
A Fair Housing Guide for Home Owner Associations in Oregon



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Overview of Fair Housing Laws

Fair Housing laws are civil rights laws that apply to all “housing providers”, including the boards of Homeowner Associations or HOAs (Cooperative Associations, Condominium Associations, Townhouse Associations, Planned Community Associations, etc.). In general, these federal, state and, in some cases, local laws prevent discrimination and differential treatment and create a sense of fairness and equity among community residents. *For a list of the relevant federal, state and local laws, please see Attachments #1 and #2.*

These laws are legal authorities beyond your declaration of covenants, conditions and restrictions (CC&Rs), Master Lease, Occupancy Agreement, by-laws, rules and board resolutions and need to be taken into account. Violations of fair housing laws can bring severe penalties including damages of hundreds of thousands of dollars.

HOAs are required to adhere to all fair housing laws. This includes HOA boards, individual board members, community management companies and their individual staff and, potentially, contractors.

This guide gives a general introduction to fair housing law. Some aspects of these laws are obvious and some may be more complicated. In some situations, there may be a case-by-case analysis on the applicability of the laws. If, after reading this guide, you have additional questions about fair housing laws and their application, you can contact the Fair Housing Council of Oregon (FHCO) at (503) 223-8197, or (800) 424-3247, extension 2. The FHCO web site is also a resource, www.fhco.org.

HOA Liability

Board members of HOA's have a fiduciary responsibility to serve their community in the best interests of the entire community and to avoid any personal conflict of interest in making decisions. Fiduciary responsibility is usually described as the duty of loyalty to the best interests of the whole community and the duty of exercising care for the whole community in all actions. Board members are also indemnified against liability for their actions by state statutes and by association documents as long as they can prove they are acting in the best interests of their community. This is best described by the "business judgment rule", where boards make decisions based on good business judgment: considering all available information on a subject, consulting with experts on an issue and listening to all sides of an issue.

Most HOA boards carry Directors and Officers insurance, which covers legal fees and damages when lawsuits are brought against board members for their actions and the board members have exercised good business judgment. Additional insurance can be purchased for protection against discrimination claims, but can be quite expensive. Board members should be sure that their Directors and Officers coverage includes coverage for harassment charges, if it is available. The best strategy for board members is to become familiar with fair housing laws and the issues that might come up and to know the resources to contact for more information.

Protected Classes under Fair Housing Law

Under federal fair housing law it is illegal to discriminate on the basis of:

- Race
- Color (for example, treating people with darker skin differently than those with lighter skin)
- National Origin (also referred to as ethnicity; for example, Latino, Native American, Middle Eastern, Asian, etc.)
- Sex (male or female)
- Familial status (presence of children under 18 in the household)
- Disability (physical or mental)

Under Oregon fair housing law it is also illegal to discriminate on the basis of:

- Marital status
- Sexual orientation (this includes gender identity)
- Source of income
- Domestic violence (this refers to discrimination against survivors of domestic violence)

Some cities and counties have additional protected classes such as age or occupation. For a complete list of local protected classes in Oregon jurisdictions, please see Attachment #2.

Smokers are not a protected class and non-smoking communities are legal. Association boards have rule making authority and may consider writing a rule regarding smoking on common property with the understanding that the legal community has mixed opinions on how to do this. Some state courts have allowed banning of smoking in units by HOA's, but there is not a clear pattern of case decisions on this issue. Your overall approach should be to be consistent in the application of all of rules, regulations, privileges and penalties in your community.

Community Associations Institute (CAI) has relevant articles and publications on its website, www.caionline.org; search for "smoke free housing". (Some information may only be available to members of CAI.). Other resources for information on becoming a non-smoking community are the Smoke Free Oregon web site at www.smokefreehousingnw.com, click on the "Condominiums/HOA" link, and the Oregon Smokefree Housing Project, www.smokefreehousinginfo.com.



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Illegal Transactions

All housing and community related transactions are subject to fair housing laws, so it is critical that you treat all your community members consistently. Here are some examples of transactions that are illegal under fair housing law:

- An outright denial of housing or the use of facilities, services, etc. to a community member or guest because of their membership in a protected class.
- Advertising a preference or a limitation based on protected class. This includes blatantly discriminatory ads, as well as ads that might have a “chilling effect” on members of a protected class. For example the phrase “We’re looking for active independent seniors” implies that individuals with disabilities are not welcome.



We recommend any advertisements describe the property and not the type of individuals you are looking for. The Fair Housing Council of Oregon is willing to review ads if there are any questions. See page 31 for FHCO contact information. Please note that FHCO is not a law firm.

- “Steering” potential community members away from your property or to a certain area/unit within your property because they are members of a protected class. These scenarios, for example, are all illegal:
 - A manager who refers all Somalis to a neighboring property because it already has a number of Somali families living there
 - A manager who only allows a family with children to have a ground floor unit, assuming the children would make too much noise for the downstairs neighbors
- Screening/admissions procedures which are inconsistent and subjective. Intentional or not, decisions made on a subjective basis may be perceived to be discriminatory. Approval of new residents must be based on consistent fact-based criteria and should be documented for the association’s protection. Associations should be aware that much time and expense is involved in defending against a fair housing complaint based on erroneous perceptions.

- Differential treatment of home owners. Watch out for:
 - Inconsistent responses to service requests
 - Inconsistent reasons for routine inspections
 - Inconsistent application of penalties such as fines and removal of community privileges
 - Inconsistency in allowing access to common areas and facilities; for example, permitting the Bible Study Group to use the community room, but not the Atheist Club
 - Offering special favors for some community members and not others
 - Making exceptions to rules/ requirements for some community members and not others

In Oregon there was a fair housing complaint filed by a woman in a planned community who taught Indian dance classes out of her home. She was penalized for violating a community prohibition on businesses being run out of homes, but there were other home owners in the community who operated businesses out of their homes, but faced no penalties. This appeared to be discrimination based on national origin.

Again, be very conscious of the possible **perception** of discrimination. Be very careful to treat everyone in your community equally. Even if you have no intent to discriminate, but you are inconsistent in your treatment of home owners, your behavior may be interpreted as discriminatory. You don't want to be in the position of defending yourself in a fair housing complaint. Even if you are successful in your defense, the time, legal fees and stress are best avoided.

Take the time to review all of your rules, policies and communication vehicles, such as newsletters and web sites, for wording that could be interpreted as discriminatory, even though that may not be your intent. If you have questions, you can contact the Fair Housing Council of Oregon to conduct an initial review. You need to look not only for language that is directly discriminatory, but policies that could lead to discriminatory results, because they have a "discriminatory impact" or "disparate impact" on a particular protected class.

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These are examples of discriminatory impact when housing providers got into trouble for discrimination regardless of intent:

An apartment complex had a restriction on residents eating curry. This was found to have a disproportionate impact on applicants from South Asia.



An HOA had a rule restricting the use of tricycles anywhere on the property. This was perceived as a way to discourage families with young children.

A floating home community's HOA had a requirement that all residents fly the American flag on national holidays and decorate their homes for Christmas. A family who were Jehovah's witnesses were refused admittance into the community because they would not follow these requirements. Because Jehovah's Witnesses do not fly national flags or decorate for Christmas as part of their faith, these requirements had a discriminatory impact on them because of their religion.



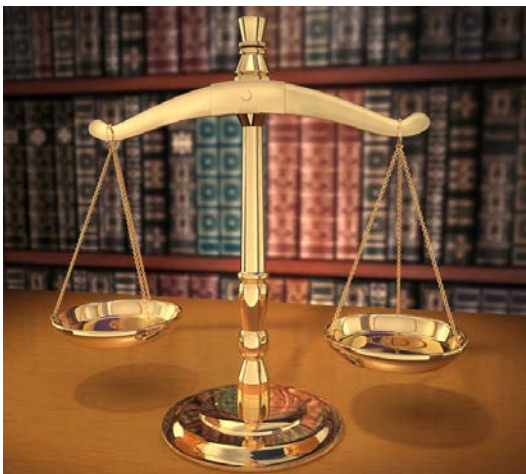
In Long Island, New York, a condominium association refused to permit a Jewish home owner from displaying a four-inch mezuzah on her front door. (A mezuzah is a small container holding a scriptural passage. Many Jews display them by the entrances to their homes.) The association by-laws prohibited community members from "changing or altering the exterior of their home" and Jewish homeowners were informed they would have to take down the objects or purchase screen doors to conceal them. Clearly the by-law restriction was having a discriminatory impact on Jews in the community. The HOA paid a \$10,000 fine and was required to re-write its bylaws.

- Harassing, threatening, intimidating and coercing home owners or home buyers. This includes making comments that would make the home owner uncomfortable, regardless of the intent; for example, derogatory remarks about a protected class, insulting terms to define a protected class, offensive jokes, etc. It not only includes remarks made directly to a homeowner, but comments to anyone. A best practice is to never use such comments, terms, jokes, etc. This warning applies to board members, managers, groundskeepers, contractors, etc.

Religious proselytizing by board members or management may be considered harassment based on religion.

Sexual harassment is illegal under fair housing laws. This includes a range of behaviors or comments that threaten, intimidate coerce and/or create a “hostile environment.” Home owners have the right to live free of such harassment, which can create discomfort or even fear, in their homes. Specifically, sexual harassment includes:

- 1) Blatant threats based on refusal of sexual favors
- 2) Offering benefits in exchange for sexual favors
- 3) Making a home owner feel uncomfortable by making sexual remarks. This can include sexual invitations; jokes; sexual comments; requests for dates, comments about the home owner’s appearance, physical contact, etc. Remember the perception that a comment or physical contact constitutes harassment is based on how the home owner interprets it, not the perpetrator. So be very conscious of the appropriateness of your comments and behavior.



Again, this warning applies to board members, community management, groundskeepers, contract employees, etc. If you receive a complaint of sexual harassment from a home owner about a board member, staff or another home owner in the community, you have a legal responsibility to investigate and take action under fair housing law.

Neighbor on Neighbor Harassment Based on Protected Class

We recommend you notify all home owners in your community that any harassment based on protected class (race, national origin, religion, sex, disability, sexual orientation, etc.) is a violation of fair housing law and you will respond vigorously to any such complaints. This includes allegations of sexual harassment. *Please see Attachment #4 for sample policy language.*

Any complaint of harassment based on a protected class must be investigated. You will need to decide who has the role of conducting such an investigation, which may include interviewing witnesses and documenting the investigation. All complaints of this sort need to be handled in a consistent manner. If you learn a complaint is valid, there need to be consequences to remedy the situation so all harassment ceases. This can include fines, denial of privileges, etc.

