

**Some of the
Most
Frequently
Asked
Questions
About
Fair Housing**

A Summary of the Evolution of Civil Rights and Federal Fair Housing Law

1776	Declaration of Independence from Great Britain: White men who own property are equal.
1789	United States Constitution written and signed: Each black counted as 3/5's of a person for Congressional seat count.
1807	Slave Trade Prohibition Act: Congress prohibited the importation of slaves to the U.S.
1856	Dred Scott vs. Sandford-U.S. Supreme Court Case: Blacks were not citizens and could be granted rights only by whites.
1862	Lincoln's Emancipation Proclamation: It denounced the injustice of slavery.
1865	Thirteenth Amendment: It abolished slavery.
1866	Civil Rights Act of 1866: It prohibited racial discrimination.
1868	Fourteenth Amendment: It granted citizenship and due process to all.
1883	Robinson vs. Memphis & Charleston R.R.- U.S. Supreme Court Case: It said that 14th Amendment was for state actions and did not prohibit private conduct, such as discrimination in lodging.
1894	Plessy vs. Ferguson-U.S. Supreme Court Case: The doctrine of "separate but equal" was declared legal.
1917	Buchanan vs. Warley-U.S. Supreme Court Case: It said "no" to segregated areas.
1948	Hurd vs. Hodge & Shelley vs. Kramer- U.S. Supreme Courts Cases: Restrictive real estate deed covenants are illegal.
1954	Brown vs. Board of Education-U.S. Supreme Court Case: Doctrine of "separate but equal" is declared illegal.

- 1962 **President Kennedy's Executive Order 11063:**
Racial discrimination in VA and FHA loans is illegal.
- 1964 **Civil Rights Act of 1964:**
Racial discrimination in federally-funded housing is illegal.
- 1968 **Jones vs. Alfred H. Mayer Co. U.S. Supreme Court Case:**
Racial discrimination in private housing is illegal.
- 1968 **The Civil Rights Act of 1968:**
It enhanced and expanded fair housing protections for race, and added color, religion and national origin as "protected class" groups.
- 1973 **Rehabilitation Act of 1973:**
It prohibited discrimination against the disabled in federal programs.
- 1974 **Housing and Community Development Act:**
It added sex to the "protected class" groups list.
- 1988 **Fair Housing Amendments Act of 1988:**
It added familial status and handicap to the "protected class" groups list and strengthened enforcement and penalties.

Fair Housing Laws



What are fair housing laws?

Fair housing laws refer to those federal and state laws and regulations prohibiting discrimination in any activity relating to the sale or rental of dwellings, the availability of financing or other real estate-related transactions, or the provision of housing-related services.

Who is protected under the Fair Housing Act?

The Fair Housing Act prohibits discrimination based on race, color, national origin, religion, sex, disability, and familial status.

What types of housing are covered?

Most housing accommodations, residential buildings, vacant lots or other property used for residential purposes are covered by the law--examples include: houses, condominiums, apartment buildings, subdivision lots, and mobile homes and their sites.

What are some examples of housing discrimination?

Discrimination occurs when housing providers:

- ⊗ refuse to rent or sell housing based on a protected status
- ⊗ refuse to negotiate for housing based on a protected status
- ⊗ make housing unavailable or deny that housing is available based on protected status
- ⊗ set different terms, conditions or privileges for the sale or rental of housing based on protected status
- ⊗ advertise that housing is available only to persons of a certain race, color, national origin, religion, or sex, or that housing is unavailable to people with disabilities or children
- ⊗ blockbust-for-profit; i.e., persuade owners to sell or rent by telling them that minority groups are moving into the neighborhood
- ⊗ deny or make different terms or conditions for a mortgage loan, improvement loan, insurance contract, or other "real estate-related transaction"
- ⊗ Refusing to offer services in specific areas based on the racial composition of those areas.
- ⊗ threaten, coerce or intimidate anyone exercising their fair housing rights or assisting others in exercising those rights.

Who can file a complaint?

- Ⓐ any person(s) injured by an alleged discriminatory practice
- Ⓑ private fair housing agencies
- Ⓒ the Department of Justice
- Ⓓ the Department of Housing and Urban Development (HUD) may initiate an investigation or administrative complaint.

Who can enforce fair housing laws?

Under title VIII, the Department of Housing and Urban Development has the administrative authority to enforce federal fair housing laws. Aggrieved parties, and fair housing agencies, may enforce fair housing laws through either filing an administrative complaint or filing a civil action in court. The Department of Justice may also file a civil action court to enforce the fair housing act. Real estate agents, companies, builders, and others in housing-related industries may be aggrieved parties if discriminatory conduct interferes with their ability to conduct business.

