



*Building Communities,  
Changing Lives*

# FAIR HOUSING AND THE CTI FAIR HOUSING PROGRAM

AN INTRODUCTION FOR TENANTS ON HOUSING  
DISCRIMINATION AND THE CTI FAIR HOUSING PROGRAM



# HUD FAIR HOUSING GRANT RECIPIENT

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# TRAINING GOALS

- Understand who is protected and common forms of housing discrimination.
- Understand how to advocate and enforce your rights.
- Understand what the CTI Fair Housing Program is, what it does, and how it can help tenants and homebuyers.



# INSTITUTIONAL AND SOCIAL HOUSING DISCRIMINATION

- Housing Discrimination has existed in this country at all levels of government and social institutions.
- Systematic steps have been taken to fight housing discrimination, but it remains a significant problem.
- The effects of governmental discrimination remain in zoning laws and administration and distribution of housing resources, benefits, and incentives.
- Overt, subtle, pretextual, and inadvertent discrimination remains prevalent.



# THE WIDE REACHING EFFECTS OF HOUSING DISCRIMINATION

- Housing affects all parts of life
  - Family
  - Community
  - Neighborhood
- Housing affects our health
  - Access to healthcare
  - Healthy environments
  - Stability and safety
- Housing affects access to resources
  - schools
  - Jobs
  - Transportation
  - Community resources (parks, recreation, goods and services)
- Housing access has generational effects



# THE FAIR HOUSING PROGRAM AT CTI

- To promote and increase fair housing opportunities
- Key functions
  - Tenant complaints
  - Fair housing trainings
  - Promote awareness through media engagement
  - Provide online resource library for fair housing
- Who the Fair Housing Program works with
  - Any tenant
  - Any housing provider
  - Any social services advocate or other person helping with housing
- The Fair Housing Program does NOT provide legal advice.



# THE FAIR HOUSING ACT – HOW IT WORKS

Prohibits discrimination in housing when:

- The person belongs to a protected class;
- The person has suffered a housing related harm or unequal treatment; and
- The harm suffered is connected to membership in a protected class.



# WHEN CAN DISCRIMINATION HAPPEN

Housing Discrimination can happen anytime

- Anytime during a tenancy
  - Application
  - Lease execution
  - During the lease
  - Renewal
  - Termination or eviction
- Anytime during sale and ownership of property
  - Property search
  - Sale
  - Lending
  - During ownership



# WHO MUST FOLLOW THE LAW

Everyone providing housing services must comply with the Fair Housing Act and related state laws. Housing providers include:

- Landlords
- Property managers
- Maintenance
- Condominium boards
- Home owner associations
- Service providers
- Local governments
- Realtors
- Mortgage lenders



# COVERED PROPERTIES

- All residential properties are covered under fair housing laws unless explicitly exempted.
- Federal exemption:
  - Owner occupied apartments with 4 or fewer units; and
  - Owner occupied apartment with 3 or fewer units, one of which is occupied by an elderly or infirm individual when the presence of young children would be a hardship (exemption limited to family status).
- Massachusetts exemption:
  - Owner occupied apartment with 2 units.
- NOTE: there are no exemptions for race or receipt of a subsidy; and no exemption for advertisements or statements. (Lead removal law also have no exemption.)



# CATEGORIES OF DISCRIMINATORY CONDUCT

Discriminatory conduct can happen in many different ways:

- Refusal to rent or sell
- Otherwise make unavailable
  - False information on availability
  - Steering
- Different terms or conditions
- Discriminatory Statements (oral or written)
- Threatening, intimidating, or coercing
- Retaliation
- Denial of reasonable accommodations and modifications



# HOW CONDUCT MAY VIOLATE HOUSING LAW

There are two theories of housing discrimination

- Disparate treatment
  - A policy or practice motivated by a person's protected class status
  - Examples
    - Refusing to rent to immigrants
    - Fees for wheelchairs or assistance animals
- Disparate impact
  - A facially neutral policy, procedure, or practice that has a disproportionate effect on a protected class
  - Examples
    - Criminal records
    - CORI checks
  - NOTE – blanket or broadly applied rules are red flags



# PROTECTED CLASSES UNDER STATE AND FEDERAL FAIR HOUSING LAWS

- Race
- Color
- National Origin
- Religion
- Sex
- Family Status
- Disability
- Sexual Orientation
- Gender Identity/Expression
- Marital Status
- Age
- Housing Subsidy
- Public Assistance
- Veteran/Military Status
- Ancestry
- Genetic Information

# RACE, COLOR, NATIONAL ORIGIN, AND RELIGION

- Race, Color, National Origin, and Religious discrimination affect many people.
- The Fair Housing Act was passed in 1968 in reaction to systemic and pervasive race discrimination in housing.
- Institutional race discrimination in housing has taken many forms:
  - racial zoning codes;
  - Restrictive covenants;
  - Single family zoning;
  - Discriminatory lending/mortgage practices/governmental policies'
    - Redlining;
    - Steering; and
    - Appraisal bias.
- Zoning and governmental resource distribution remain critical Fair Housing issues.