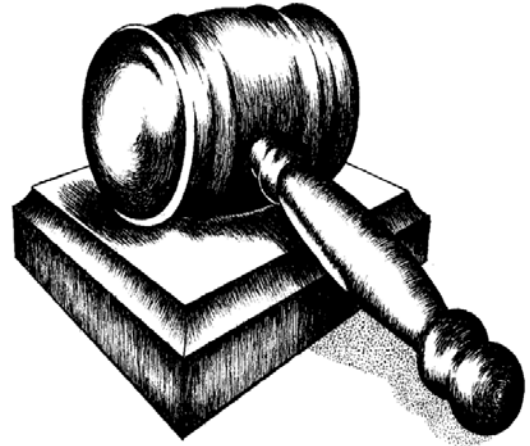
While alternative dispute resolution is often an excellent resource for addressing neighbor on neighbor disputes, in the situation where someone's civil rights are being violated, the dispute becomes a civil rights issue and must be dealt with accordingly. Be aware that if a home owner believes the HOA has not responded to their complaint and the harassment continues, the home owner may file a fair housing complaint against the HOA.

Board members represent the organization and should never make disparaging remarks based on a protected class. In addition, we recommend that if such comments are made by community members at a board meeting, board members repudiate them. You have the role of setting a climate of civility and respect in your community.



If you receive a complaint of neighbor-on-neighbor harassment based on a protected class, carefully document your investigation, findings and actions taken. Someone can file a fair housing complaint up to two years after such a situation occurs and, if that happens, you will need to present your efforts to resolve the situation.

In Washington D.C., an African American attorney living in a condominium community reported her neighbor had repeatedly yelled racist and sexist epithets at her and even threatened to rape and kill her. She reported that the neighbor's conduct and the HOA's failure to do anything about it created a "hostile housing environment" for her. The appeals court found that the HOA had authorization through its bylaws to address such behavior with a variety of sanctions, including fines and hearings, but had failed to do so. Ultimately, the HOA settled the case by paying the woman \$550,000 and buying her condominium.



In Illinois, a young man living in a condominium was in an auto accident and experienced a brain injury that caused him to have difficulty speaking and walking. After the accident he was harassed and intimidated by his neighbors because of his disability. This included their calling him names such as "retard" and "pervert" and children taunting him and stealing his wallet and shoes when he was in the pool. The man and his family made repeated complaints to the HOA, but it took no action. The case went to federal court and the HOA's damages were \$160,000.

Relationship of Fair Housing Laws to Your CC&Rs, Rules, etc.

If you have CC&Rs that are discriminatory, they are illegal! For example, excluding children under the age of 10 is discrimination based on familial status. In addition, the CC&Rs and all community rules and regulations must be administered consistently with all community members. This includes access to facilities, handling of service requests and complaints, and enforcement of violations.

Discriminatory provisions of CC&Rs have been made null and void by fair housing law, other federal statutes, state statutes and court rulings. This is similar to other legal requirements such as the regulation of the placement of satellite dishes. States are regulating HOAs more and more and many new statutes can conflict with existing CC&R's. When a provision of an association's CC&Rs, By Laws, or any other association document is made null and void, that provision should be removed from the document in which it had been written. This task is easier said than done, considering that most associations have strict provisions for amending these documents. Because these clauses are null and void in the eyes of the law, they cannot be enforced. Therefore, HOA's can continue to function as though the null and void clauses never existed.



It is in the board's best interests to inform all owners when a clause is made null and void by federal or state action. This can be done by passing a general resolution announcing which clause or clauses are null and void and publishing this resolution in an association newsletter or website, or by distributing a copy to each property. This would not legally amend the document in question, but it would serve to avoid confusion in the future. This does require the board to be alert to statutory changes and court decisions that have the impact of changing association documents.

More on Familial Status Discrimination

It is illegal to restrict the admission of children into your community unless it is designated as “housing for older persons” or “designated senior housing.” There are three categories of such housing: housing provided under specific state or federal programs, housing intended for persons 62 years of age or older (ALL residents must be 62 or older) or, most commonly, “55 and older” designated senior communities. In these communities at least 80% of the housing units must have at least one resident 55 or older. The community is required to demonstrate its intent to exist as senior housing in all of its advertising, lease provisions, rules and practices. The community must monitor its composition on a regular basis, at least once every two years; if the number of units with someone 55 or older falls below the 80% level, the community can no longer be designated as senior housing. It is extremely difficult for an existing non-senior community to convert to becoming senior housing. See *Attachment #4*.

You cannot restrict children of particular age brackets. There have been cases against communities with such restrictions in their CC&Rs which have led to damages of over a hundred thousand dollars.

It is also illegal to discriminate against certain types of families; for example, part-time parents, grandparents raising grandchildren, foster families, children being raised by same sex parents, etc.



“Steering” or directing families with children to another community or segregating families with children in a particular area of a community is illegal. It is also illegal to restrict families with children to downstairs units. All home buyers have the right to look at all available housing options within a community and to select the location of their choice.

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Do not adopt occupancy guidelines that are too restrictive; these can be considered to have a discriminatory impact on families with children. While the state of Oregon and HUD have identified two persons per bedroom as generally a reasonable limitation, we are wary of a “one size fits all” approach, particularly if rooms are large or young children are involved. If a fair housing complaint is made due to overly restrictive occupancy standards, the enforcement process could involve an investigation of a range of factors, including the unit’s square footage, egress, configuration of the unit, ages of children, etc. If you do adopt occupancy guidelines, we recommend a guideline of two per bedroom plus one extra person in the unit for extra protection in this area.

In 2002 a Cooperative in Yonkers, New York, paid \$102,500 to a family after an HOA board member objected to having two children in the unit above hers and then the family’s application was rejected.

In most cases, restricting facilities so children cannot use them is illegal. This includes rules restricting children from tennis courts, basketball courts, pools and other areas. The only legitimate exceptions are when outside authorities have restrictions: a state restriction against children under fourteen being in a pool without an adult present; a state restriction against having diapered bathers in a pool; manufacturer’s restrictions related to age or weight for fitness equipment. In all other cases, have the same rules for all community residents. Having rules that are directed at children is discriminatory, just like having rules directed at people of a certain race, religion or national origin is discriminatory. For example:

- You cannot have curfews for children that are more restrictive than local governmental curfews.
- You cannot have areas of the community off-limits for children. You could have areas that are off-limits for recreation to all residents, but if you do, it is important to make sure there are other locations in the community where recreation is permitted.

In 2003 an HOA and property management company in Pico Rivera, California, agreed to pay \$130,000 after having prohibited children from playing in the common areas of a 56-unit townhouse complex, including balconies and grass covered yards.

- Rules should address behavior. It is not acceptable, for example, to have a rule prohibiting unsupervised children in a laundry room-some children have the responsibility of doing laundry. It is, however, perfectly acceptable to have the rule “no loitering in the laundry room”, which would apply to everyone in the community. Similarly, it is not acceptable to have pool hours for “adults only” and “family swim”. Instead, a community can offer times for “lap swim” and “open swim”. The focus needs to remain on regulating behavior, not the class of individuals carrying out the behavior.



- A rule such as “no bicycles or tricycles anywhere in the complex” may be considered discriminatory even if the word “children” is not used and it would probably be considered to have a discriminatory impact on families with children. There have been cases against complexes that prohibited bicycles and tricycles anywhere in the community. There could be an area in the community where these vehicles are not permitted, but it would be unreasonable if they could not be used anywhere in the community.
- Beware of arbitrary age restrictions. For example, there were fair housing complaints lodged against a community that restricted the times when children 13-17 could use the tennis courts.



- Be very careful about requiring adult supervision of children. You are responsible for the management of the community, not parenting other people’s children. Focus on enforcement of the community rules, regardless of the age of the violator. It is permissible to follow the requirements of state or local laws such as the requirement for children under 14 to be supervised by an adult in a swimming pool.

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- Do not base restrictions on speculation that children will injure themselves. Your role is to manage your community and respond to violations of your rules. Your best protection against liability for children injuring themselves on the property is to remove or repair physical dangers on the property such as open ditches or rickety banisters, or provide warnings to all residents.

A lawsuit was filed against a condominium in Idaho that advertised itself as an “active adult community”, despite the fact that it was not designated senior housing. The developer described the property as “a 42-unit ‘empty nester’ subdivision in a local newspaper article. An agent handling the sale of the units made illegal discriminatory statements such as “we prefer people 55 and over” and emphasized that the complex did not have a playground. The agent also provided a list of rules that included a prohibition on any swing sets and on teen age parties at the community center. The suit is seeking more than \$350,000 in damages.

Your community could benefit from structured activities for children and families. There have been fair housing questions raised in communities where all the organized activities are for adults only, such as “gambling nights”. Having activities directed at children and/or families helps to build the sense of community among the children and their families.



Fair Housing and Individuals with Disabilities

The fair housing protection for individuals with disabilities is an extremely important aspect of fair housing law. About 40% of fair housing complaints received in Oregon address disability discrimination. This reflects the larger reality that at least ten percent of all Americans have a disability, the population is aging, and the number of disabilities is increasing because of environmental and other factors.

The definition of who is disabled under fair housing law is broad, extending well beyond individuals who receive a disability-related income. According to the Fair Housing Amendments Act, the definition of disability or handicap is any "physical or mental impairment which substantially limits one or more of [a] person's major life activities" such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, thinking, learning and working. This includes a wide range of physical and mental conditions such as cancer, seizure disorders, cerebral palsy, Multiple Sclerosis, autism, epilepsy, muscular dystrophy, Diabetes, HIV/AIDS, mental retardation, emotional illness, ADHD, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

The disability protection under fair housing laws goes beyond simply not discriminating against individuals with disabilities, but also includes the right of a disabled home owner to request an HOA make special accommodations related to their disability. *For details, see pages 17-24.*

Fair housing law requires specific physical accessibility provisions for individual housing units and common areas in multi-family housing built after March, 1991, (with the exception of townhouses). These include having an accessible route to, and entry into, housing units; having doors wide enough for wheelchairs to pass through them and sufficient room for wheelchairs to turn around in the kitchen and bathrooms; walls reinforced to allow for later addition of grab bars and placing wall outlets, thermostats, etc. at a level where wheelchair users can reach them. *See Attachment #5 for more details.*



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In 2002, Florida condominium developers, designers and builders paid a settlement worth \$1.5 million in damages after building three condominiums with multiple design and construction violations in both the individual units and common areas. Doors were too narrow, outlets and thermostats were out of reach and the thresholds were too high for wheelchair users.

Steering based on disability is also illegal, regardless of intention. These scenarios are considered steering and are illegal:

- “I know you’ve been looking at a condo unit upstairs. I’m concerned that climbing those stairs with your walker wouldn’t be safe. Have you thought of looking at a downstairs unit?”
- “I think at this point in your life it would make more sense for you to move into an assisted living facility.” (Do not assume a disabled individual will not be able to live in your community. He or she may be able to live there with the assistance of in-home care givers.)