What could happen to me if I violate fair housing laws?

- Ⓐ fines of up to \$50,000 plus actual damages and legal fees (HUD administrative process)
- Ⓑ possible civil action (in federal court there is no cap on penalties)
- Ⓒ loss of respect and failed reputation in the community.

Testing

What is testing?

Testing is a technique used to gather objective information about real estate practices. The United States Supreme Court upheld testing in *Havens Realty vs. Coleman*, finding it often the only reliable method to gather evidence necessary to enforce fair housing laws. Testers are trained observers who simply record their observations about a housing provider's business practices while duplicating the actions of a bona-fide homesseeker. They do not determine whether discriminatory conduct has occurred.

Why isn't testing entrapment?

Entrapment is defined as an effort to lure or entice a person into behaving in an unlawful manner. Testers are trained to avoid this conduct.

If I suspect I am being tested and confront the tester, does the tester have to admit he or she is testing me?

No, a tester does not have to admit he or she is testing—even if you ask. Again, the Supreme Court has held that testing is a legal and necessary tool for detecting housing discrimination. Further, testers may claim damages if they are misinformed about the availability of property or discouraged from seeking housing as a result of discrimination. Your conduct should be consistent with all customers.

What if I'm having a bad day?

"Bad days" are a good reason for testing because testing can actually protect you. If the Central Alabama Fair Housing Center gets a complaint against you from someone you saw on a "bad day," testing will reveal that the circumstances relayed in the complaint were a momentary aberration of nondiscriminatory behavior. Of course, you can't tell someone, "We don't take kids," and blame it on a "bad day"; nor can you have a bad day every time someone in a protected category comes to see you.



Familial Status

What is familial status discrimination?

Familial status discrimination occurs when a property owner refuses to rent, sell, show, or finance a dwelling to someone whose household members include children or a woman who is pregnant, or whose household members anticipate obtaining custody of a child. Setting different terms or conditions on such households also constitutes discrimination.

What are some examples of familial status discrimination?

- ⊖ Creating unfair barriers for families with children
- ⊖ Requiring families with children to meet additional requirements or pay additional fees
- ⊖ Restricting families with children to certain buildings or to certain units within a building
- ⊖ Imposing unreasonable conditions or restrictions concerning the use of a dwelling or housing-related facilities only on families with children.

What are the exemptions concerning housing for older persons?

Housing intended for occupancy by older persons can be exempt from the provisions of the Act regarding familial status. To be exempt, the following conditions must be met:

- ☉ The housing must be intended for and solely occupied by persons 62 years of age or older only;
- ☉ At least 80% of the occupied units must be occupied by at least one person who is 55 years of age or older; and
- ☉ The property must be intended, marketed and operated as housing for older persons. Providers who are considering qualifying properties for this exemption should seek advice from attorneys who are familiar with the Fair Housing Act.



Disability

What is the definition of a disability as it relates to fair housing?

A person with a disability is defined as any person who has a physical or mental impairment which substantially limits one or more major life activity, has a record of such an impairment, or is regarded as having such an impairment. This includes people who use a wheelchair, people with visual impairments, and people with emotional problems, mental illness, or difficulties associated with aging. Recovering alcoholics and drug addicts are protected as disabled under fair housing laws; however, the laws do not apply to current illegal use of drugs.

What actions involving people with disabilities are prohibited under the Fair Housing Act?

- ☉ Making rental property unavailable because an applicant, household member, or a person associated with the applicant has a disability
- ☉ Setting different terms or conditions for the rental or provision of services or facilities because the renter has a disability
- ☉ Inquiring into the nature or severity of an applicant's disability
- ☉ Demanding an additional security deposit because the applicant has a disability.
- ☉ Refusing to allow reasonable modifications to a dwelling, such as widening doorways, installing grab bars in the bathroom, lowering cabinets, etc.

If I cannot ask a person about their disability, how can I accommodate them?

While you shouldn't ask the specifics about a person's disability, you should ask all of your tenants, "Will you require any additional assistance?" By asking everyone this question, you will be able to meet your obligations to people with disabilities and assure that you assist those whose disabilities are not readily apparent.

What actions are required under the Fair Housing Act to accommodate people with disabilities?

- ⊗ Owners must permit reasonable modifications to dwelling units and public areas if necessary to permit full use and enjoyment of a dwelling
- ⊗ Owners must make reasonable accommodations in rules, policies, practices, or services when necessary to afford a person with a disability equal opportunity to enjoy a dwelling—including public and common areas.

For most multi-family housing built and occupied after March 13, 1991, the Fair Housing Act requires that the building must be designed with accessible features, including:

- doors wide enough for persons in wheelchairs
- readily accessible public and common use areas
- accessible light switches, electrical outlets and thermostats
- reinforced bathroom walls for the installation of grab bars
- ample space in kitchens and bathrooms for wheelchairs to maneuver
- accessible routes into and through the dwelling.

What types of housing are covered?

- 1) All dwellings in buildings with four or more units and with an elevator must be in compliance;
- 2) In buildings of four or more units and no elevator, only the ground floor units must be in compliance;
- 3) New buildings with fewer than four units are not required to be in compliance;
- 4) Site topography may sometimes limit the number of dwellings required to meet handicap accessibility requirements.

Sex

What are some examples of housing discrimination based on sex?

It is illegal to:

- ⊗ rent, sell or negotiate for housing with women on a different basis than men
- ⊗ refuse to acknowledge as income any alimony or child support payments received by a woman

- ⊗ sexually harass home purchasers or tenants
- ⊗ require, directly or by implication, sexual favors in exchange for housing or housing related services.

What is sexual harassment?
Sexual harassment is any unwanted attention of a sexual nature which creates discomfort and/or interferes with a person's ability to comfortably enjoy any life activity. It can take the form of verbal abuse (such as insults, suggestive comments and demands), leering, subtle forms of pressure for sexual activity, and physical aggressiveness (including touching, pinching, and patting).

Race, Color, and National Origin

What is racial steering?
Racial steering occurs when a housing provider directs home seekers to or away from neighborhoods or areas based on the race of the home seeker and the racial composition of the neighborhood or area. For example, a real estate agent is steering when that agent shows or suggests that African American home seekers view homes in specific neighborhoods or MLS areas and discourages African American home seekers from viewing homes outside specific areas. Agents who steer may also encourage white home seekers to look in other areas or discourage them from viewing homes in the areas they encourage African American home seekers to view. This is steering and it is illegal.

What do I say if a customer asks about the racial composition of a neighborhood?

If an agent is asked a question about the racial composition of an area or neighborhood, the agent should respond by saying that the Fair Housing Act prohibits Realtors from discussing the racial make-up of a neighborhood. Of course, you should **NEVER** volunteer information about the racial composition of an area.

What is blockbusting?

Blockbusting is when housing providers frighten people into moving from a neighborhood because of fear of minority infiltration. This results in panic selling whereby homeowners feel compelled to leave a neighborhood and sell at reduced prices. The units are then resold to minority buyers at a profit.

What is redlining?

Redlining occurs when finance and insurance companies "write off" an entire neighborhood because of the racial composition and refuse to do business there.

What are the exemptions covering race, color, and national origin?

There are no exemptions covering race, color, and national origin. The Federal Statute of 1866 prohibits **ANY** racial discrimination or discrimination based on one's national origin in any transfer of property (renting, leasing, selling or conveying).

Religion

How does the Fair Housing Act protect against discrimination based upon religion?

The Fair Housing Act says that discrimination based on religion is illegal in the sale or rental of most housing. This means that in addition to general prohibitions in the Act, it is unlawful to:

- ⊗ Question a potential renter or purchaser about their religion or religious affiliation in connection with the purchase, sale or rental of housing
- ⊗ Refuse to rent or sell a home or apartment to a person of a particular religion or religious affiliation.

Religious organizations can give preference to its members in the sale, rental or occupancy of noncommercial housing or lodges, as long as membership in the religion is not restricted on the basis of race, color, or national origin.

REMEMBER, BE CONSISTENT AND DOCUMENT

revised 10/98

What are the Penalties for Violating Federal Fair Housing Laws

The penalties and enforcement procedures for the violation of Federal Fair Housing Laws were strengthened considerably in the 1988 Fair Housing Amendments Act. They include:

1) **Actual Damages** - These include the cost of finding alternative housing, legal fees and non-economic injuries such as embarrassment, inconvenience and mental anguish.

2) **Punitive Damages** - These financial awards are intended to punish the respondent for the violation and to deter others from similar conduct. *There is no dollar limit on punitive damages.*

3) **Injunctive Relief** - Injunctive relief can require the violator to take various "affirmative actions" to remedy the violation and prevent them in the future, such as: taking out advertisements in the media, attendance or sponsorship of educational programs or seminars, performance of community service activities, use of the Fair Housing Logo, displaying the HUD Fair Housing Poster, and maintenance of statistical records about the types of people served in future real estate activities.