# RACE, COLOR, NATIONAL ORIGIN, AND RELIGION

## WHAT TO LOOK FOR – DISPARATE TREATMENT

- Refusal to rent or sell/make unavailable/Statements
  - Discriminatory statements (“not right for you” or “English speakers only”)
  - Harsh or different treatment in applicant standards (credit/criminal History)
  - Not offered all rental opportunities
- Discriminatory terms and conditions
  - Different rental and sale prices
  - More rigorous enforcement of lease terms (noise or complaints)
  - Different benefits of quality or service (quality of rental/repairs)
- Threats, Coercion, abuse
  - Threat of eviction or calling police
  - Resolving harassment complaints in favor of offending neighbor



# RACE, COLOR, NATIONAL ORIGIN, AND RELIGION

## WHAT TO LOOK FOR - DISPARATE IMPACT

- Disparate Impact – common areas of concern in leasing
  - Criminal records or CORI history
  - Also consider credit history and rental history
- Application/rental policies
  - A blanket rental policy (no criminal record) that disproportionately impacts minorities.
  - Is there a way to tailor more narrowly to meet provider need
  - Housing providers need to take an individualized look at a criminal record and consider nature of offense, when it happened, intervening events.
- Future applications?
  - Rental history or credit scores for recent immigrants that have no credit or rental history.



# FAMILY STATUS

- Family status discrimination affects many families
  - Families with young children
  - Single parents (also marital status in Massachusetts)
- Common forms of family status discrimination
  - Refusal to rent, or limited offerings because of noise concerns
  - Different warnings or termination because of noise
  - Occupancy standards (how much space/how many people)
  - Lead laws
    - State law requires removal of lead in all dwellings build prior to 1978 where children under six live.
    - Presence of lead, or concern of lead is not a basis to deny a family with young children.



# FAMILY STATUS

## WHAT TO LOOK FOR

- Rental applications and rental process
  - Did a housing provider ask about children or their ages?
  - Did a housing provider say the unit may have lead and cannot rent it?
  - Did the housing provider bring up a noise concern, or say the unit would not be big enough?
- Terms of tenancy
  - Are children's noises treated differently?
  - No additional or higher rent/deposits for wear and tear concerns.
- Covered housing exception: 3 family or fewer rental where one tenant is elderly/infirm and children would be a hardship; and temporary rental of primary residence.



# SEX AND SEXUAL HARASSMENT

- Fair Housing protections for people based on sex include:
  - Gender, gender identity and expression;
  - Survivors of domestic violence; and
  - Sexual harassment.
- Gender, gender identity and expression
  - Protections against harmful or different treatment because of gender, how they choose to express themselves, or who they choose to have relationships with.
- Survivors of domestic violence (Fair Housing and VAWA)
  - Allow breaking a lease
  - Enhanced protections against eviction
  - Lock changing protections
  - Protections against rental applicant denial based on factors related to status as a victim of domestic violence.

# SEX AND SEXUAL HARASSMENT

## Sexual Harassment (and harassment generally)

- Who must comply
  - Owners, landlords, property managers
  - Any agent of the owner, landlord, or property manager
    - Maintenance staff
    - Independent contractors
  - Other tenants. Housing providers may be liable if they know about the harassment.
- What can sexual harassment look like
  - Quid pro quo – this for that
  - Hostile environments

# SEX AND SEXUAL HARASSMENT

## HOW IT HAPPENS

- The application process
  - Did a housing provider ask about orientation or gender expression.
  - Did a housing provider ask about relationship status?
  - Housing providers cannot deny an applicant for the use of their rights as a victim of domestic violence.
- During a tenancy
  - Conditioning repairs or services on sexual favors.
  - Persistent or intrusive advances on a tenant.
  - Entering an apartment without permission.
  - Failure to take action on reports of harassment by
    - Property management/staff and contractors,
    - Other tenants.