It is illegal to violate the confidentiality of an individual home owner or home buyer related to their disability. If the individual chooses to share information with you about their disability, that is acceptable, but you should not inquire as to the “nature or extent” of their disability. If they do share such information with you, do not share it with other community residents.



Disabled home owners may need to have modifications or accommodations carried out to allow them full access to their housing and common areas.

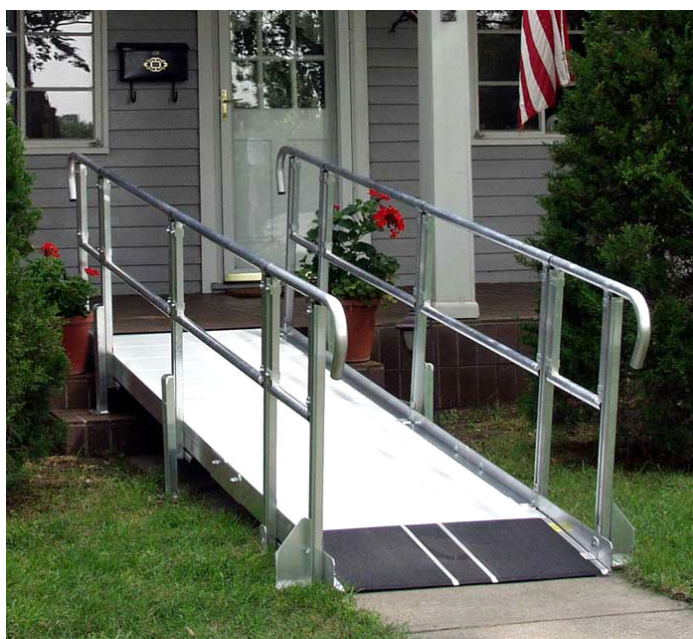
Fair housing laws generally require you to be consistent in all of your policies, procedures and rules; the one notable exception is when you receive a request from a disabled home owner for a “reasonable modification” or a “reasonable accommodation”. The intent behind fair housing law is that all home owners have equal access to housing and to community amenities. In order for community members with disabilities to have equal access, they may need to have physical changes made to their units and/or common areas in the community and/or they may need variances or accommodations to your standard policies, rules or architectural requirements.

Your board needs to understand your community residents’ right to such accommodations and be prepared for how to respond to such requests.



Reasonable Modifications

A home owner may need to make physical changes to their home or to a common area in the community to accommodate their disability. One example would be to install a ramp into their unit. You cannot prevent a home owner from installing a ramp, but the home owner is responsible for paying for the ramp or other physical modifications. The HOA has the right to make sure the ramp is built in a workmanlike fashion and is built to meet all code requirements. You can also require the ramp or other accommodation fit in with your community's architectural standards as long as this presents no additional costs. If making the modification to fit your standards does present additional costs, then the HOA would need to pay the difference.



If the home owner requests a modification to the common areas in a community, the home owner would be responsible for paying for the modification; for example, widening the front doorway of a community room and installing grab bars in its restroom. The HOA, however, would be responsible for ongoing maintenance after the modification has occurred. If the development was built prior to March, 1991, all common areas should have been built to meet fair housing accessibility requirements (*see Attachment #5*); if not, the building is in violation of fair housing law and the HOA should pay to make the necessary modifications as soon as possible.

Reasonable Accommodations

A home owner with a disability may request an exception to a standard community policy, rule, procedure, etc. because of their disability, or the disability of a member of their family, to provide equal access to living in the community.

These are some examples of possible reasonable accommodation requests:

- A resident with a mobility impairment may require a parking spot close to their unit. The request may be for an assigned spot when spots are typically not assigned, switching parking spaces with another resident, creating an extra wide spot to accommodate a van, adding a curb cut or wheel chair ramp, obtaining the right to park a van in the driveway if it is a vehicle necessary for transportation, installing an accessibility sign, etc. The HOA may not charge for an accessible parking space other than what members are normally charged for a parking space. Association rules should be consulted regarding assignment of parking spaces, to determine what ownership rights each owner has in a parking space before making new parking assignments. In many condominiums, parking spaces are deeded to each unit owner and cannot be reassigned. In those circumstances, the HOA should work with the unit owner to see if any other unit owner is willing to “exchange” or “sell” a more accessible parking space. If this is not possible, the disabled unit owner may have to request alternative accommodations for the HOA to consider. Bottom line, if it concerns a common area, an HOA rule or policy, the HOA must consider and deal with a request for accommodation.



In 2000 in Ann Arbor, Michigan, a disabled home owner with Multiple Sclerosis filed a fair housing complaint after his HOA took away his accessible parking spot. For ten years he had parked in the handicapped space nearest his unit because his driveway was too steep for him to safely get into and out of his car. Suddenly the HOA decided the space would be for guests only and began fining him. He requested a reasonable accommodation and the HOA turned it down and continued to fine him. The case settled for a complete re-grading of the front yard and the road outside his building and an additional \$7,500.

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In 2009 in Longview, Washington, a disabled home owner requested to use two adjacent parking spaces until a handicapped accessible space became available. The HOA denied the request and began eviction proceedings. The resident was awarded \$35,000. Also in 2009, in Puerto Rico, an HOA was ordered to pay \$25,000 after denying similar requests by two disabled residents.

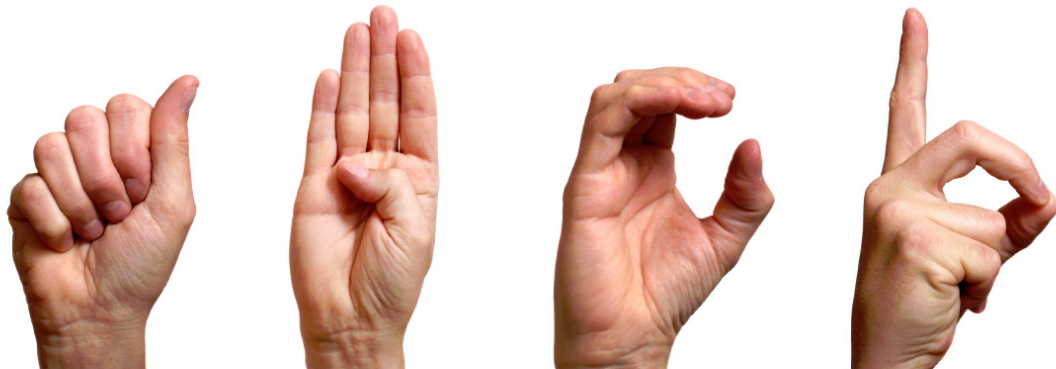
- A disabled resident with a caregiver may request access to parking for the caregiver; for example, utilizing guest parking for a longer period than the standard time limit.
- A resident may request an accommodation to a community's architectural requirements. For example, there was a case where a resident was prescribed tinted windows in their unit for dealing with a condition that involved severe headaches. This led to a reasonable accommodation request to waive a community rule prohibiting any window coverings or alterations.

In Minnesota a planned community prohibited fences in front yards and fences around the perimeter yards. A home owner requested a reasonable accommodation for a perimeter fence for an autistic child who required a secure area for his intense activity. The request was approved with the caveat that the owner would remove the fence if the child no longer lived there or if the property was sold.

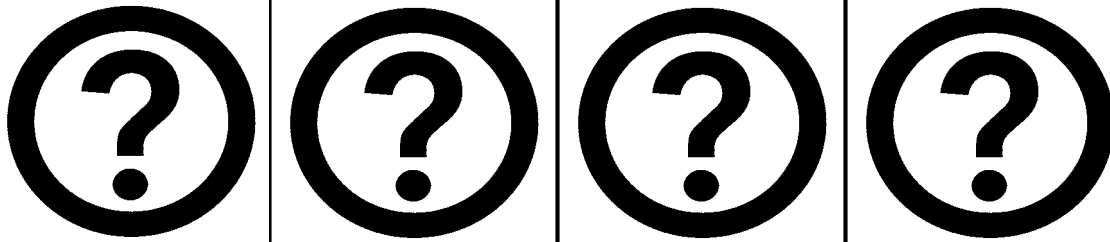
- A resident may have a disability requiring the use of an assistance animal. These are commonly referred to as service, aid, therapy or companion animals. These animals are not considered pets and are prescribed by medical or therapeutic professionals to assist with vision or hearing impairments, balance, depression, anxiety, etc. They may also warn their owners of impending migraines or seizures or alert them of dangerous blood sugar levels. A resident with a disability requiring an animal who lives in a no-pet community could request a reasonable accommodation to the standard no-pet policy. Similarly, if the animal is larger than a community's weight restriction or is a breed not ordinarily accepted, the resident could request an accommodation to permit the animal.



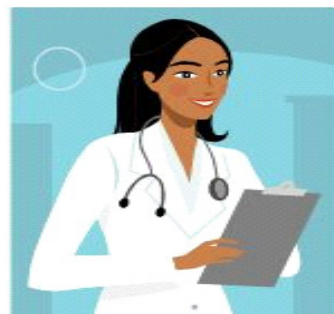
- Pet deposits cannot be charged for assistance animals, either by HOAs or home owners renting out their units. The HOA has the right to reasonable regulations such as requiring the owner to comply with all licensing and vaccination requirements, keep the animal under the owner’s control, restrain the animal in public areas, use a “pooper scooper”, etc. and the HOA also has the right to invoke penalties if these regulations are violated.
- A home owner may also request a reasonable accommodation related to a community’s common areas. For example, someone with a wheelchair could request an alternative location to drop off HOA dues payments if he or she can’t reach the drop box. Or the request could be for a second microwave in the community room kitchen if the existing microwave is out of reach.
- A resident could request an accommodation related to HOA board meetings. For example, a sight-impaired resident might request to be notified of meetings by telephone if he or she is unable to read a written notice. He or she could also request to receive meeting materials in advance of the meeting to allow for time to obtain Braille translation. A hearing impaired resident might request to waive the requirement of only permitting community members at meetings in order to have an American Sign Language interpreter present.



Your association should have clear protocols for how you respond to reasonable modification (RM) and reasonable accommodation (RA) requests.



- a) Who will the home owner contact with his or her request?
- b) Who will address the request? The community manager? A particular committee such as the architectural control committee or compliance committee?
- c) How will you educate management and/or relevant committees to handle the request? Their process must follow fair housing law requirements and include:
 - * Gathering relevant information without violating confidentiality requirements that prohibit inquiring about the nature and extent of the disability.
 - * Requesting verification of the resident's disability and the necessity of the modification or accommodation from the resident's medical or therapeutic provider if appropriate. This could be a physician, nurse practitioner, psychologist, psychiatrist, counselor, etc. See *Attachment # 7 for a sample verification form you could use. Note: the resident cannot be required to use the form and may, instead, bring in a letter from the medical or therapeutic provider. Do not go beyond verifying the disability and the need for the RM/RA to inquire about the "nature or extent" of their disability, which would constitute a violation of the right to confidentiality.*



Determining if the request is reasonable

This does not mean using your own opinions to determine if the request is reasonable. Fair housing law clearly spells out how reasonableness is determined. This is the legal criteria for how to evaluate reasonableness under fair housing law:

- ⇒ Would granting the request be too costly for the community and an undue burden for management? In other words, would the cost and administrative burden of granting the accommodation severely hinder the ability of the community to function?



For example, if a disabled home owner is unable to use the community dumpster and requests as an accommodation a maintenance technician come by their unit every evening to take out their trash, that could constitute an undue burden on staff and cost to the community. In such a case the request could be denied and the HOA could propose a reasonable alternative such as installing a different type of dumpster easier for the disabled home owner to maneuver.

The criteria for judging an accommodation too costly depends on the individual circumstances. For example, if, after granting an accommodation that involved substantial cost, the community could no longer afford to pay its grounds keeping contractor, the accommodation could be considered too costly. If, on the other hand, granting the request means that board members would have to give up an annual golf retreat, it would not be considered too costly.



- ⇒ Would granting the request require board or staff to do something clearly beyond their job description such as taking the home owner to the doctor, grocery store, veterinarian, etc.?
- ⇒ Would granting the request put others in the community in any danger? For example, a home owner with a mental disability might request a fine be waived for violent behavior which is related to his disability. The HOA could deny this request if evidence shows a clear danger to other community residents.

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Be very careful in coming to the conclusion that a request is unreasonable. You may want to consult the Fair Housing Council of Oregon for more information or contact your attorney. If it does appear a request is unreasonable based on the above criteria, consider if there is something else you could propose as a workable alternative to accommodate the home owner.



Maintaining confidentiality is critical in evaluating and approving RM/RA requests. If the community manager or a committee brings the request to an HOA board meeting for final approval, the issue should be addressed in an Executive Session. The meeting notes should state that a RM/RA was granted without giving personal details.



Denial of a RM/RA request can lead to the home owner filing a fair housing complaint. Enforcement bodies analyze these complaints on a case-by-case basis. If the request is being denied because of cost or “undue burden”, for example, is it truly the case that the cost or amount of work would present a threat to the functioning of the community? If so, it is important that this be clearly documented. All communication related to the request should be documented and kept on file. If a home owner challenges the denial of a request with fair housing complaint, that documentation will be vital to the board’s defense. It is important to remember that the home owner may have as long as two years to file a lawsuit under fair housing laws.

Enforcement of Fair Housing Laws:

- **How are complaints filed?**

A home owner, home buyer or former community member who believes he or she has experience illegal housing discrimination has up to one year to file a fair housing complaint with a state or federal agency or up to two years to file a lawsuit. For HOA boards and community management companies, it is very important to keep clear legible documentation in resident files, logs, etc. in case you are ever faced with a complaint. Most fair housing complaints are filed through the Oregon Bureau of Labor and Industries (BOLI) Civil Rights Division or the U. S. Department of Housing and Urban Development (HUD). Someone with a complaint could also contact an attorney. Legal Aid, civil rights and other attorneys specialize in fair housing cases. The US Department of Justice (DOJ) may also become involved in litigating fair housing cases.



Many individuals who believe they have been discriminated against initially contact the Fair Housing Council of Oregon (FHCO). If it appears someone has experienced discrimination, FHCO can assist them in any number of ways, including helping them to file and submit a complaint form and

referring them to the most appropriate enforcement agency. FHCO may also become involved in aspects of the complaint investigation, including reviewing paperwork, interviewing witnesses or utilizing “testing”, a process where individuals posing as applicants attempt to enter into a housing transaction and report on how they were treated. FHCO complies with vigorous HUD testing guidelines to ensure fair and accurate assessments of whether housing discrimination is occurring.

- **The Complaint Process:**

- o **Filing:** An individual who believes he or she has experienced housing discrimination will usually file a complaint with BOLI or HUD. After receipt of the signed formal complaint, BOLI/HUD must notify the housing provider (HOA, community management company, etc.) accused of violating the fair housing laws of the complainant. Within 10 days of receiving the notice, the HOA or other housing provider must submit a response to the complaint to BOLI/HUD.

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- o **Investigation:** BOLI/HUD will then carry out an investigation. They have the authority to take depositions, issue subpoenas and interrogatories, and compel testimony or documents.
- o **Conciliation:** The Fair Housing Act requires BOLI/HUD to bring the parties together to attempt conciliation in every fair housing complaint. The choice to conciliate the complaint is completely voluntary on the part of both parties. If the parties sign a conciliation agreement, BOLI/HUD will end its investigation and close the case. However, if either party breaches the agreement, BOLI/ HUD can recommend that the U.S. Department of Justice (DOJ) file suit to enforce the agreement.
- o **Cause/No-Cause Determination:** If, after a thorough investigation, BOLI/ HUD finds no evidence that housing discrimination has occurred, it will issue a determination of “no reasonable cause” and dismiss the case. On the other hand, if BOLI/HUD does find evidence of discrimination, it will issue a determination of “reasonable cause” and charge the HOA or other housing provider with violating the law. An Administrative Law Judge (ALJ) will hear the case unless either party elects (within 20 days of receipt of the charge) to have the case heard in federal civil court
- o **Hearing in a U.S. District Court:** If the court finds that a discriminatory housing practice has occurred, the court can award compensatory damages (compensation of victim), punitive damages (punishment), civil penalties and/or attorney’s fees that could total thousands or even millions of dollars.
- o **Hearing before an Administrative Law Judge:** If the ALJ finds that housing discrimination has or is about to occur, the ALJ can award a maximum civil penalty of \$11,000, per violation, for a first offense, in addition to actual damages suffered by the complainant, an injunction or other equitable relief, and attorney’s fees.
- o See *Attachment #8* for additional detail on the enforcement process.



In addition to financial damages and legal fees, other costs include the loss of countless hours of board members time, bad publicity and weakened morale throughout the community.

If a fair housing complaint is filed against your HOA board, quietly plan your defense and **do not retaliate** against the home owner who filed the complaint. Such retaliation is illegal. Even if the investigation finds you innocent of discrimination, you could separately be found guilty of retaliation. Fair housing law has specific provisions that make it illegal to retaliate against someone who exercises their legal right to file a fair housing complaint.



Fair Housing Guide

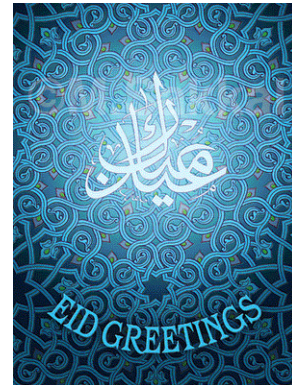
Best practices:

One of the most important elements in creating an inclusive community, and protecting yourself from fair housing complaints, is to establish a climate of civility and respect in your community. You set this tone in all of your communication with home owners-your communication vehicles, such as newsletters, any community events, the tone of your board meetings, etc.

- Your community events and the entries in your newsletter should reflect the diversity of your community. For example, plan to organize community events for families and children, not only for adults. Be aware you may have community members from different religious traditions. Try to be as inclusive as possible; you do not want to give the impression



you favor one religion over another. Keep the HOA office and other public areas free of religious symbols. The holiday season can be a sensitive time for religious minorities. If you have a holiday party, for example, include Santa and the tree, but not a Nativity Scene. Consider including symbols from other religious traditions such as Hanukkah dreidels.



- Choose locations for your board meetings that are physically accessible. Non-accessible locations do not send a welcoming message to residents with physical disabilities. Let residents know they can contact you if they need an accommodation to attend such meetings. For example, a vision-impaired resident would appreciate a notification call about a meeting instead of a mailed notice and would appreciate receiving meeting materials in advance of the meeting to obtain Braille translation.
- Go beyond requirements to make sure your disabled residents are fully included. For example, consider obtaining play structures that are made to be accessible to children in wheelchairs.
- It is critical that board members do not make any derogatory or discriminatory statements. Your objective should be to foster a climate that discourages community members from making such statements.



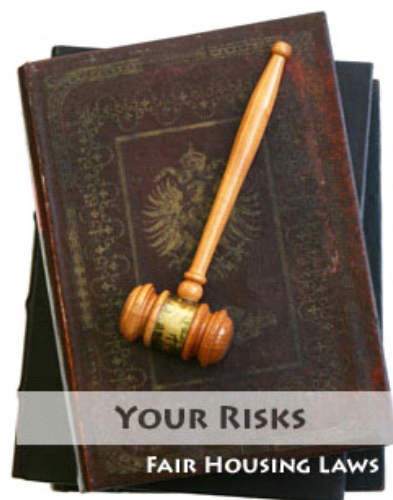
In a St. Louis community, a home owner with a disability requested a parking space closer to her unit. Another home owner complained about the request at a board meeting and a heated conversation with board members ensued. One board member looked at the disabled home owner and blurted out, “Well, maybe you don’t belong in this community”. That one statement prompted a lengthy and costly fair housing investigation. As a result, the board paid the homeowner a “substantial settlement” (the amount is unknown as it was a confidential agreement).

- Treat all community members in a fair, equal and consistent fashion. The only exception here is when you receive a request for a RM/RA from a community member with a disability.
- If a community member with a disability requests a reasonable accommodation, work with him or her to make it work.
- Carefully review your CC&Rs, bylaws, rules, resolutions, newsletters, etc. on an annual basis. Make sure all your rules governing behavior are clearly written and that there is nothing discriminatory and nothing that potentially has a discriminatory impact on a protected class.
- Develop clear protocols for responding to harassment complaints and reasonable modification/accommodation requests. Put forward your best effort to resolve harassment issues, and to work together with disabled residents to accommodate their requests.
- Documentation is critical if you have a fair housing complaint filed against you. Maintain clear written records for at least two years as there is a two-year statute of limitation under fair housing law.



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- Education is extremely important. All board members should receive fair housing training and each new member should receive fair housing training as part of their orientation. Training should include strategies to communicate inclusivity, handle disputes based on protected class, respond to requests for RM/RA, etc. Many communities have committees addressing architectural review, compliance, grounds, recreation, newsletters, dispute resolution, etc. and these committees should be educated on relevant fair housing issues as well.
- Any community management company the association contracts with should have a strong knowledge of fair housing and receive annual fair housing training. When you look for a management company, part of your search process should include evaluating their familiarity with fair housing laws.
- Home owners should receive fair housing information as well. They should all be familiar with your community's equal opportunity policy. (*A Sample Policy and the official HUD equal opportunity poster are attached, #3 and #9.*) Some home owners may rent out their units and they need to know their legal responsibilities as landlords under fair housing law. Also, all members need to be aware that federal fair housing law prohibits harassment and intimidation based on protected class.



