



## Fair Housing: What It Means To All Of Us



The Housing Council, 75 College Avenue, 4<sup>th</sup> Floor, Rochester NY 14607  
[www.thehousingcouncil.org](http://www.thehousingcouncil.org)

## **Fair Housing laws prohibit discrimination in housing because of a person's:**

- Race or Color
- National Origin
- Religion
- Sex
- Familial status (families with children)
- Marital status
- Disability
- Age
- Sexual Orientation
- Military Status

## **What can't be done when renting or selling**

- Refuse to rent or sell a house or apartment
- Refuse to negotiate for housing with one individual but do so with another
- Deny that a house or apartment is available when it is.
- Set different conditions or privileges for sale or rental
- Provide different services or facilities
- Advertise or make any statement that indicates preferences based on race, color, national origin, religion, sex, familial

status, age or disability

## **Specific to mortgages**

When buying a home, when it comes time to arrange your mortgage it is against the law for a lender to:

- Refuse to make a mortgage loan
- Fail to provide information about loans
- Set different terms on the loan, such as a higher interest rate or extra fee
- Discriminate in appraising a property's value.



## **Additional Protection if you have a disability...**

You have protection under the Fair Housing Amendments Act if you or someone in your family has a physical or mental disability including:

- hearing
- mobility
- visual impairments
- Recovering alcoholic
- chronic mental illness
- AIDS or AIDS related complex
- intellectual disabilities

A tenant has the right to make reasonable modifications to the apartment or common areas at their own expense. The landlord must allow these modifications, but is not responsible for paying for it. If the landlord requests the modification, it is the tenant's responsibility to return the apartment to its original condition when moving out. A landlord must also make reasonable exceptions to the building rules, such as allowing a guide dog when pets are otherwise not permitted.

## How does the Fair Housing Act protect families with children?

Fair Housing laws give families with children under age 18 specific protection from discrimination in housing.

“Children under 18” include:

- Children living with legal custodians or an adult designated to care for the children
- Pregnant women
- People in the process of securing custody of children, such as adoption

In addition to protections provided by the federal Fair Housing Act it is illegal to:

- Refuse to rent or sell a home or apartment to a family because they have children
- Require an additional security deposit or charge with families with children that is not required of other residents of the apartment, condominium, mobile home park, ect.
- Segregate families with children to certain areas of a housing complex, mobile home park, ect.
- Limit the use of the housing complex’s pools, elevators, and other services to adults only, although reasonable safety rules are permissible
- Evict a family after a baby is born or adopted unless legal occupancy requirements

## When can families with children be excluded from housing?

Fair Housing laws allow “housing for older persons” to exclude families with children.

“Housing for older persons” is strictly defined:

- All the people living in the housing complex, including both spouses, must be age 62 and older; or
- 80% of all the units in a complex must be occupied by at least on person age 55 or older; or
- The housing has been funded “for older persons” by the state or federal government.





### **How do Fair Housing laws protect against discrimination based upon your sex?**

The law says that seller, landlords, homeowners' associations, realtors, ect. may not decide where you will be able to live because you are a man or woman.

In addition to the general protection provided by the Fair Housing Act, it is illegal to:

- Rent, sell or negotiate or housing with women on a different basis than men
- Refuse to acknowledge as income any alimony or child support payments received by a divorced woman or man
- Require, directly or by implication, sexual favors in exchange for housing or real estate related transactions
- Sexually harass home or apartment purchasers or tenants

### **How do Fair Housing laws protect against discrimination based upon your religion?**

The Fair Housing Amendments Act says that discrimination based on religion is illegal in the sale or rental of most housing. This means that, in addition to the general prohibitions in the Act, it is unlawful to:

- Question a potential purchaser or renter about their religion or religious affiliation in connection with the purchase, sale or rental of housing
- Advertise or publish a preference for selling or renting housing to persons of a particular religion unless permitted by law
- Refuse to rent or sell a home or apartment to a person of a particular religion or religious affiliation

Religious organizations can give preference to their members in the sale, rental or occupancy of noncommercial housing or lodges, as long as membership in the religion is not restricted on the basis of race, color or national origin.





## What is and is not discrimination: Real World Examples

**Q: Can I be turned down for having bad credit?**

A: Yes. Your credit history is a legal method for a landlord to judge who may be a reliable tenant. However, a landlord should be requiring a credit report from all applicants.