4) **Equitable Relief** - Equitable relief is intended to eliminate any of the remaining effects of the discriminatory actions such as actually giving the "aggrieved party" access to the dwelling they may have been denied.

5) **Civil Penalties** - Civil penalties are intended to promote the public interest and are quite costly: up to \$10,000 for the first violation, up to \$25,000 for another violation occurring within five years, and up to \$50,000 for two or more violations occurring within seven years.

Violators can be fined at the \$25,000 and \$50,000 levels without the time period restrictions if they engaged in multiple discriminatory practices. Also, these fines can be much higher when more than one "aggrieved party" was discriminated against.

If a "pattern of discrimination" is proved, civil penalties can be as high as \$100,000 even for the first violation.

6) **Criminal Penalties** - Criminal penalties also are possible for violating federal fair housing law.

Federal law states that it is a felony to "attempt to" or "willfully" injure, intimidate or interfere with any person in connection with the sale, purchase, rental or financing of any dwelling because of their race, color, national origin, religion, sex, familial status or handicap.

What Housing is "Exempt" from the Federal Fair Housing Laws?

The following are exempt from the Federal Fair Housing Laws:

1) **Owner-occupied buildings with no more than four units, in which four families live independently of each other, are exempt from federal fair housing laws unless the owner or manager is a real estate licensee (This provision is known as the "Mrs. Murphy" exemption).** However, discriminatory advertisements and housing discrimination based on race (which may sometimes include color and national origin) is not exempted for owner-occupied buildings.

2) **Single family housing sold or rented without the services of a broker as long as the owner owns no more than three single family houses and has not completed more than one real estate transaction in the last 24 months, unless the owner was the most recent occupant of the property being sold or rented.**

3) **Non-commercial housing operated by organizations and private clubs that limit occupancy to their members only. However, organizations and clubs may not discriminate against any potential member or occupant because of their race, color or national origin.**

4) **Hotels, motels and bed & breakfasts with short-term transient occupancies are exempted. However, federal public accommodation laws afford protection to all on an equal basis.**

5) **Some housing operated and intended for older persons is exempt from the familial status portion of fair housing law.**

Important Note: The Civil Rights Act of 1866, which first prohibited racial discrimination has no exemptions like the ones noted above, which are exempt under the later Civil Rights Act of 1968. Therefore, even if the dwelling is exempt under the 1968 law, racial discrimination can be claimed and litigation initiated under the earlier 1866 statute. Also, since state and local laws may not have exemptions like federal laws, reliance on the federal exemptions may not be wise in protecting the practitioner from litigation. A suit initiated by a state or local government agency may be just as costly as a suit over a federal violation.

**WORDS THAT CAN NOT BE USED IN M.I.S. REMARKS
ACCORDING TO HUD**

able bodied	empty nesters	(nationality)
adult living	(ethnic references)	newlyweds
adult community	handicapped	(#of) children
adults only	healthy only	older person(s)
African	Hispanic	one child
agile	impaired, no	one person
alcoholics, no	independent living	Oriental
Asian	Indian	physically fit
bachelor	Irish	Polish
blacks, no	integrated	Puerto Rican
board approval required	Jewish	retarded, no
Catholic	landlord (desc. of)	seasonal worker, no
Caucasian	Latino	shrine
Chicano	married	singles only
Chinese	mature couple	single person
children, no	mature individual	smoker(s), no
colored	mature person(s)	Soc. Sec. Ins. (SSI), no
couple	membership approval req'd	tenant (descr. of)
couples only	mentally handicapped, no	unemployed, no
crippled, no	mentally ill, no	white
deaf, no	Mexican-American	white-only
drinkers, no	Mormon Temple	
employed, must be	mosque	



Rev. E. Barnes
 not
 Administrator
 Muzila A. Aziz, Esq.

Georgia Commission on Equal Opportunity

710 International Tower - Peachtree Center
 229 Peachtree Street, NE
 Atlanta, Georgia 30303-1605
 404-656-1736
 1-800-473-OPEN
 404-656-9295 (TDD for the hearing impaired)

Board of Commissioners
 William Ovtlaw, Chairman
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 Jeffrey A. Felser
 Stephen Katz
 Edward C. London
 Patricia McCamy
 Brenda Hodges-Tiller
 Brenda Ielhan-Thomas

GEORGIA COMMISSION ON EQUAL OPPORTUNITY FAIR HOUSING ADVERTISING WORD AND PHRASE USAGE LIST

Version 1: issued February, 1999

This list is intended to assist all persons in complying with the advertising provisions of the Georgia Fair Housing Law. The Georgia Commission on Equal Opportunity (GCEO) will render its determinations based upon this list. From time to time, revisions to the law or court decisions may require that this list be revised. No word list can take all possible situations into account, and we strongly recommend that you contact the GCEO or your attorney to seek guidance on any language which seems questionable to you. This list is not approved by or binding upon the U.S. Department of Urban Development (HUD). The GCEO does not guarantee that HUD will agree with the opinions expressed in this list.