Resources for More Information

- The Fair Housing Council of Oregon (FHCO) is a statewide nonprofit organization that provides fair housing information and education to HOA boards, community management companies, home owners who rent out their units and all other housing providers. There is substantial information on the FHCO web site, www.fhco.org and people with questions can call the FHCO discrimination hotline at (800) 424-3247 or (503) 223-8197, extension 2.



- The Community Associations Institute (CAI) is a national trade organization for community associations and those who do business with community associations. CAI offers education for homeowners and professional managers, a large data base of information on community associations, a large resource library, advocacy for homeowners and homeowners associations, legal advisory services on court cases and legislative actions and professional networking for the three subgroups of members: Community Volunteer Leaders, Community Managers and Business Partners. CAI supports 56 chapters in the 50 states to serve its 30,000 members. CAI Oregon, headquartered in Portland, has more than 300 members. It also sponsors a Regional Council in Bend. CAI sponsors education programs for members in both the Portland and Bend communities. For information about membership, contact www.caionline.org, www.caioregon.org (Oregon chapter), or call (503) 531-9668.



Attachments

| | |
|---|---|
| 1 | Relevant Laws |
| 2 | Matrix of Protected Classes in Oregon Jurisdictions |
| 3 | Recommended Policy Addressing Neighbor-On-Neighbor Harassment |
| 4 | Conversion to Housing for Older Persons |
| 5 | Fair Housing Accessibility Guidelines |
| 6 | Approval: Reasonable Accommodation/Modification Request |
| 7 | Verification Form for Request for Reasonable Accommodation/Modification |
| 8 | Enforcement Process Flow Chart |
| 9 | HUD Equal Opportunity Poster |

Fair Housing Laws: Overview

Fair housing laws are civil rights laws that apply to housing. All housing providers, whether they are in the private, public or nonprofit housing sector, are required to follow fair housing laws. All owners and staff of apartment communities, rental homes, mobile home parks, condominiums, etc. have the legal obligation to comply with fair housing laws.

Federal, State and Local Fair Housing Laws

Fair Housing laws are a set of federal, state, and local statutes and ordinances that protect all of us from illegal discrimination in housing, lending and homeowners' insurance. These laws include:

- ◆ *The Federal Fair Housing Act of 1968 and 1988 Amendments (FHA)* – Federal laws passed in 1968 and 1988 that prohibit discrimination in the sale, rental and financing of dwellings on the basis of race, color, religion and national origin. The 1988 amendments prohibit discrimination based on disability and familial status (the presence of children under 18 in a household). These amendments also expanded the Justice Department's enforcement authority and established HUD's ability to bring actions on behalf of the victims of housing discrimination.
- ◆ *Americans with Disabilities Act of 1990 (ADA)* – Federal law that prohibits discrimination against persons with disabilities in all services, programs and activities made available by state and local governments (Title I) and in all buildings open to the public (Title III).
- ◆ *Title IV of the Civil Rights Act of 1964* – Federal law that prohibits all recipients of federal financial assistance from discriminating based on race, color or national origin.
- ◆ *The Housing and Community Development Act of 1974* – Federal law that prohibits recipients of federal funding from discriminating on the basis of sex (gender). (42 USC 5309).
- ◆ *Executive Order 13166: Limited English Proficiency* – Federal mandate that requires recipients of federal financial assistance to provide “meaningful access” to applicants and beneficiaries of their programs who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English.
- ◆ *Section 504 of the Rehabilitation Act of 1973* – Federal law that prohibits discrimination against persons with disabilities in any program or service receiving federal financial assistance. In addition, this law requires providers to take additional steps to accommodate people with disabilities, such as paying for certain structural changes to increase the accessibility of housing and common areas.
- ◆ *Chapter 659A of the Oregon Revised Statutes* (“Unlawful discrimination in Employment, Public Accommodations and Housing”) – Oregon law that prohibits discrimination in the sale or rental of housing based on race, color, religion, national origin, sex (gender), disability, familial status, marital status, source of income or sexual orientation.
- ◆ *Oregon Family Fairness Act* — 2007 Oregon law granting domestic partners the same benefits as married persons.

- ◆ *Oregon Equality Act* — 2007 Oregon law prohibiting discrimination based on sexual preference or gender identity.
- ◆ *Local ordinances* in many Oregon cities and counties extend coverage to other protected classes, such as age.

Other Relevant Statutes that Protect Home Seekers and Tenants

- ◆ *The Violence Against Women Act (VAWA)* — Federal law that addresses domestic violence, dating violence and stalking. This law creates protections and rights for survivors of domestic violence using Public Housing or Section 8 Housing. VAWA affects many aspects of a housing provider's operations including banning discrimination in screening and admissions procedures and setting guidelines for evictions of perpetrators of domestic violence. VAWA is a federal law and only affects Public Housing Authorities and Section 8 housing providers.
- ◆ *Oregon Domestic Violence Act* — Oregon has enacted a law similar to VAWA, the Oregon Domestic Violence Act, which applies to all landlords and housing providers (ORS 90.445-90.459). The state law also creates further protections for survivors of domestic violence, such as resident-initiated lock changes and emergency lease termination.
- ◆ *The Fair Credit Reporting Act (FCRA)* — Federal law that requires those who deny an applicant based in whole or in part on any information contained in a consumer report to provide oral, written or electronic notice of the denial to the applicant. Such notice must include information about the agency that supplied the report and a statement explaining the individual's rights to obtain a copy of the report and to dispute any contents of the report. The Oregon Consumer Identity Theft Protection Act (OITPA), adopted in 2007, requires housing providers to comply with FCRA.
- ◆ *Privacy Laws* — The Privacy Act of 1974 established guidelines protecting an individual's social security number and other personal information from misuse by federal agencies. Since then additional federal and state laws have been passed to protect personal data from abuse by individuals and companies in the private sector. Two such laws are the Fair and Accurate Credit Transactions Act (FACT Act) and the Oregon Consumer Identity Theft Protection Act (OITPA). The FACT Act addresses the manner in which companies can dispose of sensitive information such as credit and medical history. OITPA reiterates the concerns of the FACT Act and directs the establishment of administrative, technical and physical safeguards for the storage and handling of sensitive personal information to avoid unlawful disclosure and reduce the chance of identity theft.
- ◆ *Health Insurance Portability and Accountability Act of 1996 (HIPAA)* — Federal law that protects individual medical information and imposes privacy requirements on healthcare providers.

Case Law

Fair Housing Law is constantly evolving through case law.

Fair housing laws are broad and inclusive. Some aspects of these laws are very clear; for example, a housing provider obviously cannot refuse to sell to African-Americans, Asians or Hispanics because of their race or ethnicity. Other aspects of the laws may not always appear to have clear answers. Providers need to be aware that fair housing laws continue to be clarified over time through court cases.

Fair Housing Protected Classes in Oregon

| | Federal | State | Counties | | Municipalities | | |
|-------------------------------|---------------------|--------------------|-------------------------------|----------------------------|--------------------------------------|--|------------------------------|
| | | | Multnomah | Benton | Ashland | Beaverton | Bend |
| | 42 USC 3601 et seq. | ORS 659A.145 & 421 | Mult. Co. Code 15.340 et seq. | Benton Co. Code Chapter 28 | Ashland Mun. Code 10.110.010 et seq. | Beaverton City Code chapter 5.16.015 et seq. | Bend City Code 5.700 et seq. |
| Protected Class | | | | | | | |
| Race | X | X | X | X | X | X | X |
| Color | X | X | X | X | X | X | X |
| Religion | X | X | X | X | X | X | X |
| National Origin | X | X | X | X | X | X | X |
| Sex | X | X | X | X | X | X | X |
| Familial Status (1) | X | X (5) | X | X | X | X | X |
| Mental or Physical Disability | X | X | X | X | X (8) | X | X |
| Source of Income (2) | X | X | X | X | X | X | X |
| Marital Status | | X | X | X | | X | |
| Age over 18 (1) | | X | X | X | | X | X |
| Sexual Orientation | | | X | X | | X | X |
| Gender Identity | | X | X (6) | X (6) | X | X | X |
| Type of Occupation (3) | | X | X (7) | X | | X | X |
| Ethnicity | | | X | X | | X | |
| Ancestry | | | | | | | |
| Domestic Partnership | | | | | | | |

- (1) Generally doesn't apply with respect to housing for "older persons"
- (2) Most statutes provide exceptions for recipients of federal rent subsidy payments under 42 USC 1437f (Section 8) or income derived in an illegal manner.
- (3) This protection is derived from the definition of "source of income"
- (4) Certain religious organizations or private clubs are allowed to give members preference; certain owner occupied units are exempt
- (5) May not be protected if real property is such that protection would result in unrelated persons of opposite sex using same bath or bedroom facilities
- (6) Some exceptions apply (in certain owner-occupied units and property owned by a religious organization)
- (7) Some exceptions apply (in certain owner-occupied units and property owned by a religious organization); documentation of gender status may be required
- (8) Some exceptions apply (i.e.: where dwelling is less than 400 sq. ft.; if state/federal housing; where regulations restrict occupancy)

| Corvallis | Eugene | Hillsboro | Lincoln City | Lake Oswego | Portland | Salem | Springfield |
|----------------------------------|--------------------------------|--------------------------------------|------------------------------------|---|----------------------------------|----------------------------|-------------------------------------|
| Corvallis Mun. Code Chapter 1.23 | Eugene City Code 4.613 et seq. | Hillsboro City Code Chapter 9.34.005 | Lincoln City Code Chapter 9.14.050 | Lake Oswego City Code Chapter 34.22.060 | Portland City Code Chapter 23.01 | Salem Mun. Code Chapter 97 | Springfield City Code 5.558 et seq. |
| | | | | | | | |
| X | X | X | X | X | X | X | X |
| X | X | X | X | X | X | X | X |
| X | X | X | X | X | X | X | X |
| X | X | X | X | X | X | X | X |
| X | X (5) | X | X | X | X | X | X (5) |
| X | X | X | X | X | X | X | X |
| X | X | X | X | X | X | X | X |
| X | X | X | | X | X | X | |
| X | X | X | X | X | X | X | X |
| X | X | X | X | | X | X | X |
| X (6) | X (6) | X | X | X | X (6) | X (6) | |
| | | X | X | X | X (7) | X (7) | |
| X | X | | | | X | X | |
| | X | | | | | | |
| | | | | | | | |
| | X | X | X | | | X | |

Sample Policy on Resident on Resident Harassment

As a housing provider, we have a responsibility to all who are in our community to make sure that you know how you and others are granted protection under Fair Housing laws.

