start the process by filing a complaint at either agency. At HUD, complaint forms are available over the Internet at www.hud.gov. They may also be obtained by calling or writing to the local HUD Fair Housing office at:

U.S. Department of Housing and Urban
Development
Ralph H. Metcalfe Federal Building
77 W. Jackson Boulevard, Room 2101
Chicago, Illinois 606043507.
(312) 353-7776, extension 2453 or
(800) 7659372; TTY (312) 3537143.

To make a complaint (called a "charge") at the IDHR, call them in Chicago at (312) 814-6200 or (800) 662-3942; TTY (312) 263-1579, or in Springfield at (217) 785-5100; TTY: (217) 785-5125. Their website is www.state.il.us/dhr. To file under the law of a local city or town, you should check with your City Hall or Mayor's office to see if there is a local Fair Housing office or Human Rights Commission.

You should file a housing discrimination complaint or charge as soon as possible, but you cannot file it later than one year after the discriminatory practice occurred or ended. Be sure to tell the agency your name and address, the name and address of the person your complaint is against (the "respondent"), the address or other identification of the housing involved, a short description of the event that you believe violated your rights, and the date(s) of the violation.

If you filed your complaint with HUD, they will refer it to IDHR for investigation and will notify you of the referral. IDHR must begin work on your complaint within 30 days or HUD may take it back. The investigation can often take a long time, up to 100 days or longer. Be patient, but persistent. After an investigation, either IDHR or HUD will determine whether there is reasonable cause to believe that dis-

crimination occurred. If so, there will be a conciliation conference where the agency will try to see if an agreement can be reached between you and the respondent. If not, your case will be heard at an administrative hearing, unless you or the respondent want the case to be heard in court. Either way, there is no charge to you.

If your case goes to an administrative hearing, government attorneys will litigate the case on your behalf. You may intervene and be represented by your own attorney if you wish. After hearing all the evidence, the hearing officer will decide whether discrimination occurred. If so, the respondent can be ordered to: 1) pay you for actual damages, including humiliation, pain and suffering; 2) stop the discrimination or make the housing available to you; 3) pay the government a civil penalty to defend the public interest; and 4) pay reasonable attorney's fees and costs.

After filing the complaint or charge, you can make an election to have the case decided in court by a judge rather than by an administrative hearing officer. If you make that election and HUD or IDHR finds there is reasonable cause to believe discrimination occurred, then either the state or the federal

Attorney General (a government lawyer) will file a suit and litigate it on your behalf. A court can order the same type of remedies as can an administrative hearing officer, but in addition, a court can order the respondent to pay punitive damages (an amount payable to you to "punish" the respondent for intentional and malicious behavior).

If you choose, you can by-pass the entire procedure simply by filing your own lawsuit, at your own expense, in federal district court or state court. You must file such a lawsuit within two years of the violation. You may bring your own suit even after filing a complaint or charge with HUD or IDHR or a local agency, as long as you have not signed a conciliation agreement and a hearing or trial has not yet started. Given the complexity of filing your own suit, you should consult an attorney. If you are successful in your lawsuit, you may obtain remedies that are similar to those explained above.