Words/phrases which may violate the law, depending on context. Use with caution. Legal consultation is recommended.	Words/phrases which probably violate the law: Do NOT use.
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| active | accessible | apartment complex with chapel | bedrooms, number of | bus, near | credit check required | den | desirable neighborhood | domestic quarters | drinking, no | drugs, no | drug users, no | Easter Bunny | Equal opportunity housing | family, great for | family room | fixer-upper | golf course, near | great view | handicapped access | Happy Easter | men only | Mormon Temple | | | | | | | | | | | | | | | |
| (ethnic references) | adults only | adults | adult-only swimming pool | adult living | adult community | adult building | able-bodied | adults only | African | agile | alcoholics, no | American Indian(s) | Anglo Saxon | Asian | bachelor | bachelor pad | black(s) | blind, no | Caucasian | close to | congregation | Catholic | executive | female(s) only | fisherman's retreat | gender | gentleman's farm | grandma's house | golden agers only | handyman's dream | integrated | male(s) only | made roommate | man only | mature | membership approval req'd. | great view |

Equal Opportunity is for Everyone!

Words/phrases which may violate the law. Do NOT use.

Words/phrases which may violate the law. Do NOT use. Use with caution. Legal consultation is recommended.

Words/phrases which do NOT violate the law or are very unlikely to violate the law. Use with confidence.

Chicano	no Section 8	hobby farm
children, no	parish	jogging trails
children, number of	private	kosher meals available
Chinese	restricted	luxury apartment
Christian	retired	luxury townhouse
colored	retiree(s)	master bedroom
couple	senior(s)	Merry Christmas
couples only	senior citizen(s)	mother-in-law apartment
crippled, no	senior housing	mother-in-law suite
deaf, no	shine	nanny's room
disabled, no	single man	near
disabled, not for	single woman	near country club
employed, must be	synagogue	near church
empty nesters	temple	near golf course
exclusive	traditional	near public transportation
Filipino	walking distance to	near schools
foreigner(s)	woman only	(neighborhood name)
healthy only	women only	nice
Hispanic	no students	no bicycles allowed
Hungarian	no gays	no drinking
immigrants, no	number of persons	no drug use permitted
impaired, no	students(s)	no drugs
Indian	membership approval	no smoking
Irish	required.	non-smoking
Italian	integrated	number of bedrooms
Jewish	must comply with park rules	nursery
Korean	newly-weds	nursing home
Latino	no more than two (2)	persons per bedroom
mature couple	responsible	play area
mature individual	Spanish speaking	privacy
mentally disabled, no	stable	private
mentally ill, no	private driveway	private entrance
mentally impaired	private property	private setting
must be employed	professional	public transportation, near
Mexican-American		
Negro		

Approved by:

Mustafa A. Aziz, Administrator, GCEO

Issued by the Georgia Commission On Equal Opportunity, February 18, 1999.

- no blind
- no children
- no crippled
- no deaf
- no impaired
- no Jews
- no lesbians
- no mentally disabled
- no mentally ill
- no play area
- no retarded
- no seasonal workers
- no Social Security Insurance (SSI)
- no unemployed
- no wheelchairs
- not for disabled
- older person(s)
- one child
- one person
- Oriental
- physically fit only
- Polish
- Protestant
- Puerto Rican
- single person
- single sex club
- singles
- singles only
- unemployed, no
- Vietnamese
- white
- white only
- white private home
- quality neighborhood
- quiet
- quiet neighborhood
- quiet streets
- Santa Claus
- (school district)
- (school name)
- secluded
- secure
- security provided
- senior discount
- St. Valentine's Day
- square feet
- townhouse
- traditional style
- tranquil setting
- two-bedroom
- verifiable income
- view of
- walk-in closet
- walk to bus stop
- wheel chair ramp
- with view
- prestigious
- straight only
- non-smokers
- quiet tenants

Words/phrases which probably violate the law. Do NOT use.	Words/phrases which violate the law, depending on context.	Words/phrases which may violate the law, but with caution - legal consultation is recommended.
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quality construction

no alcoholics

I cannot discuss that issue.
It may violate the Federal
Fair Housing Laws. I could
lose my license and be fined
very heavily. If this infor-
mation is important to you,
you must get it from another
source.