

Housing Discrimination And Domestic Violence



■ What is sex discrimination in housing?

Sex discrimination occurs when a property owner treats a buyer or renter differently because of her sex. Even if the owner does not intend for a policy to treat women differently, policies that have a discriminatory effect on women may also violate the law. Both intentions and effects matter in determining whether a property owner's actions are discriminatory and illegal.

■ What sort of housing discrimination do women who have experienced domestic violence face?

Sometimes landlords believe that they can ensure safety on their properties by keeping domestic violence survivors out. To do this, landlords sometimes evict victims of domestic violence or deny applications from women who have experienced domestic violence in the past. These landlords often explain their actions by pointing to "zero tolerance" or "one strike" policies that permit the eviction of a tenant if criminal activity occurs in her home. Such policies fail to take into account whether an individual was a victim of violence or the perpetrator.

■ Is eviction of domestic violence victims a form of sex discrimination?

Discrimination against women who have faced domestic violence is often based on gender stereotypes about battered women. One such stereotype is that if a woman is experiencing domestic violence, it is her fault, because she must be causing it or allowing it to happen. When a landlord relies on such a gender stereotype to evict a victim of domestic violence, the landlord discriminates on the basis of sex.

In addition, because most domestic violence victims are women, policies and practices that discriminate against victims of domestic violence harm more women than men. This results in a "disparate impact" on women as compared to men. Disparate impact means that even if a landlord does not intend to discriminate against women, the landlord's actions are still harmful to women as a group, while they do not have the same harmful effect on men as a group.

■ What does federal law say?

The Fair Housing Act is a federal law that (among other things) prohibits landlords from discriminating on the basis of sex. Few courts have addressed whether the Fair Housing Act prohibits discrimination against women who have experienced domestic violence,

but some courts have recognized that discrimination against victims of domestic violence is illegal sex discrimination when it is based on gender stereotypes. It is also likely that policies that discriminate against victims of domestic violence would constitute illegal sex discrimination due to their disparate impact, unless a landlord could prove that there was a very good reason for the policy.

Federal law also specifically prohibits some forms of discrimination against domestic violence victims in public housing and federally assisted housing. The Violence Against Women Act (VAWA) states, for instance, that a public housing authority cannot evict someone from public housing or terminate her housing voucher just because she is a victim of domestic violence.

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What are some examples of discrimination that may be illegal?

■ A landlord or public housing authority learns that you have experienced domestic violence in the past and rejects your application for tenancy as a result.

■ You notice that your landlord suddenly applies rules to you that are not applied to other tenants after the landlord learns that you are in an abusive relationship.

■ You are abused by an intimate partner in your home, and your landlord or public housing authority seeks to evict you immediately afterwards.

■ Your public housing authority terminates your housing voucher because you have called the police to your home for protection from domestic violence.

■ Do state laws protect victims of domestic violence from housing discrimination?

Several states have enacted legislation that offers greater protection for victims of domestic violence. Rhode Island, Washington, and North Carolina, for example, prohibit landlords from evict-

ing or otherwise discriminating against tenants because they have experienced domestic violence. In these states, a tenant experiencing domestic violence may also break her lease if she needs to move in order to protect herself. These comprehensive state laws offer strong protections and support for domestic violence victims and sur-

vivors. Other states have taken steps in the right direction, but they have stopped short of offering domestic violence victims full protection from housing discrimination. Oregon, for example, allows a victim of domestic violence to terminate a lease to protect her safety, but does not prohibit evictions of abused women.

How can I protect my rights under the Fair Housing Act?

The Fair Housing Act allows any “aggrieved person” to complain about housing discrimination. This includes anyone who has been injured by discrimination or who believes that she is about to be injured by a threatened discriminatory act. If you fall into either of these categories, you can proceed in one of the following ways:

1. Make a complaint to your landlord or housing authority

Public housing authorities should have a standard procedure to follow when filing a complaint or grievance. Other types of housing may (or may not) have their own standard forms or procedures. No matter what, make sure that you make your complaint in writing. If it is possible to do so, it is always quicker and simpler to resolve a problem directly, so raising the issue with your landlord should almost always be your first course of action. If the complaint is not dealt with properly, you may then want to proceed with one of the options below.

2. File a complaint with the United States Department of Housing and Urban Development (HUD)

You can file a complaint with your HUD regional office within one year of the date the discriminatory act occurred. (Alternatively, you may be able to file a complaint with your state fair housing agency. Regardless, if you live in an area that has its own fair housing laws, HUD may refer your complaint to a local agency for investigation.) Within 100 days, HUD is supposed to complete its investigation, free of charge. If HUD finds “reasonable cause” to believe that discrimination has occurred, then HUD will bring your case before an administrative law judge, or you can choose to have the Department of Justice take your case to court. To be connected to your HUD regional office, call (800) 669-9777, or visit www.hud.gov to file a complaint online.

3. Bring suit in court

You have the right to file a case in federal or state court under the Fair Housing Act without going to HUD first. If you decide to sue under the Fair Housing Act, you must do so within two years of the discrimination.

Before moving forward with any of these actions, you should first consult with an attorney to gain a better understanding of your rights and options. For more information about housing discrimination against domestic violence survivors, contact:

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