**Q: Can I exclude a person with a seeing eye dog?**

A: No. You must make reasonable accommodations for a person's disability. This includes allowing a seeing eye or other assistance dog even if you have a no pets policy.

**Q: I recently painted my apartments. May I screen out a person in a wheelchair because it may damage or mark the walls?**

A: No. You can protect yourself from damage to your property by requiring all tenants to pay reasonable security deposits. However, it is illegal to require a higher security deposit from disabled tenants.

**Q: Can I set a minimum dollar amount on the income of my residents?**

A: Yes. This figure must be reasonably related to the affordability of the rent and must be applied equally to all applicants.

**Q: Can I be turned down for an apartment because I'm not a U.S. Citizen?**

A: No. You may not be disqualified on the basis of national origin.

**Q: I'm looking for tenants who will be able to do gardening or repairs. Can I show a preference or couples or men?**

A: No. However, in certain circumstances you may request that a resident be responsible for reasonable gardening or repairs.

**Q: If I rent to unmarried people, I want to be sure each one can pay the rent in case one of them moves out. Can I require each unmarried tenant to qualify on their own, but a married couple to combine their incomes?**

A: No. You must have one set of criteria for qualifying. You must allow unmarried applicants to combine their incomes to qualify if you are allowing married applicants to do so. You may ask them both to sign the lease.

**Q: Can I make rules governing the conduct of children?**

A: No. You make rules governing the conduct of tenants in general and you must apply those rules in a consistent manner. You may have certain rules that affect children if the rule relates to health and safety.

**Q: Can a landlord limit the number of children in each apartment?**

A: No. He may limit the number of occupants to each apartment, but he may not specifically limit the number of children. Occupancy limits are set by state and local building codes.

## What is and is not discrimination: More Real World Examples

**Q: Out of concern for the safety of young children, can I restrict families with children under 18 years old to downstairs units?**

A: No. You may not in any way restrict where tenants live based on the presence of children in the household.

**Q: Can I raise the rent when an additional person is added to the unit?**

A: Yes. But be careful because the additional charge should be related to any added cost of having the additional person in the unit. If the charge is not rationally based then, it could be considered by the courts to be a proxy for discrimination against families with children. Any reasonable additional charges must also be stated in the lease.

**Q: Can I restrict the age or sex of children sharing a bedroom?**

A: No. Not only may you not restrict this, but you should not inquire about the age or sex of the children, except to ascertain if they are over 18 years of age.

**Q: One of my tenants has “shady” looking visitors. Can I restrict the tenants’ visitors?**

A: No. You may not limit a tenants’ right to freely use their home. You may of course restrict unlawful activity on your property and should contact the police to report any incidents.

**Q: Do I have to rent to the first qualified applicant?**

A: No, you may take applications from more than one applicant and choose among the qualified applicants as long as you do not use prohibited criteria to screen them.

**Q: In the past I’ve had problems with single men and young people. Do I have to rent to them again?**

A: You may not refuse to rent to a person of a protected class because of previous negative experiences with members of that group.

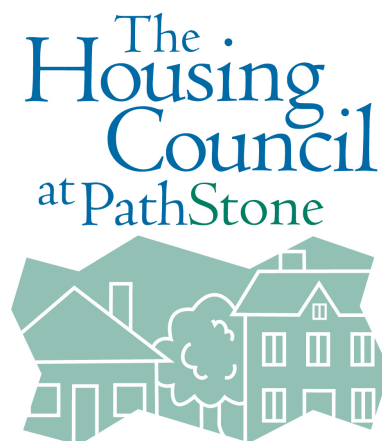
**Q: Can I continue to maintain an adults only complex?**

A: No. Families with children are a protected class under federal law. You should find out whether your complex qualifies for exemption as housing for older persons.

### What To Do...

If you are a tenant or home buyer and feel you may be the victim of housing discrimination or just want clarification on an issue please call the Housing Council’s Housing Hotline at 546-3700,

If you are a landlord, property manager or real estate agent and have any questions about Fair Housing Laws or one of your own policies, you are also encouraged to call our Housing Hotline. The Housing Council also teaches Property Management classes that cover Fair Housing in depth. Please call us to enroll. Our staff is also available to do presentations to groups of any size.



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