We will respond to any and all complaints of harassment, threats, or intimidation related to race, national origin, religion, disability, gender, marital status, familial status (presence of children), source of income, sexual orientation, domestic partner status and gender identity against community members or staff.

If we are informed of, or witness, a behavior that is considered a violation of Fair Housing laws, we will take timely and appropriate action. We will notify the person(s) accused of the problem behavior of the following:

- The behavior that occurred or was said to occur, and how the behavior is a violation of Fair Housing laws
- That such behavior will not be tolerated
- Potential or actual actions that we will take in order to enforce Fair Housing protections

If you have questions about what types of behaviors are considered harassment, threats, or intimidation, please contact the Fair Housing Council of Oregon (503) 223-8197 or (800) 424-3247.

We hope that community members who experience an interaction, which may be a Fair Housing violation, will report the incident to _____ quickly. We will not allow retaliation against a resident who comes forward with a complaint about such behavior or is a witness who supports the complaint.

Our standard is that we will communicate respectfully with one another and we will speak out if we are mistreated or witness others being mistreated. If you are uncomfortable talking to us about an incident, please contact the Fair Housing Council of Oregon at (503) 223-8197 or (800) 424-3247.

Questions and Answers Concerning the Final Rule Implementing the Housing for Older Persons Act of 1995 (HOPA)

Title VIII of the Civil Rights Act of 1968 (the Federal Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988 (the Fair Housing Act), prohibits discrimination in housing and real estate-related transactions based on race, color, religion, sex, national origin, handicap and familial status (in general, the presence of children under the age of 18 in the household). The prohibition against discrimination based on familial status became effective March 12, 1989. The Act contained a provision exempting "senior" housing from the prohibition against familial status discrimination.

The Housing for Older Persons Act (HOPA), signed into law by President Clinton on December 28, 1995, amended the housing for older persons exemption against familial status discrimination. The HOPA modified the statutory definition of housing for older persons as housing intended and operated for occupancy by at least one person 55 years of age or older per unit. It eliminated the requirement that housing for older persons have significant services and facilities specifically designed for its elderly residents. It required that facilities or communities claiming the exemption establish age verification procedures. It established a good faith reliance defense or exemption against monetary damages for persons who illegally act in good faith to exclude children based on a legitimate belief that the housing facility or community was entitled to the exemption.

Question 1

**For the purpose of HOPA, what is a housing community or facility?
What are some typical examples of a housing, community or facility?**

Answer

A housing community or facility is any dwelling or group of dwelling units governed by a common set of rules, regulations or restrictions. A portion of a single building may not be considered a housing facility or community. Typical examples include: a condominium association; a cooperative; a property governed by homeowners or resident association; a municipally zoned area; a leased property under common private ownership; a manufactured housing community, a mobile home park.

Question 2

May an owner of single family houses that are dispersed throughout a geographical area, and who is not otherwise exempt under the Fair Housing Act, qualify as a "housing community or facility" and claim the exemption?

Answer

No. The common use of the terms "housing community" and "facility" applies to dwelling units which are in the same location and have some relationship to each other. The dwelling units in a housing community or facility must share a common set of rules, policies, and procedures, that is applied to all of the dwellings in the community or facility. Further, although there is no required stated minimum number of dwelling units that must be present for the exemption to apply, there must be a sufficient number of dwelling units to constitute a "community" or "facility" in the common meaning of those terms. One single family dwelling or a duplex would not qualify as a "housing community or facility."

Question 3

What must a housing community or facility do to qualify for the 55 or older housing for older persons exemption?

Answer

In order to qualify for the exemption, the housing community/facility must satisfy each of the following requirements:

- a) at least 80 percent of the occupied units must be occupied by at least one person 55 years of age or older per unit;
- b) the owner or management of the housing facility/community must publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons 55 years or older; and
- c) the facility/community must comply with rules issued by the Secretary for verification of occupancy through reliable surveys and affidavits.

Question 4

What are some examples of the types of policies and procedures that would demonstrate an intent to provide housing for persons 55 years of age or older?

Answer

Examples include:

- a) the written rules, regulations, lease provisions, deed or other restrictions,
- b) the actual practices of the owner/management of the housing facility/community used in the enforcement of the rules;
- c) the kind of advertising used to attract prospective residents to the housing facility/community as well as the manner in which the facility/community is described to prospective residents;
- d) the housing community's/facility's age verification procedures, and its ability to produce, in response to a familial status complaint, verification of required occupancy.

Question 5

May a housing facility or community advertise as "adult" housing and still demonstrate the intent to be housing for older persons?

Answer

Use of the word "adult" or "adult community" in an advertisement, sign or other informational material, or when describing the facility or community to prospective renters or purchasers or members of the public, does not demonstrate an intent to be housing for older persons as defined by the final rule. The use of these terms, on the other hand, does not destroy the intent requirement of HOPA. If a facility or community has clearly shown in other ways that it intends to operate as housing for older persons, and meets the 80% requirement, and has in place age verification procedures, the intent requirement can be met even if the term "adult" is occasionally used to describe it. The Department will look at the totality of the circumstances in the investigation of a complaint alleging that the facility or community does not qualify as housing for older persons.

Question 6

How many days after the effective date of the final rule implementing HOPA does a facility/community have to develop routine procedures for determining the occupancy of each unit, including age verification?

Answer

The housing community/facility has 180 days after the effective date of the rule, May 3, 1999, to develop the appropriate procedures that should constitute a part of its normal leasing and purchasing procedures. However, if a housing facility or community is not now but intends to become eligible for the exemption, it should not delay development of appropriate procedures.

Question 7

What information should a housing provider include in its survey of residents in order to calculate whether the community or facility meets the 80% requirement of HOPA?

Answer

The owner or manager should obtain the total number of units in the housing community or facility. From that number, the following units should be excluded from the calculation of the 80% requirement:

- a) the number of units that have been continuously occupied by the same household since September 13, 1988, and the household did not contain and does not currently contain at least one person over the age of 55;
- b) the number of unoccupied units (see question 22);
- c) the number of units occupied by employees of the housing facility or community who are under 55 years of age, and who provide substantial management and maintenance services to the housing facility or community
- d) the number of units occupied solely by persons who are necessary or essential to provide medical and/or health and nursing care services as a reasonable accommodation to residents.

The owner or management then should calculate the percentage of the remaining number of units that are occupied by at least one person age 55 or over as of the date of the survey or the alleged date of violation of the Act.

Question 8

What is considered reliable age verification documentation?

Answer

The following documents are considered to be reliable for age verification: birth certificate, drivers license, passport, immigration card, military identification, or any other state, local, national or international documentation, provided it contains current information about the age or birth of the possessor.

Question 9

Is there any other documentation that would be considered reliable for age verification?

Answer

Yes. A self certification in a lease, application affidavit, or other document signed by an adult member of the household asserting that at least one occupant in the unit is 55 years of age or older will satisfy this requirement.

Question 10

What recourse is there for the owner or management of the housing community or facility if the occupants in the household refuse to cooperate in providing documentation regarding their age?

Answer

The housing/community facility may, if it has sufficient evidence, consider the household to be occupied by at least one person who is 55 years or older. Statements made under penalty of perjury from third party individuals who have knowledge of the age of the occupants of a household may be used when the household itself refuses to cooperate by providing age verification. Other information, such as statements indicating age in prior applications may be acceptable. In addition, the facility/community may base its decision on government documents such as census data. The census data referred to is household censuses that are conducted by many cities and towns.

Question 11

How frequently should a housing/community provider update its lists of occupants to be in compliance with the age verification requirements of HOPA? Are there any consequences if a housing provider fails to update its list of residents?

Answer

HOPA requires that a housing facility/community re-survey its lists of residents every two years to ensure that the 80% requirement is met. A housing community's or facility's failure to survey or re-survey its list of occupants in accordance with its age verification procedures does not demonstrate intent to housing for older persons, and could jeopardize the housing community's status as 55 or older housing.

Question 12

How long should a housing community/facility retain its records of survey information that show it meets the 80 percent requirement?

Answer

The records referred to in Answer 9 above need to be kept as long as the housing community/facility intends to proffer its exempt status.

Question 13

Are the surveys and affidavits used to gather information about the facility's/community's residents admissible in an administrative or judicial proceeding under the Fair Housing Act?

Answer

Yes.

Question 14

What does the ratio or percentage of 80/20 portion of housing mean?

Answer

HOPA requires that at least 80 percent of the occupied units must be occupied by at least one person 55 or older. The remaining 20 percent of the units may be occupied by persons under 55, and the community/facility may still qualify for the exemption.

Question 15

Is it lawful to advertise or market the 20 percent portion of the units not required to be occupied by at least one person 55 years of age or older to prospective tenants/purchasers under age 55 and to families with children?

Answer

Yes. However, the marketing must be done in a way that identifies the facility/community as housing intended for older persons. Advertising and marketing must not be inconsistent with the intent. Further, the facility/community needs to plan with care any attempt to sell or rent the entire 20 percent portion of the remaining units to incoming households under age 55, because it could risk losing the exemption if some occupants over 55 die, with surviving spouses or heirs who are under 55 years of age. Such planning should address notice to incoming households under the age of 55 regarding how the housing provider will proceed in the event that the 80% requirement is endangered.

Question 16

May a housing facility/community impose an age limitation more restrictive than that required by HOPA and qualify for the 55 or older exemption?

Answer

Yes. For example, the housing facility/community may require that at least 80 percent of the units be occupied by at least one person 60 years of age or older. The housing facility/community may require that 100% of the units are occupied by at least one person 55 years of age or older, or that 80% of the units be occupied exclusively by persons aged 55 or older. However, the facility/community should review other state and local laws, including fair housing laws that may prohibit discrimination based on age, before establishing policies and procedures restricting occupancy based on age, or affecting survivors' rights to property, that are not covered under HOPA.

Question 17

If a housing facility or community meets the requirements of HOPA but permits up to 20 percent of the units to be occupied by families with children, may the facility/community impose different terms and conditions of residency on those families with children who reside there?

Answer

Yes. If a housing community/facility qualifies under HOPA as housing for older persons, the community/facility is exempt from the Act's prohibition against discrimination on the basis of familial status. The housing community/facility may restrict families with children from benefits of the community, or otherwise treat family households differently than senior households, as long as those actions do not violate any other state or local law. However, the community/facility is not exempt from the provisions of the Act that prohibit discrimination against any resident or potential resident on the basis of race, color, religion, national origin, sex, or disability.

