Fair Housing Laws for Chicago Housing Providers

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Agenda

• Overview of Chicago Lawyers’ Committee
• Overview of Fair Housing Laws
• Recent Legal Developments
• Q&A
Overview of Chicago Lawyers’ Committee

• Mission Statement: *We are civil rights lawyers and advocates working to secure racial equity and economic opportunity for all. We provide pro bono legal representation through partnerships with the private bar, and collaborate with grassroots organizations and other advocacy groups to implement community based solutions that advance civil rights.*

• Website: [www.clccrul.org](http://www.clccrul.org)
OVERVIEW OF FAIR HOUSING LAWS

Importance of Fair Housing

• Fair Housing increases housing opportunities for all.

• Housing plays a large role in defining a person’s quality of life.

• Where you live affects your access to community services such as transportation, employment, schools, retail, and professional services.

Source: CCHR
Fair Housing Laws

- **Federal Fair Housing Act**: Covers most housing in the United States
  - Citation: 42 USC § 3601 et seq.
  - Agency: U.S. Department of Housing and Urban Development (HUD)
- **Illinois Human Rights Act**: Covers most housing in Illinois
  - Citation: 775 ILCS 5/3-101 et seq.
  - Agencies: Illinois Dep’t of Human Rights; Illinois Human Rights Commission
- **Chicago Fair Housing Ordinance**: Covers nearly all housing in the City of Chicago
  - Citation: Chi. Mun. Code 5-8-010 et seq.
  - Agency: City of Chicago Commission on Human Relations
- **Cook County Human Rights Ordinance**: Covers most housing in Cook County
  - Citation: Cook County Mun. Code 42-30 et seq.
  - Agency: Cook County Commission on Human Rights

Overview of Protected Classes

- **Fair Housing Act of 1968**: Bans housing discrimination on the basis of race, color, religion, sex, familial status, national origin, or disability
- **Illinois Human Rights Act**: Identifies additional protected classes which include: sexual orientation and gender identity, age (40 and above), marital status, order of protection status, ancestry, military status, or unfavorable military discharge
- **Local Fair Housing / Human Rights Ordinances**: Many counties and municipalities have also identified additional protected classes (e.g., source of income)
What is a Fair Housing Violation?

Protected Class + Prohibited Act = Fair Housing Violation

Prohibited Acts

- Refusing to sell or rent a dwelling after the making of a bona fide offer
- Refusing to negotiate for the sale or rental of a dwelling
- Discriminating in the terms, conditions, or privileges of the sale or rental of a dwelling
- Discriminating in the services or facilities in connection with the sale or rental of a dwelling
- Discriminating in lending or appraisal
Prohibited Acts, cont.

- Making, printing, or publishing a notice, statement, or advertisement that indicates a preference, limitation or discrimination
- Misrepresenting the availability of property
- Steering
- Refusing to allow reasonable accommodations or modifications for people with disabilities
- Retaliating against someone for exercising their fair housing rights

Source of Income Discrimination

- Prohibited under the Chicago Fair Housing Ordinance and Cook County Human Rights Ordinance
- Definition: Any lawful manner by which a person supports him/herself, and his/her dependents including through the use of:
  - Child Support, Alimony, Temporary Assistance for Needy Families (TANF) or Public Aid, Food Stamps, SSI Benefits, Unemployment Compensation, Veterans Affairs Supportive Housing (VASH) Certificate, and Housing Choice (or Section 8) Vouchers
- This law applies to any person, corporation, or firm selling, renting, or leasing any housing in Chicago
Examples of Statements by Agents/Landlords Refusing to Rent to Housing Choice Voucher Recipients

• “You must earn 3X the total rent amount to live in our building.”

• “Our building is not set up to accept a housing voucher or the building is old and would not pass the inspection process.”

• “The man who owns the building lives out of the country and does not have time to go through the HCV process and besides he does not speak English.”

More Facts about the Housing Choice Voucher Program

• In addition to the CHA, the Housing Authority of Cook County (the HACC) administers an HCV Program, in Suburban Cook County.

• There is no such thing as an “approved list” of buildings that accept Housing Choice (Section 8) Vouchers.

• Landlords who rent to HCV holders in opportunity areas in Chicago may receive an additional lump sum payment equal to one month’s rent (known as Landlord Incentive Payments).

Sources: CHA, HACC
Cook County Memorandum on Source of Income

• In November 2013, Cook County’s Department of Human Rights and Ethics issued a Memorandum regarding Source of Income Protections

• The Memorandum contains guidance on what landlords and property managers should and should not do with respect to renting property when voucher-holders are involved

• Examples:
  • Do not advertise that they are not renting to HCV/Section 8 tenants
  • Do not treat voucher holders less favorably than other applicants/tenants
  • Consider the portion of the rent that the HCV applicant would actually be directly responsible for when calculating rent-to-income ratio requirements

Source: Cook County Department of Human Rights and Ethics

National Origin

• National origin means the place in which a person or one of his or her ancestors was born.

• Being of a particular national origin means that a person has or is perceived to have the physical, cultural, or linguistic characteristics of a particular national origin group.

• Examples of discrimination would be property owners of one national origin group would prefer to rent to individuals of the same group.

Source: CCHR
Renting/Leasing to Immigrants

- If landlords inquire about immigration status, they must do so for all applicants.

- It is illegal to require more documentation or fees for immigrants.

- If a prospective tenant brings along an interpreter, landlord or agent must negotiate/work with them.

Families with Children – Prohibited Acts

- Occupancy restrictions
  - General rule of thumb is two people per bedroom but children under 2 do not count.

- Steering
  - Designating buildings or certain floors to only families with children.

- Different terms and conditions
  - Applying different rules or policies to families with children.
Definition of Disability
Under the federal Fair Housing Act:

• A person has a “disability” if he or she:
  • Has a physical or mental impairment
  • OR a record of such impairment
    AND
  • This impairment limits one or more major life activities

• This includes people who use wheelchairs and those who are hearing or visually impaired, and also people with AIDS/HIV and who are obese

• People recovering from alcohol or drug abuse are also covered.

Definition of Disability
Under the Chicago Fair Housing Ordinance:
(c) “Disability” means:
  (i) a determinable physical or mental characteristic which may result from disease, injury, congenital condition of birth or functional disorder including, but not limited to, a determinable physical characteristic which necessitates a person’s use of a guide, hearing or support dog; or
  (ii) the history of such a characteristic; or
  (iii) the perception of such a characteristic by the person complained against.
### Prohibited Acts

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<td>Refuse to permit (usually at the expense of the renter), <strong>reasonable housing modifications</strong> necessary for the daily life of a person with a mental or physical disability</td>
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<tr>
<td>Refuse to <strong>reasonably accommodate</strong> or adjust rules, policies, services or practices as reasonably requested by a person with a physical or mental disability</td>
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<td><strong>Harass</strong> someone on the basis of a protected class, or <strong>retaliate</strong> against them for exercising their rights</td>
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### Reasonable Accommodation & Modification Requests

- **Components of a request (when necessary)**
  - Disability
  - Type of modification/accommodation needed
  - Relationship between request & disability

- **Manner and time of request**

- **Expectations:** “Engage in the Interactive Process,” Timely Response
Reasonable Modifications

• **Examples:** Grab bars, Wall Reinforcements, Ramps, Cabinets lowered/removed, door frames widened

• **Costs:** Depends on whether modification will be for person/public use (If the building is federally subsidized, they would pay the cost.)

• **Expectations:** Permits, workmanlike manner

• **Restoration & Maintenance:** Interior, Exterior

Additional Fair Housing Protections For People With Disabilities Living In Public or Subsidized Housing

• Public or subsidized housing is covered by the FHA and Section 504 of the Rehabilitation Act.

• Note: In buildings that receive Federal monies, the owner/landlord is required to pay for reasonable modifications.

• Landlords receiving federal assistance (public housing and private owners) are required to make (pay for) reasonable modifications to the common areas and the individual units of tenants with disabilities.
Illinois Safe Homes Act (765 ILCS 750)

- State law protects survivors of domestic violence, dating violence, stalking and sexual violence who live in private housing or participate in the Section 8 voucher program.
- Victims who are tenants, who have given their landlord 48 hours to change the locks, can change the locks themselves.
- Tenants who fear for their safety can leave their homes and end their lease early without being liable for unpaid rent after they leave their home.

Sexual Harassment & Housing
Both men and women are protected and same-sex sexual harassment is included.

Types of Sexual Harassment

- **Quid Pro Quo**
  Housing provider denies housing or housing-related services as a result of a tenant’s refusal of the landlord’s sexual demands.

- **Hostile Environment**
  Housing provider engages in sexually harassing behavior that is severe or pervasive enough to alter the conditions of the housing environment and result in an intimidating, abusive, or hostile environment.
Advertising – Prohibited Acts

The law prohibits making, printing, or publishing ads that indicate a preference, limitation, or discrimination based on a “protected class.”

This law applies to:

• Persons or entities placing ads (landlords, home sellers, realtors, lenders, etc.)
• Advertising agencies preparing ads
• Newspapers (and other media), directories, and multiple listing services publishing ads (*does not apply under the Chicago Fair Housing Ordinance)

Advertising – Things to keep in mind

• Content of Advertisements
  • Describe property not the potential occupant
• Words and Phrases in Advertisements
  • Avoid words, symbols, and adjectives that suggest a preference
  • “private,” “exclusive,” and “restricted”
• Human Models
  • Photographs should use diverse models
Things to keep in mind, cont.

- Include the Fair Housing Logo and/or Statement
  - “We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status or national origin.”

- Affirmative Marketing
  - Reaching groups not likely to seek housing in a particular market without special outreach
  - Marketing accessibility

Customer Service and Housing

- Consistency in the way business is conducted with applicants
  - Walk-ins vs Appointments, Returning calls, Offering advice, Answering questions

- Representatives

- Is staff “selling” the property to everyone (tours, services, amenities)?

- Communicating what the application process is like, waitlist
Real Estate Professionals

• Real estate agencies, management companies, brokers, leasing agents, and salesperson can be held liable for housing discrimination.

• If you are asked by your client/owner to not allow certain classes of individuals to apply for available housing, or to include a discriminatory statement in an ad or listing, you must refuse.

• Real estate professionals are subject to the same penalties as other respondents.

Source: CCHR
Chicago Commission on Human Relations – Board Rulings

Familial Status Discrimination
  • The Board found that the Respondent-landlord discriminated against the Complainant when he withdrew an offer to rent the Complainant an apartment after finding out that she would be living in the apartment with her teenage grandson. The Board found that the Respondent-landlord’s action constituted a violation of the Chicago Fair Housing Ordinance, in that he discriminated against the Complainant based on her family status. The Board awarded damages to the Complainant in the amount of $1,587.77, and imposed a fine to the City of $1,000.

  • The Board previously found that Respondent discriminated against Complainant based on her familial status, when he refused to rent an apartment to her after learning that she would be living with her fifteen year-old grandson. The Board awarded attorney’s fees and costs in the amount of $3,267.

Source: CCHR Board Rulings Digest, February 2018

Chicago Commission on Human Relations – Board Rulings

Source of Income Discrimination
  • The Board found that Respondent landlords discriminated against the Complainant on the basis of his lawful source of income. Respondents refused to rent a house to Complainant and his son because Complainant is a holder of a HUD VASH (Veterans Affairs Supportive Housing) Certificate. Complainant tried repeatedly to rent Respondents’ house, which was advertised as available and was close to Complainant’s son’s school, but Respondents refused to rent to him after discovering that he was a HUD VASH Certificate holder. Following Complainant’s filing of his complaint in this matter, Respondents generally ignored all orders and deadlines from the CCHR. Following an entry to default against Respondents, a hearing was held on Complainant’s claims and damages. The Board found that Respondents refused to rent their property to Complainant because of his lawful source of income, in violation of the Chicago Fair Housing Ordinance. The Board awarded the following relief: Emotional distress damages in the amount of $10,000, punitive damages in the amount of $15,000, a fine to the City of Chicago in the amount of $1,000, and reasonable attorney’s fees.

Source: CCHR Board Rulings Digest, February 2018
Chicago Commission on Human Relations – Board Rulings

Source of Income Discrimination, cont.

  • Following a hearing in that case, Board ruled for the Complainant, finding that the Respondents discriminated against the Complainant based on his source of income when they refused to rent a house to him because he was a HUD-VASH Housing Choice Voucher holder. With regard to the petition for attorney’s fees, the Board awarded the Complainant’s attorneys $15,600 in fees.


Source: CCHR Board Rulings Digest, February 2018

Cook County Commission on Human Rights – Decisions

• Decisions of the Commission can be accessed here: [https://www.cookcountyil.gov/service/decisions-commission](https://www.cookcountyil.gov/service/decisions-commission)

Source: CCHR Board Rulings Digest, February 2018
Q&A

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