

# Marketing And The Fair Housing Act

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The marketing, sale and leasing of housing is regulated by the US Department of Housing and Urban Development through The Fair Housing Act. Everyone involved in these activities should be familiar with the law.

The federal Fair Housing Act prohibits discrimination in housing because of:

- Race or color
- National origin
- Religion
- Sex
- Familial status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18)
- Handicap (Disability)

Please note that states and localities sometimes add on additional civil rights laws that you need to understand and comply with. For example, additional protected classes may exist, such as weight, height, sexual orientation or "lawful source of income". Check with your local government to see what your local and state law provides for.

## What Housing Is Covered?

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members. Single-family or owner-occupied housing exemptions do not apply to discriminatory advertising (see below).

## What Is Prohibited?

***In the Sale and Rental of Housing:*** No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting) or
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

***In Mortgage Lending:*** No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap (disability):

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminate in appraising property
- Refuse to purchase a loan or
- Set different terms or conditions for purchasing a loan.

***In Addition:*** It is illegal for anyone to:

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

**Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.**

**Examples:**

You cannot place the following in an ad: "great home for elderly, single person." This would be discrimination on the basis of age and familial status. This also means you cannot place an ad that says "great home for young families with children."

Do not use words describing the housing, the current or potential residents, or the neighbors or neighborhood in racial or ethnic terms (i.e., "white family home", "no Irish").

Ads should not contain an explicit preference, limitation or discrimination on account of religion (i.e., "no Jews" or "Christian home").

Ads should not contain explicit exclusions, limitations, or other indications of discrimination based on handicap (i.e., "no wheelchairs"). Ads containing descriptions of accessibility features are OK ("wheelchair ramp").

## **Additional Protection For People with Disabilities**

If someone:

Has a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities

Has a record of such a disability or

Are regarded as having such a disability

landlords **may not**:

Refuse to let renters make reasonable modifications to the dwelling or common use areas, at their expense, if necessary for the disabled person to use the housing. (Where reasonable, the landlord may permit changes only if the person agrees to restore the property to its original condition when they move.)

Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing.

Example: A building with a "no pets" policy must allow a visually impaired tenant to keep a guide dog.

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

However, housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

### **Requirements for New Buildings**

In buildings that are ready for first occupancy after March 13, 1991, and have an elevator and four or more units:

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
- Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units.

These requirements for new buildings do not replace any more stringent standards in State or local law.

### **Housing Opportunities For Families**

Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under 18 live with:

A parent

A person who has legal custody of the child or children or

The designee of the parent or legal custodian, with the parent or custodian's written permission.

Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.

Exemption: Housing for older persons is exempt from the prohibition against familial status discrimination if:

The HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under a Federal, State or local government program or  
It is occupied solely by persons who are 62 or older or  
It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates an intent to house persons who are 55 or older.

A transition period permits residents on or before September 13, 1988, to continue living in the housing, regardless of their age, without interfering with the exemption.

Sources: US Department of Housing and Urban Development.