

# Know Your Rights – Fair Housing

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# Poll Questions

- Do you currently live in Elkhart?
- Have you or anyone you know faced housing discrimination in Elkhart?

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# Legal Disclaimer

- This is not legal advice. For legal advice, please contact an attorney.
- This information should not be taken as the Elkhart Human Relations Commission policy.
- This presentation is intended to provide general information.

# Road Map

- What is Fair Housing?
  - Who is protected by the Fair Housing Act?
  - Prohibited Conduct
  - Where does it apply?
- Examples of Discrimination
- What are reasonable accommodation and modifications?
- How to file a complaint of discrimination with Elkhart Human Relations and HUD

# What is Fair Housing

- The Fair Housing Act is a federal law that makes it unlawful to discriminate against people in housing transactions based on:
  - Race
  - Color
  - Religion
  - National origin
  - Sex
  - Disability
  - Familial status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children until 18)

# Prohibited Conduct

- Refusing to rent, sell or negotiate
- Make housing unavailable or deny that housing is available
- Set different terms, conditions or privileges for the sale or rental or housing
- Deny or make different terms or conditions for certain applicants or home seekers based on the applicant or home seeker's status in a protected class
- Not returning phone calls of an applicant when they inquire about status of application
- Steering by realtor or landlord

# What else is prohibited?

- Threats, coercion or intimidation directed toward a home-seeker based on membership in a protected class is illegal.
- Acts of retaliation for pursuing rights under the Fair Housing Act also considered illegal.



# Where Does it Apply?

- The FHA applies to “dwellings.”
- The FHA covers most housing, including federally subsidized and private housing, with few specific exceptions.
- “Dwellings” are defined as “any building, structure, or portion thereof” that is “occupied as, or designed or intended for occupancy as, a residence by one or more families.” 42 U.S.C. § 3602(b).
- Examples of dwellings: houses, apartments, university student housing, farmworker housing, AIDS hospice, nursing homes, homeless shelters\*
- Not dwellings: motels, jails, bed & breakfasts

# What is Permissible under the Fair Housing Act?

- Fair Housing Act does not guarantee any person right to housing they cannot afford
- Property owners may set rents at whatever market will bear (subject to HUD regulations for subsidized housing)
- Agent or property owner not required to rent to users and dealers of illegal drugs

# Examples of Discrimination

- A family with young children attempting to rent a home is told by the owner that he will not rent to them because the neighbors do not want loud noises in their peaceful neighborhood.
- A same sex couple is discouraged from renting a home in a particular community and are told by a landlord that another property is available in another area where they would feel more comfortable.
- A tenant is evicted when the landlord finds out he has HIV.

# Examples of Discrimination

- A rental agent is told by the owner of an apartment building to deny the applications of prospective tenants if they use a wheelchair.
- An owner of an apartment building refuses to rent to a prospective tenant because of an apparent developmental disability
- A landlord informing a Latino applicant that the units are all occupied when in fact there are available units.

# Examples of Discrimination

- A landlord refuses to rent to a prospective tenant because the prospective tenant has limited proficiency in the use of the English language.
- A rental agent for a landlord makes disparaging statements about how Hispanic tenants have poor housekeeping habits even if there is no evidence of disparate treatment of current or prospective Hispanic tenants.
- A landlord requires proof of United States Citizenship to apply for housing

# Disability Definition

- Under the law, disability is defined as a **physical or mental impairment that substantially limits one or more of a person's major life activities:**
  - Walking
  - Breathing
  - Seeing
  - Hearing
  - Caring for one's self
  - Etc.
- It is **illegal housing discrimination** for a housing provider to **fail to provide a reasonable accommodation or reasonable modification** for a person with a disability!!!



# Reasonable Accommodations

- Changes in rules, policies, practices, or services that are **necessary for person with disability to have equal opportunity to “use and enjoy” housing**

# Reasonable Accommodations

## Examples

- Rent is due on the first. Tenant gets her SSD check on the second Wednesday of the month and wants to extend date to pay rent until the 15th
- Tenant is visually impaired and asks for notices to be provided in an accessible format
- Pet fees that the Landlord says apply to assistance and support animals



# Reasonable Modifications

- Reasonable modifications are changes in the physical structure of a dwelling that are **necessary for a person with a disability to have an equal opportunity to “use and enjoy” the housing.**
- Such modifications must be **made at the expense of the person requesting the modification**, unless the housing provider receives federal funds.
- Unless the housing provider receives federal funds, removal of the modification **is at the expense of the person on whose behalf the modification was made**, when that person leaves the dwelling permanently.

# Examples of Reasonable Modifications

- A tenant in a wheelchair needs to have grab bars installed in the shower.
- Installation of a ramp or other accessible dwelling feature (such as widening door frames to allow a wheelchair to pass through).
- Lowering cabinets.

# What do I do if I have faced housing discrimination?

- If you believe your fair housing rights are being violated, the Elkhart Human Relations Commission can provide advice and/or assistance about the complaint process.
- To file a complaint, you will need: the date the discrimination occurred, the names, addresses and telephone numbers (if known) of the person or persons who discriminated against you (e.g. the owner, broker, manager)
- Any documentation that supports your allegation (advertisement of a unit)

# Fair Housing Enforcement

- Administrative Complaint with Delaware Division of Human Relations (DHR) and U.S. Department of Housing and Urban Development (HUD)

How to file a complaint:

<https://statehumanrelations.delaware.gov/fair-housing-information-center/how-to-file-a-complaint/>

# Sarah's Housing Discrimination Story and Reasonable Accommodations

- <https://www.youtube.com/watch?v=mCnA8WOApAE>

# Questions?

Thank you!

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# Resources

- Provided background for today's presentation:
- Robert G. Schwemm, *Housing Discrimination: Law and Litigation* (West) □ Additional resources:
- John Relman, *Housing Discrimination Practice Manual* (West)
- HUD FHEO website
  - [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp)