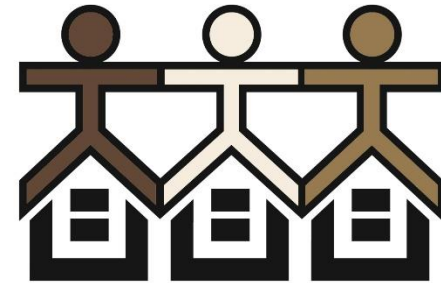


What is Fair Housing?

Presented by:
Long Island Housing Services, Inc.
LIFairHousing.org

Long Island Housing Services' Mission:

Elimination of unlawful
housing discrimination and
promotion of decent and
affordable housing through
advocacy and education.



LIHS gratefully acknowledges
the support of the New York
State Homes and Community
Renewal.



**Homes and
Community Renewal**

What is Fair Housing?

Fair housing means that all people have the right to live in the housing of their choice that they can afford free from discrimination.*

***Discrimination:** Denial of equal treatment and opportunity

It is N.Y.S. and U.S. policy and law to promote equitable housing choice and eliminate segregation.



What is Fair Housing?

Fair housing laws ensure equal access and mandate that people have equal housing opportunities and not be subjected to discrimination based upon legally protected categories.

Who is protected
under the Fair
Housing laws?

**FAIR
HOUSING**
laws
exist on
3 levels:

- **New York State**
- **U. S. Government**
- **County**

In **NEW YORK** state, it is **also** against the law to discriminate in housing because of a person's:

- Race
- Color
- National Origin
- Sex
- Disability
- Familial Status
- Marital status
- Sexual orientation
- Gender Identity
- Gender Expression
- Military Status
- Age (over 18)
- Creed
- Arrest**
- Source of Income*
- Citizenship and immigration status
- Domestic Violence Victim



*Source of income includes public assistance, Section 8, SSD, SSI, and court-ordered child support.

** Arrest includes favorably resolved arrest, an adjournment in contemplation of dismissal (ACOD), and a sealed conviction record, or a youthful offender adjudication.

In addition to Federal protections on the basis of Race, Color, National Origin, Religion, Sex, Disability, and Familial Status.

It is against *Federal* (U.S. Government) Fair Housing Law to discriminate in housing because of a person's:

- Race
- Color
- National Origin
- Religion
- Disability
- Familial Status
- Sex including Sexual Orientation and Gender Identity



Sexual Harassment under the Fair Housing Act

Discrimination based on sex includes a protection against sexual harassment:

- Deliberate or repeated unwelcome comments
- Gestures or physical contact that create a hostile environment

Example: Asking for sexual favors in exchange for an apartment, in lieu of rent, offers of reduced rent or extra amenities, etc.

Sex Discrimination and Domestic Violence Victims

Domestic Violence Victims are protected because majority are women:

- Evicted because of domestic violence victim status
- “nuisance” or “crime-free” ordinances

Example: LL does not want to deal with possible property damage by abuser; LL does not want police involved

In **SUFFOLK** County, it is also against the law to discriminate in housing because of a person's:

- **Group Identity***
- **Veteran Status**

**Group Identity includes actual or perceived:*

- Age (over 18)
- Gender
- Alienage or Citizenship Status
- Sexual Orientation
- Military Status

In addition to **Federal** (Race, Color, National Origin, Religion, Sex, Disability, and Familial Status)and **New York State** (Marital Status, Sexual Orientation, Gender Identity, Gender Expression, Age (over 18), Military Status, Creed) protections.

Nassau County has the same protections covered under Federal and State laws.

In **NASSAU** County, it is also against the law to discriminate in housing because of a person's:

- **Ethnicity**
- **Veteran Status**
- **First Responder Status**

In addition to **Federal** (Race, Color, National Origin, Religion, Sex, Disability, and Familial Status)and **New York State** (Marital Status, Sexual Orientation, Gender Identity, Gender Expression, Age (over 18), Military Status, Creed) protections.

Familial Status Protections

Familial Status includes:

- Someone with 1 or more children under the age of 18
- A pregnant woman
- Foster parents and adoptive parents
- Someone who has custody or guardianship of a child



Familial Status Protections

The Fair Housing Act makes it illegal to:

- Require an additional security deposit
- Segregate families with children (e.g. only downstairs units)
- Limit or restrict the use of the housing complex's pool, elevators, common areas, etc.
- Evict a family after a baby is born or adopted

Who is Disabled?

“Disability” means a person who has a physical or mental impairment that substantially *limits* one or more major life activities.



One can have either a history of the impairment or can be viewed by others as having an impairment.

Disability

Major Life Activities include:

- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working
- Caring for your daily needs



Disability

Providing Documentation of a Disability

Generally, a landlord may **NOT** ask:

- “Do you have a disability?”
- “How severe is your disability?”
- “May I have permission to see your medical records?”
- “Do you take medications?”
- “Why do you receive SSI?”

Disability

Providing Documentation of a Disability

If your disability is obvious to others, you should **NOT** be required to provide documentation.

Otherwise you can:

- Show a copy of your current handicapped parking tag
- Provide a statement from a doctor, therapist, case manager, peer support group, etc.
- You should not need to provide copies of your medical records

Prohibited practices

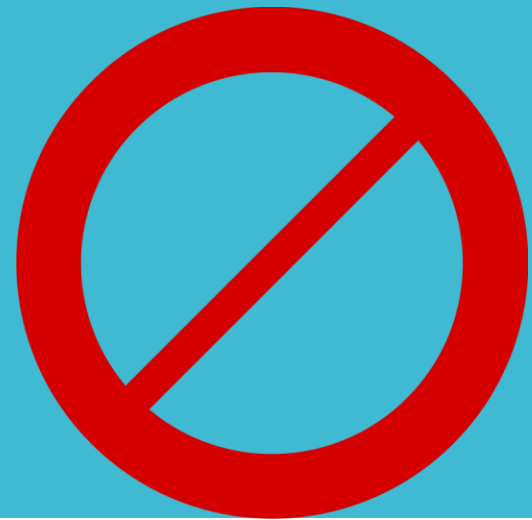


Refusal to make reasonable accommodations

...in rules, policies, practices, or services when such accommodations may be necessary for **persons with a disability** to have equal opportunity, full use and enjoyment of a dwelling

Example: Because of a vision impairment, a tenant requests permission to have a guide dog with her in her apartment. The housing provider has a no-pets policy. This is a request for a reasonable accommodation, and the housing provider must grant the accommodation.

Prohibited practices



Refusing to allow for reasonable modifications

...to properties when such modifications to structures are required by a person with a disability to allow them full use and access to a rental unit or common area, at the expense of the person with a disability

Example: Because of a mobility disability, a tenant wants to install grab bars in the bathroom. This is a reasonable modification and must be permitted at the tenant's expense.

*Note- In 2010, New York State Human Rights Law was modified to recognize that modifications are accommodations. It also placed the expense on providers for modifications to common and public use space

Source of Income Discrimination

- The New York State Human Rights Law protects persons against housing discrimination based on the source of income of the housing applicant.
- A party may not be denied housing based upon a alternative lawful source of income.
- ALL housing providers must accept or include income that is derived from legal sources outside of employment.

Disability and Source of Income Discrimination

- HOPWA (Housing Opportunities for Persons with AIDS)
- Nursing Home Transition and Diversion (NHTD) Medicaid Waiver program
- Traumatic Brain Injury (TBI) Medicaid Waiver program

*Denial of any disability related housing voucher may be discrimination based on SOI and Disability—Complaint can be filed with HUD under the FHA

Example of Lawful Source of Income

- OLMSTEAD housing subsidy (OHS),
- Rapid Transition Housing Program (RTHP),
- VASH (Veterans Affairs Supportive Housing)
- Unemployment benefits
- Child support
- Alimony or spousal maintenance
- Foster care subsidies
- Social security benefits (SSI, SSDI)
- Federal, state, or local public assistance
- Section 8 housing vouchers
- DSS One shot deal

Who must accept Lawful Source of Income?

- Owners, landlords
- Managing agents and management companies
- Co-op boards and condominium associations
- Tenants seeking to sublet
- Real estate brokers and salespersons
- Any employee or agent of the above

Example of SOI Discrimination

- Refusal to rent, including a housing provider offering fewer housing options
- Delaying review of applications
- Not responding at all to applicants with lawful sources of income
- Any other practices that create a barrier to housing for subsidized tenants

Example of SOI Discrimination

- No programs accepted
- Quota
- Rent to income ratio
- Bad credit
- No third party payments
- No DSS rental assistance such as “one shot deal”
- No third party contracts

What types of
housing
discrimination
are prohibited?

Prohibited Practices



Retaliation

**Coercion,
intimidation, threats
and interference**

- Against persons who have exercised their Fair Housing rights
- Against persons who have acted as a witness or aided others to exercise their Fair Housing rights

Prohibited practices



Examples: Unlawful advertising discrimination: verbal, printed, or graphic

“no children”

“mature persons”

“no criminal record”

“Christians Only”

“English Speakers Only”

“no arrest record”

“Ideal for a couple”

“Must have employment income”

“No Section 8”

“No Programs”

Logos that represent a particular race or religion, e.g.
pictures featuring only White tenants.

Examples: Discriminatory Statements:

"I don't think it's safe for you to live here because of your disability."



"I will lower your rent this month if you have dinner with me."

"I am not approved to rent to section 8 tenants."

"I don't want domestic violence victims because police will be called often."

"I don't want anyone with criminal record."

"I won't rent a one-bedroom apartment to parent and child."

"I don't rent to African Americans, Hispanics, Jews etc."

"My apartment complex has a crime free policy and I don't want anyone with arrest records."

"I don't want foreigners living in my complex."

"It's not safe for young children because there are stairs."

"No Programs accepted."

Protecting Your Fair Housing Rights

Flow Chart of the Complaint Process



*This chart is for administrative complaints, not judicial complaints filed in Federal District Court or NYS Supreme Court.

Statute of Limitations: Administrative Complaint= 1 year and Federal Court = 2 years

Criminal Background and Fair Housing Discrimination

Criminal Background and Fair Housing Discrimination

- Disparities in U.S. Criminal Justice System lead to discrimination in housing.
- Estimated 45% of all people in New York State have an arrest or conviction record.
- 1 in 3 African American men have a felony conviction, compared to 1 in 12 total Americans.

Criminal Background and Fair Housing Discrimination

- African Americans are 13% of population, but 27% of arrests.
- African American males are incarcerated 5.7X compared to White males.
- African American females are incarcerated 1.7X compared to White females.
- Hispanics are incarcerated 1.3x compared to Whites.

Examples of Fair Housing Violations and Criminal Background

- Using tenant screening companies that provide background check reports that may be inaccurate, incomplete, incorrect or have no relationship to whether someone will be a good tenant.
- Denying housing based on favorably resolved arrest records.
- Blanket bans on anyone with a criminal record.

Examples of Fair Housing Violations and Criminal Background

- A housing provider that denies housing to an applicant who was granted an adjournment in contemplation of dismissal (ACOD).
- Treating applicants with similar criminal histories differently from one another based upon their race, national origin, disability or other protected characteristic.

Examples of Fair Housing Violations and Criminal Background

- A housing provider evicting a African American tenant who was convicted of a crime but does not evict a White tenant who was convicted of a similar crime.
- A housing provider evicting a tenant with a youthful offender adjudication.

Examples of Fair Housing Violations and Criminal Background

- Evicting individuals based on criminal activity that has no bearing on their tenancy, evicting entire families because of criminal conviction of one family member or crime victim status of one person.

Examples of Fair Housing Violations and Criminal Background

- A housing provider that will not rent to a tenant because of a sealed conviction record.
- A housing provider that automatically denies any applications where the potential renter has checked the box on the rental application inquiring if they have ever been convicted of a felony.

Recommendations for Housing Providers regarding Criminal Background Checks

- Housing providers should consider not using criminal history to screen tenants for housing.
- Criminal history is not a good predictor of housing success.
- Most housing providers are not required by law to exclude persons with criminal histories as tenants.

Recommendations for Housing Providers regarding Criminal Background Checks

- Housing providers can use other screening criteria, such as ability to pay rent, prior rental history, or personal references and landlord references to predict whether an applicant or resident would be a good tenant.
- Housing providers should evict for criminal activity only as a last resort (which includes conducting an individualized assessment to determine if the eviction is necessary).

Criminal Background and Fair Housing Lawsuits

- The Fortune Society, a non-profit organization in NYC, that provided temporary and permanent housing to hundreds of formerly incarcerated individuals each year, filed a lawsuit in 2014.
- The complaint alleged that Sandcastle Towers Housing Development refused to rent apartments to them for their clients in 2013 and 2014 because of their policy of prohibiting anyone with a criminal record from living there.

Criminal Background and Fair Housing Lawsuits

- Fortune alleged that the policy is discriminatory because it disproportionately bars African Americans and Hispanics from housing without considering each potential tenant's individual history and circumstances.
- The case was settled in October 2019 with Sandcastle's owners agreeing to pay \$1,187,500. It is one of the largest settlements in a case challenging a ban on renting to people with criminal records.

How to Document and Report Housing Discrimination in a Timely Manner

How to Talk to Housing Providers

- Identify yourself
- Ask for names of anyone you speak with during the site visit or call
- Ask about the housing that you saw in advertisement/website
- Ask about availability

How to Talk to Housing Providers

- If housing is available, tell the housing provider about your living situation, such as number of minor children, disability, etc.
- **DO NOT** use acronyms
- If your housing voucher is for domestic violence victims or disability, please mention it.

How to Talk to Housing Providers

- If denied housing, **DO NOT** say that they are being discriminating or threaten to sue, and **DO NOT** mention LIHS
- After denial of housing, ask if you can make an appointment to see the rental property

How to Talk to Housing Providers On Behalf of Clients

- Identify yourself
- Ask for the names of any housing provider employees that you have contact with
- Ask about the housing that you saw in advertisement/website
- Ask about availability

How to Talk to Housing Providers On Behalf of Clients

- If available, tell the housing provider about your organization's mission
- Provide details about your client's situation (ie. disability, domestic violence, etc.)
- Provide specific details about the housing provider
- Do not use acronyms

How to Talk to Housing Providers On Behalf of Clients

- If the housing voucher is for domestic violence or disability, please mention it
- If denied housing, **DO NOT** say that they are being discriminating or threaten to sue, and **DO NOT** mention LIHS

How to Document Interactions with Housing Providers

- Write the narrative as soon as possible, preferably on the same day of discrimination
- Write down the dates, time, names of housing provider
- Write down the name and address of property
- Make copies of all documents that you submit to the housing provider

How to Document Interactions with Housing Providers

- Write down the rental price, amenities included
- Save all communications between you and the housing provider, including texts, voicemails, emails, etc.
- Keep record of phone numbers and emails
- Keep documents provided by housing providers, such as credit report, application, etc.

How to Document Interactions with Housing Providers

- Write down names of everyone you speak with during the phone call or site visit
- Write down the names of everyone who was present during the phone call or site visit
- Your goal is to write down everything that happened during the conversation

How to Document Interactions with Housing Providers

- Ask the housing provider for information on how you can obtain a copy of the background check they conducted. You are legally entitled to it by the Fair Credit Reporting Act.
- You may also choose to appeal the housing denial.

Sample Narrative

Sample Narrative

My name is Eliza Smith. On October 28, 2023, I called the property manager at XYZ apartments about renting Unit 2 located at 123 Barrel Avenue Smithtown, NY. The property manager said that her name was Lisa. Her telephone number is 631 588-3634. I explained that I had seen an ad on Realtor.Com for a 2 bedroom apartment renting for \$1850. The rent included gas but not electricity or cable. I asked if the unit was still available to rent. Lisa said it was available to rent as of November 1, 2023. Lisa asked about our income. I explained that I live with my adult son. I have a disability and receive Social Security Disability income. I also have a pension from the post office. We have a combined income of \$6,600 a month. I explained that my son was arrested and convicted 20 years ago and was in prison for one year. I explained that we have been living in our present apartment for 7 years but that it was being sold and we have to move.

Sample Narrative

When Lisa learned that my son had been convicted and served time in prison, she said that she wouldn't be able to show us the apartment. She stated that she doesn't deal with individuals with criminal background. I told Lisa that my son is rehabilitated and is currently working as an employee for a nonprofit organization that works with formerly incarcerated individuals. I offered to explain the details of my son's conviction, but Lisa stated that would not change her decision. She stated that anyone with a criminal background will be denied housing.

Eliza Smith

Eliza Smith 11/13/23

Affidavit Form

STATE OF: NEWYORK,

County: _____

I affirm this _____ day of _____ (month), _____ (year) at
_____ (City), _____ (State), under
penalties of perjury I have read (or had read to me) the foregoing
statement and know the content thereof; that the same is true of my
own knowledge except as to the matters therein stated on information
and belief; and that as to those matters, I believe the same to be true.

Date: _____

Signature: _____

How to Appeal Denial of Housing based on Criminal Background

Appealing Housing Denial

- Send a letter to the housing provider and ask for an in-person meeting to appeal the denial.
- In preparation, collect letters of support from individuals who can speak to your character, changes you have made in your life, and why you would make a good tenant, if approved.

Appealing Housing Denial

- It may also be helpful to bring an advocate (i.e. attorney, social worker, faith leader, or family member) to the in-person appeal meeting to present a strong appeal and demonstrate that you have community support.

Appealing Housing Denial

- Get the denial in writing.
- If you did not receive a written denial, request a letter stating the reason your application was denied.

Appealing Housing Denial

- Timing matters.
- If the housing you applied for receives federal assistance, such as public housing or subsidized housing, the denial letter will specify a deadline to appeal.
- It is critical that your request for an in-person appeal meeting be timely submitted and received.
- Private housing providers may or may not specify a deadline to appeal, but appealing promptly may be important while the property is still available.

Appealing Housing Denial

- Keep a record of the written request for an in-person appeal.
- The letter may be submitted by email, certified mail, fax, or in person.
- It is important to have documentation that the request was sent and received.

Appealing Housing Denial

- Focus your appeal on the point(s) of concern.
- Knowing the specific conviction(s) for which your application was denied and being prepared to address it will help strengthen your appeal.
- If the housing provider used a third party or a credit reporting agency to conduct your criminal screening, the Fair Credit Reporting Act entitles you to request a copy of the report they received.

Sample Appeal Letter

Sample Appeal Letter

To: (Housing Provider, Property Name, Address)

Re: Requesting an in-person appeal meeting for your denial of my housing application based on criminal screening information

Dear _____,
(Name of Property Manager/Landlord)

I _____ am requesting an in-person meeting to appeal
(Your Name)
your denial of my application for housing within _____.
(Name or Address of Property)

Sample Appeal Letter

It appears that my application was denied due to the results of a criminal background screening.

In advance, please provide me with a copy of:

- 1) the tenant selection plan (TSP), admissions & continued occupancy policy (ACOP), administrative plan, or, in the case of private housing, your eligibility requirements;
- 2) a copy of any documentation used as a basis for your denial; and

Sample Appeal Letter

3) a copy of my application.

If a third party or credit reporting agency provided the criminal screening of my application, please provide a copy of the report you received. Please also provide me with all information I am entitled to receive pursuant to the Fair Credit Reporting Act so that I may obtain such screening information. This information may be sent to me at the mailing address and/or email address provided below my signature.

Sample Appeal Letter

At the appeal meeting, I am prepared to provide:
(Check all that apply.)

- ☐ Character reference(s)
- ☐ Former rental reference(s)
- ☐ Employer reference(s)
- ☐ Court document(s) or related records
- ☐ Evidence of rehabilitation effort(s)
- ☐ Other _____

Sample Appeal Letter

NYSHRL states that housing providers cannot discriminate based on arrest records, which includes favorably resolved arrest, an adjournment in contemplation of dismissal (ACOD), a sealed conviction record, or a youthful offender adjudication.

Sample Appeal Letter

- Housing providers may violate fair housing laws if they exclude applicants based upon prior arrests not resulting in conviction.
- Housing providers should not impose a “blanket ban” that denies housing to applicants convicted for criminal activity without considering mitigating information such as:
 - The facts or circumstances surrounding the criminal conduct.
 - The age of the individual at the time of conviction.
 - How much time has passed since the criminal activity occurred.

Sample Appeal Letter

- Evidence of maintained good tenant history (prior to or following conviction).
- Evidence of rehabilitation efforts.

Housing providers are prohibited from intentional discrimination. Intentional discrimination results when housing providers treat applicants with similar criminal histories unequally due to their race, national origin, or other protected characteristic.

Sample Appeal Letter

Your written response to this request for a meeting to appeal your denial of my housing application is appreciated within ten (10) days of the date of the letter. If I do not hear back from you, I will assume that you have denied this request. Thank you for your time and consideration in this matter.

Sincerely,

Signature: _____

Name: _____

Address: _____

Email: _____

(Only provide your email address if you are able to check it daily.)

How Do You Protect Your Fair Housing Rights?

Anyone who believes he or she has been discriminated against can file a complaint.

If you want to discuss options, or obtain help from a professional Fair Housing advocate...

Contact ***Long Island Housing Services, Inc.***

(631) 567-5111 ext. 375

info@LIFairHousing.org

Call Long Island Housing Services, Inc.

631-567-5111 ext. 375
info@LIFairHousing.org

Federal

U.S. Department of
Housing and Urban Development
New York FHEO Office
26 Federal Plaza, Room 3532
New York, NY 10278-0068

https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint

Nassau County

Nassau County Commission
on Human Rights
240 Old County Road
Mineola, NY 11501

<https://www.nassaucountyny.gov/414/Human-Rights-Commission>

State

N.Y. State Division of Human Rights
One Fordham Plaza, 4th Floor
Bronx, NY 10458

<https://dhr.ny.gov/complaint>

Suffolk County

Suffolk County
Human Rights Commission
100 Veterans Memorial Highway Suite #1
Hauppauge, NY 11788

<http://www.suffolkcountyny.gov/Departments/HumanRightsCommission/ComplaintProcess.aspx>

Acknowledgment

This training was made possible with funding from New York State Homes and Community Renewal.



**Homes and
Community Renewal**

A green rectangular road sign with rounded corners, tilted upwards from left to right. The word "Questions" is written in a large, white, sans-serif font across the center of the sign. The sign is supported by two metal poles. The background is a bright blue sky with a few wispy white clouds and a bright sun in the upper right corner creating a lens flare effect.

Questions