Question 18

If a 55 or older occupant dies and leaves his/her property to a surviving spouse or heir(s) under the age of 55, what rights, if any, do the survivors have to possession?

Answer

The right to possession by a surviving spouse or heir is not governed by the HOPA or the Fair Housing Act. Whether an underage heir or surviving spouse can occupy the unit upon the death of the 55 or older occupant is a matter of state/local law or custom, and generally is governed by private contractual agreements between senior housing developers and the individuals who purchased or rented the dwelling. The provision in the Act permitting 20 percent of the units to be occupied by persons under 55 is intended, in part, to prevent a housing facility/community from losing the exemption due to situations where there are surviving spouses and underage heirs when the 55 or older occupant dies.

Question 19

In the event that the sole 55 or older occupant dies, and a surviving spouse or heir remains in the unit, is the surviving occupant counted in the 80 percent or the 20 percent portion of the units needed to meet the criteria for housing for older persons?

Answer

The surviving occupant must be counted in the 20 percent portion.

Question 20

How should a housing provider count, for the purpose of meeting the 80/20 occupancy requirement, attendants or health care providers needed for the reasonable accommodation of the disability of an occupant (including family members under the age of 18)?

Answer

The attendant or health care provider or family care provider is excluded from the calculation in its entirety. This is true whether the live-in person resides in the same unit with the disabled occupant or in a separate unit. Neither circumstance adversely affects the exemption of the housing facility/community.

Question 21

How is the calculation for the 80/20 percent requirement affected if a 55 or older individual purchases a dwelling in a senior housing facility/community, vacates the unit, and allows an underage adult relative to move in for an indefinite length of time?

Answer

In calculating whether a community/facility meets the 80 percent requirement, it is the occupants of the dwelling units who are counted, not the owners. In this example, the current resident, the underage adult relative, would be counted in the 20 percent portion. Similarly, if a 55 or older owner/occupant decided to vacate a unit for an indefinite period of time and rent to an underage individual, the current occupant would be counted in the 20 percent portion.

Question 22

Are there circumstances under which a 55 or older owner/tenant might be temporarily absent from a dwelling without affecting the exemption status of the community/dwelling?

Answer

Yes. For example, the 55 or older occupant may be on vacation, hospitalized, or absent for a season without affecting the exempt status of the community. The resident may, if he/she wishes, allow a younger relative or a house sitter under 55 years of age to live in the unit during this absence. In either event, the unit would be included in the calculation of the 80 percent occupancy requirement as long as the dwelling is not rented out, the owner/tenant returns on a periodic basis, and maintains legal and financial responsibility for the upkeep of the dwelling.

Question 23

Can a housing community/facility that does not now meet the 80 percent occupancy requirement take any action to become eligible?

Answer

Yes. For a period of one year after the rule became effective (May 3, 1999), a housing provider may reserve all new, vacant and/or unoccupied units/dwellings for occupancy until 80 percent of the units/dwellings are occupied by at least one person 55 years of age or older. This does not mean that the dwellings/units must be held off the market; indeed, marketing the units as 55 and over units during the transition period may be done as those units become vacant.

Question 24

During this transition period, may a facility/community refuse to rent or sell to families with children in its effort to qualify as housing for older persons?

Answer

Yes. If, during the one year period the facility/community demonstrates its intent to be housing for older persons through advertising and revisions to or development of rules and procedures, and adopts age verification procedures, it may refuse to rent or sell to applicants based on their familial status. Of course, the facility/community may have to meet the requirements of state and local laws with respect to making the changes required for the transition in its covenants or other instruments binding on the property.

Question 25

Can the facility/community evict families with children during the transition period for the purpose of becoming housing for older persons?

Answer

No. However, the housing facility/community can renew or not renew leases for families with children if doing so does not represent a change in its practices or does not violate state or local landlord tenant law. Additionally, while the facility/community may not take any measures deliberately designed to discourage families with children from continuing to reside in the community, nothing prevents the offering of positive incentives that might lead some families to seek housing elsewhere.

Question 26

What if a 55 or older housing provider, at the end of the transition period, does not succeed in meeting the 80 percent occupancy requirement?

Answer

At the expiration of the one year period, all units/dwellings must be marketed and made available to the public in general, including families with children. Additionally, all restrictive operations policies which may impact negatively on families with children must be rescinded.

Question 27

When does HUD become involved in determining whether a 55 or older housing community or facility is in compliance with HOPA requirements?

Answer

HUD's involvement begins in one of two ways: 1) when a person allegedly injured on the basis of familial status files a complaint against a housing facility/community and the respondent claims the exemption as a defense; or 2) when HUD commences a Secretary-initiated investigation or files a complaint based on information it has that indicates the need for an investigation.

Question 28

When must a person claiming to be injured by a housing community/facility because of familial status file a complaint with the Department in order for the complaint to be timely?

Answer

The complaint must be filed no later than one year after the alleged discriminatory act occurred or was terminated.

Question 29

Can a household which does not fall within the Fair Housing Act's definition of familial status file a complaint challenging a housing provider's attempt to provide housing for older persons?

Answer

No. The family cannot file a familial status complaint because it does not meet the definition of familial status.

Question 30

Can an owner of a dwelling file a complaint based on familial status if the owner is being impeded in the ability to sell or rent the dwelling because the housing facility/community is claiming to be 55 and over housing but does not meet the requirements for the exemption?

Answer

Yes, if the owner has affirmatively undertaken to rent or sell his property and can establish that the housing community/facility illegally (is not qualified housing for older persons) interfered with the owner's ability to do so, he/she can file a familial status complaint. Other complainant parties could include the family with children seeking to rent or buy but was denied the opportunity, as well as any real estate agent involved in the transaction.

Question 31

If an individual files a complaint based on familial status and the housing community/facility claims the exemption as a defense, who has the burden of proving, that the community/facility is in compliance with HOPA requirements?

Answer

The community/facility housing provider has the burden of proving that it was in compliance with HOPA requirements on the date of occurrence of the alleged act or incident of discrimination.

Question 32

Can a corporate entity avail itself of the good faith reliance against monetary damages if the housing community/facility is found not to be in compliance with the HOPA requirements?

Answer

No. The governing board, management company, or corporate entity of the housing facility/community is liable if the facility/community fails to meet the requirements, and cannot claim a good faith reliance defense against monetary damages. The legislative history of HOPA shows that in creating the good faith reliance defense, Congress intended to protect **individual persons**, such as individual members of boards of governing homeowners associations and real estate agents relying on information provided by the housing providers of senior housing.

Question 33

Since individuals, including individual members of a homeowners association or a board of directors, can use the good faith reliance against monetary damages, under what conditions might that occur?

Answer

An individual is not liable for monetary damages if the person acted with a good faith belief that the housing facility/community qualified for a housing for older persons exemption. Such a person must have knowledge, from an authorized representative, that the facility/community asserted in writing that it qualified for the older persons exemption before the date on which the alleged discrimination occurred. An authorized representative may be an

individual, committee, management company, listing agent, owner or other entity.

Question 34

Under what circumstances may an individual not use the good faith reliance defense?

Answer

An individual is not entitled to the good faith defense if he or she has actual knowledge that the facility/community does not or will not qualify as housing for older persons, despite the fact that he/she received written assurances to the contrary from an authorized representative of the housing provider.

Question 35

Is an individual insulated from a liability claim for disseminating information to others regarding the facility's/community's exemption claim?

Answer

An individual who claims the good faith reliance defense based on his/her actual knowledge and a written assertion from an authorized representative of the facility/community may disseminate such information to others. Those others may include real estate agents, multiple listing services, advertisers and other print media who may, in turn, rely on the assertions of the individual from whom they received the information, unless they have actual knowledge that information is not accurate.

Question 36

Is a publisher (newspaper or other print media) liable for damages under the Fair Housing Act for accepting for publication an advertisement for 55 and older housing if the community/facility is found not to be in compliance with HOPA?

Answer

No. Newspaper publishers and other print media that rely on the assertions of the housing provider are not liable unless they have actual knowledge that the housing does not qualify for the exemption.

Question 37

Does HUD certify that a housing, facility/community is housing for older persons?

Answer

No. Neither the Fair Housing Act nor HOPA authorizes the Department to certify whether a particular housing facility or community meets the qualifications for housing for older persons.

Question 38

If a developer is building new housing that is intended to be for persons 55 and over, how should the new units be marketed and occupied as the facility/community is being developed?

Answer

Newly constructed housing for first occupancy after March 12, 1989 (including a facility or community that has not been occupied in its entirety for at least 90 days prior to re-occupancy due to renovation or rehabilitation), must be marketed as housing intended for older persons. It does not have to have at least one occupant in each occupied unit who is age 55 and over until at least 25 percent of the units are occupied.

Question 39

How are state and federal fair housing laws that prohibit age discrimination affected by HOPA?

Answer

Neither the Fair Housing Act nor HOPA covers age discrimination. Neither of these federal laws supersede or otherwise affect state or local laws that prohibit age discrimination. Housing community/facilities always should check all relevant state, local and federal laws, and any requirements imposed as a term of governmental financial assistance before implementing policies and procedures that limit the eligibility of its residents.

Question 40

Must state or local governments that have been determined to have substantially equivalent laws to the Fair Housing Act change the laws under which they operate in order to be identical to HOPA?

Answer

No. States and local governments with fair housing laws that have been determined to be substantially equivalent to the federal law may have no exemption from familial status discrimination for housing for older persons, or may have more stringent requirements to meet an exemption than does HOPA.

Question 41

Must a housing community/facility file or register a declaration of intent with the state or local unit of government in order to claim its exemption as housing for older persons?

Answer

HOPA does not require this. However, the state or local government might require the housing community/facility to register its intent to be housing for older persons. The facility/community should consult the appropriate governmental body for requirements in this regard.

Question 42

Must a resident of a 55 or older housing community/facility join the homeowner's association?

Answer

The Fair Housing Act does not require this. HOPA does not require this. This is an example of an issue or aspect of senior housing communities that is generally governed by independent law, deed restriction, or other legally enforceable documents.

Question 43

Would HUD apply HOPA retroactively to a familial status claim of discrimination that occurred prior to December 28, 1995, when HOPA was signed into law?

Answer

No. If the alleged violation occurred prior to December 28, 1995, the Department's investigation of a pending complaint will determine whether the community/facility met the requirements for the housing for older persons exemption, based on the regulations that were in effect at the time of the alleged violation.

Question 44

How does the Fair Housing Amendments Act senior housing, exemption, and HOPA, affect eligibility requirements for federally funded housing programs.

