

# Fair Housing

## What is fair housing?

When looking to buy or rent a property it is important to know that you are protected under fair housing laws. Fair housing laws are some of the strongest civil rights statutes on the books. Federal and State laws make it illegal to discriminate against people when renting or purchasing a unit based on any of the following:

- **Race, Color, National Origin**

It is always illegal for a landlord, agent, home seller, or realtor to discriminate based on race, color and/or national origin (ancestry). There is no exemption for owner-occupied duplexes. In addition to the Federal Fair Housing Act, there are independent federal and state laws that prohibit housing discrimination based on race, color and/or national origin in all types of public and private housing.

- **Religion**

Laws protect individuals who are religious, as well as individuals who do not believe in any religion or any God. It is illegal for a housing provider to ask about religion or religious beliefs, and it is illegal for a housing provider to give preferential treatment to individuals or families based on their religion or lack of religion.

- **Sex**

It is illegal to rent or sell, make discriminatory statements, and offer different terms and conditions, based on an individual's sex. It is also illegal for any housing provider, agent, property manager, or other employee to sexually harass any tenant.

- **Age**

It is illegal to discriminate against someone based on his or her age. Age is a protected category under the Massachusetts fair housing laws. However, there are some exceptions. Minors are not protected and the protections do not extend to residency in state or federally-aided housing for the elderly, or to housing intended for use as housing for persons 55 years of age and over, or to housing for individuals age 62 or over.

- **Disability**

Individuals with physical and mental disabilities are protected from all forms of housing discrimination. An individual qualifies for the protection of the law if he or she has:

1. A physical or mental impairment which substantially limits one or more of a person's major life activities. Major life activities include caring for oneself,

performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working; or

2. A record of having a physical or mental impairment that substantially limits a major life activity; or
3. Is regarded as having a physical or mental impairment that substantially limits a major life activity.

Individuals with a disability also have a right to a reasonable accommodation in a housing provider's rules, policies, practices, or services, when such accommodation may be necessary to afford the disabled individual an equal opportunity to use and enjoy their dwelling.

A tenant with a disability who has trouble walking can request an accommodation of a housing provider's parking policy by requesting an exclusive or designated parking space close to his or her apartment. A tenant whose disability requires an assistance animal (also referred to as service or emotional support animal) can request a waiver of a landlord's no pet policies.

A reasonable modification is a structural change made to an existing premise, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. In private housing it is usually the tenant's responsibility to pay for the cost of modification. In publicly assisted housing, or multifamily housing consisting of ten or more units or contiguously located housing consisting of ten or more units, the owner must pay for the cost of installing a ramp for a disabled tenant.

Reasonable modifications may include: ramping entrances; removing base cabinets; installing railings; installing grab bars; widening doorways.

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.

- **Marital Status**

It is illegal to discriminate against someone based on his or her marital status.

- **Families with Children**

It is illegal to refuse to rent to families with minor children for any reason. Frequently landlords refuse to rent to families with children under the age of 6, due to the presence of lead paint in the unit. Landlords believe it will cost too much to remove the lead hazard in their units and therefore discriminate against families with young children.

This refusal to rent violates the Massachusetts Lead Poisoning Prevention and Control law and federal and state fair housing laws.

- **Section 8 and Public Assistance**

It is illegal to refuse to rent to an individual because he or she is a Section 8 recipient or a recipient of any federal, state or local public assistance (e.g. TAFDC, SSI, Welfare, Food Stamps), or receives medical assistance, or because a tenant is a recipient of any other federal, state or local housing subsidy (e.g. MRVP, or Chapter 707).

The law prohibits discrimination because of any requirement of the public assistance, rental assistance, or housing subsidy programs. For example, a landlord cannot refuse to sign a lease or refuse to have an apartment inspected when a federal or state rental program requires these actions. It is also illegal for a landlord to refuse to accept housing vouchers issued by particular housing authorities. This law applies to all properties, even owner-occupied duplexes.

- **Sexual Orientation**

It is illegal to discriminate against someone based on his or her sexual orientation. Sexual orientation is a protected class under Massachusetts fair housing laws and a particular area of focus for the Department of Housing and Urban Development (HUD).

- **Gender Identity and Expression**

It is illegal to discriminate against someone based on his or her gender identity or expression. Gender identity and expression is a protected class under Massachusetts fair housing laws and a particular area of focus for the Department of Housing and Urban Development (HUD).

- **Military Status**

It is illegal to discriminate against someone because he or she is a veteran or a member of the armed forces.

- **Victims of Domestic Violence**

Federal and State laws provide important protections against housing discrimination for victims of domestic violence.

- **Criminal History**

As a general rule, it is not against the law for a landlord to have a policy of refusing to rent to an individual because of his or her criminal history. However, if the policy has a greater, or disparate, impact on a protect class, it may be subject to challenge.

## What housing is covered?

Most housing is covered. In some circumstances owner occupied building 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 are exempt.

## 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 (ancestry), sex, age, disability, marital status, familial status, public assistance reciprocity, sexual orientation, gender identity and expression, or military status:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Advertise housing to preferred groups of people only
- Show you apartments or homes only in certain neighborhoods
- Make housing unavailable
- Deny a dwelling
- Deny you property insurance
- Conduct property appraisals in a discriminatory manner
- Refuse to make reasonable accommodations for person with a disability if the accommodation may be necessary to afford such a person a reasonable and equal opportunity to use and enjoy 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 (ancestry), sex, age, disability, marital status, familial status, public assistance reciprocity, sexual orientation, gender identity and expression, or military status:

- 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 other who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin (ancestry), sex, age, disability, marital status, familial status, public assistance reciprocity, sexual orientation, gender identity and expression, or military status. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

The above list covers most but not all of the discriminatory housing activities which are unlawful.

Landlords have the right to choose the best tenant for a unit. Tenants can be selected using the following criteria as long as the criteria are applied equally to all applicants:

- Credit check (if a tenant has a rental subsidy a credit check may not be as important a criterion)
- References from previous landlords
- Sufficient funds to cover the cost of rent
- Criminal record check

*Who to contact if you think you have been discriminated against.*

Massachusetts Fair Housing Center

57 Suffolk Street

Holyoke, MA 01040

(413) 539-9796

(800) 675-7309

(413) 533-9978 (fax)

[info@massfairhousing.org](mailto:info@massfairhousing.org)

Website: <http://www.massfairhousing.org/>

Massachusetts Commission Against Discrimination

436 Dwight Street

Second Floor, Room 220

Springfield, MA 01103

(413) 739-2145

Website: <http://www.mass.gov/mcad/index.html>

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