Answer

The Act and HOPA do not affect statutory or regulatory provisions of federally assisted housing programs. For example, neither HOPA nor the Act change the definition of "elderly family" in federally assisted housing programs. HOPA does not permit a HUD funded public housing provider to designate a project as an "elderly project" without HUD review and approval as mandated by existing regulations. HUD funded housing that is designated as elderly housing may not, because of HOPA, admit households that are not statutorily eligible for the housing. No public housing development that is not designated as an elderly development by statute or program regulation may exclude families with children even if at least 80% of the units are occupied by at least one person age 55 or older. Federally assisted housing providers should continue look to existing program statutory and regulatory requirements to determine tenancy of those developments.

Fair Housing Accessibility Guidelines

Design Guidelines for Accessible/Adaptable Dwellings

Fair Housing Amendments Act of 1988

Requirement 1: Accessible building entrance on an accessible route

- Covered multifamily dwellings shall be designed and constructed to have at least one building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual characteristics of the site.

Requirement 2: Accessible and useable public and common use areas

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed in such a manner that the public and common use areas are readily accessible to and usable by handicapped persons.

Requirement 3: Usable doors

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed in such a manner that all the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs.

Requirement 4: Accessible route into and through the covered dwelling unit

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain an accessible route into and through the covered dwelling unit.

Requirement 5: Light switches, electrical outlets, thermostats and other environmental controls in accessible locations

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

Requirement 6: Reinforcement for grab bars

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain grab bar reinforcements in bathroom walls to allow later installation of grab bars around toilet, tub, shower stall, and shower seat, where such facilities are provided.

Requirement 7: Usable kitchens and bathrooms

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

Sample Reasonable Accommodation/Modification Policy

Community Members with Disabilities Have the Right to Reasonable Accommodation/Modification.

Please let us know if you have a disability and you need:

- A change in a policy or rule that is necessary for you to live here
- An opportunity to successfully address a problem
- A physical change to your unit or to common areas necessary to accommodate your disability
- A change in the way we communicate with you or give you information

We will give you a Reasonable Accommodation / Modification Request form and can help you to fill it out if needed. We may also contact your medical or therapeutic provider to make sure you have the disability and that what you are requesting is necessary for you.

If you can demonstrate to us that you have a disability and that your request is necessary, we will do our best to accommodate you.

We will give you an answer within _____ unless there is a delay getting the information we need from your medical or therapeutic provider.

If we turn down the request, we will explain the reason in writing. It may be that it is too costly, too much work for our staff, or a service that we are unable to provide. If that is the case, we may also be able to work with you to come up with another accommodation or modification that we would be able to provide.

All information about the request will be kept confidential.

REASONABLE ACCOMMODATION / MODIFICATION APPROVAL NOTICE

Date: _____

Dear _____,

We have approved your request for the following change or reasonable accommodation / modification:

_____.

We can provide this accommodation / modification by _____ (date).

To make the change you requested, we must have bids and then arrange installation so we cannot make the change immediately. We will let you know the date as soon as we have that information.

Other reason for delay. _____.

Please call us at _____ if you have any questions. If you think this accommodation / modification will not meet your needs or will take too long to provide, you may request an informal meeting by: _____.

Sincerely yours,

DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION/MODIFICATION

Date: _____

Dear _____,

You requested the following change or reasonable accommodation/modification:

We have denied your request because:

You do not meet the definition of a person with a disability under the Fair Housing Act and we are not required to provide a reasonable accommodation/modification.

The information you provided does not show a connection between your disability and the accommodation/modification you have requested.

We think the accommodation/modification you requested is not reasonable because:

It will cost too much money and is more work than our staff can do (an undue financial and administrative burden).

It will change the fundamental nature of our program.

[Complete one or more of the following, as applicable]

We decided this because _____

We used these facts to deny your request _____

To make this decision we _____

If you disagree with this decision, you may request an informal meeting by _____

OWNER NAME

By: _____
Property Manager

_____ Date

Date: _____

Dear _____,

Enclosed is a form signed by _____ asking you to verify his or her disability and need for a reasonable accommodation or modification in housing.

State and federal laws require housing providers to make reasonable accommodations or changes to physically modify a housing unit or area of the housing complex/community, or to make an exception to community rules, policies and procedures if such change is necessary as a result of the person's disability.

The resident in question has requested the accommodation / modification described in the enclosed form. Please indicate on that form whether you believe the individual has a disability within the definition provided and the accommodation / modification is necessary and will achieve its stated purpose. You may also add any other information that would be helpful in making the right accommodation / modification for this person.

This form should not be used to discuss the person's diagnosis or any other information that if not directly relevant to the request for an accommodation / modification.

Please note that the individual has signed the form requesting you to answer the questions. You can call _____ at _____ if you have any question. Thank you.

Please return the form to:

**Sample Verification for Reasonable
Accommodation / Modification**

Name of person requiring accommodation/modification:

Description of accommodation/modification being requested:

I understand that under federal and state law, an individual is disabled if he/she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, thinking, communicating, learning, performing manual tasks, and caring for oneself.

Impairments also include such diseases and conditions as orthopedic; visual; speech and hearing impairments; Cerebral Palsy; autism; seizure disorder; Muscular Dystrophy; Multiple Sclerosis; cancer; heart disease; diabetes; HIV; mental retardation, mental and emotional illness; drug addiction; and alcoholism. This definition does not cover any individual who is a drug addict and currently using an illegal drug, or an alcoholic who poses a direct threat to property or safety because of alcohol use (224 CFR Part 8.3 and HUD Handbook 4350.3, (Exhibit 2-2).

I certify that _____ has a physical/mental (circle) disability which meets the definition stated above.

I verify that this request is directly related to his/her disability and is necessary to afford him/her the opportunity to access housing, maintain housing, or fully use/enjoy housing. (Necessary indicates necessity as opposed to only the matter of convenience or preference).

I recommend that the request for _____

_____ be approved.

I certify that the information above is true and correct.

Signature: _____

Date: _____

Printed Name: _____

Professional Title: _____

Name of Clinic, Hospital, etc.: _____

Address: _____

Phone Number: _____

Fax Number: _____

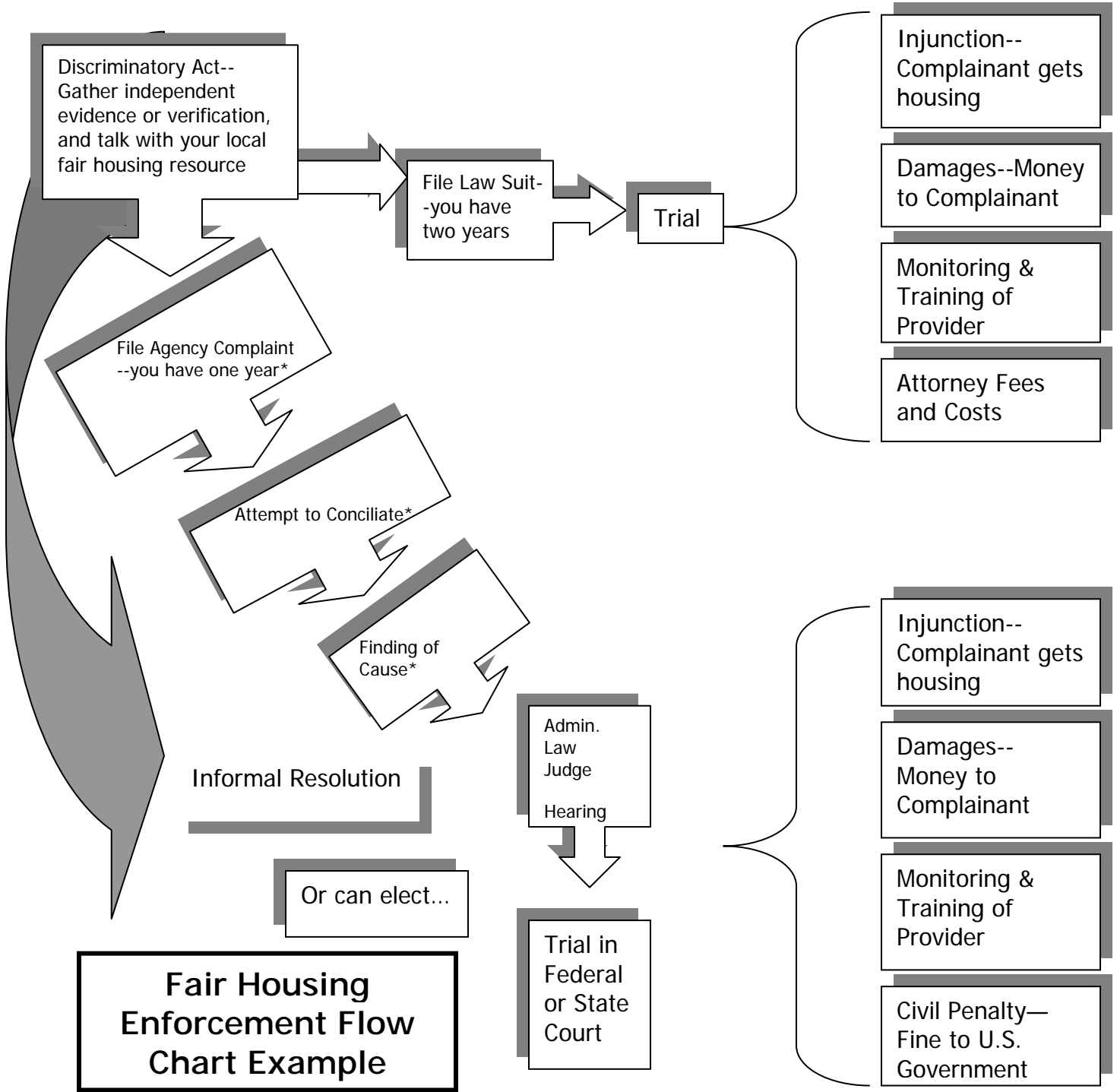




506 SW Sixth Avenue, Suite 1111, Portland OR 97204

Phone: 503/223-8197 or 800/424-3247 (TTY) Fax: 503/223-3396

Website: www.FHCO.org Email: information@FHCO.org



*You can elect to withdraw from this process & file a private lawsuit

HUD Complaint Hotline 1-800-877-0246

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**EQUAL HOUSING
OPPORTUNITY**

**We Do Business in Accordance With the Federal Fair
Housing Law**

(The Fair Housing Amendments Act of 1988)

**It is illegal to Discriminate Against Any Person
Because of Race, Color, Religion, Sex,
Handicap, Familial Status, or National Origin**

- In the sale or rental of housing or residential lots
- In the provision of real estate brokerage services
- In advertising the sale or rental of housing
- In the appraisal of housing
- In the financing of housing
- Blockbusting is also illegal

Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:

1-800-669-9777 (Toll Free)
1-800-927-9275 (TTY)

**U.S. Department of Housing and
Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410**