# DISABILITY DISCRIMINATION

- Who is protected:
  - Has a physical or mental impairment that substantially limits a major life activity (major life activity is broadly defined);
  - Has a history of having such an impairment; and
  - Is regarded as having such an impairment.
- What protections are available:
  - Same protections as all other protected classes under the FHA; and
  - The right to a reasonable accommodation or modification
- Common examples of disability discrimination:
  - Charging extra fees or deposits for wheelchair use
  - Refusing to rent because some has a disability



# DISABILITY DISCRIMINATION

## REASONABLE ACCOMMODATIONS

- A reasonable accommodation is a change in a rule, policy, procedure, or service to afford an equal opportunity to use and enjoy a dwelling.
- An accommodation is reasonable when:
  - The person has a disability
  - There is a nexus or connection between the request and impairment
  - The request is reasonable. A request is reasonable unless it imposes:
    - An undue administrative or financial burden (based on housing provider facts)
    - A fundamental alteration to the service provided
  - There is an exception for direct threats – but must be demonstrated by individual assessment, not a perceived concern or stereotype



# DISABILITY DISCRIMINATION

## REASONABLE ACCOMMODATIONS

### THE PROCESS

- Housing providers bear the cost of reasonable accommodations
- The reasonable accommodation process is interactive
- Initial step – a request is made
  - No special form or magic words required
- Housing providers must work with the tenant to find an appropriate accommodation
  - May inquire about effects of impairment
  - May inquire about how the accommodation would help
  - Can offer other accommodations if request unreasonable



# DISABILITY DISCRIMINATION

## REASONABLE MODIFICATIONS

- A reasonable modification is a physical change to the dwelling necessary to allow full enjoyment.
- Housing providers must allow reasonable modifications.
- who pays?
  - Public housing – housing provider pays
  - Private housing with 10+ units – housing provider pays (Mass. only)
  - Private housing with <10 units – tenant pays
- Returning the dwelling to original condition - end of tenancy
  - Cost to tenant, but only when the change is necessary for future use
    - Example – if a doorway needed to be widened, do not return it to narrow

# DISABILITY DISCRIMINATION

## REASONABLE MODIFICATIONS

### THE PROCESS

- Reasonable modifications are similar to reasonable accommodations
- Initial request is made
- The interactive process
  - Tenants have a right to an effective modification, and the modification of their choice.
  - Common areas - Housing provider may offer more expensive modification if assuming the additional cost.
  - No unreasonable delays.
  - Housing providers can only require work be competently completed.



# SOURCE OF INCOME DISCRIMINATION

- Source of income discrimination is prohibited under state law in all dwellings – no exceptions.
- SOI discrimination is treating a tenant unequally because they receive a government subsidy.
  - Housing subsidy (section 8/MRVP); RAFT
  - Social security or other assistance
- SOI discrimination includes refusal to rent, different terms and conditions, or different preferences.
  - Examples: “Sec. 8 need not apply” or “want a hard working tenant”
- SOI discrimination includes refusal to participate in a type of program or a part of a program.
  - Examples: unreasonable delay with paperwork; refusing inspection.



# SOURCE OF INCOME DISCRIMINATION HOW IT WORKS

## Rental applications

- Housing providers should not ask about housing subsidies during the application.
- Tenants do not have to bring it up initially.
- SOI questing is only relevant to determining if a tenant can afford the rent, not how they afford it.
- There is more paperwork – yes, housing providers have to do it, it is a cost of doing business just like painting.
- During the tenancy
  - Comply with inspections, make timely repairs.
  - Retaliation/termination based on SIO happens frequently.
  - Understand the HAP contract, there are additional tenant protections.



# IDENTIFYING DISCRIMINATION

Identifying discrimination can be fact intensive; some housing providers may try and hide their discrimination

- What is the timeline?
  - A suspect timeline should raise a red flag
  - Did something happen or did someone say something right before adverse housing provider conduct?
  - Is there a history with your housing provider?
- What did the housing provider say or do?
  - Did your housing provider mention something about a protected class?
  - Are other tenants treated differently?
  - Did your housing provider's reason for an adverse action change or not make sense?
  - Is there a laundry list of problems/excuses/reasons?



# SELF-ADVOCACY

- Is it discrimination?
  - You do not need to know with certainty
  - Modest concerns are enough to call the Fair Housing Program
- How do I document discrimination?
  - Save written discrimination
  - Write oral discrimination down right away
    - Be detailed
  - Follow-up conversations in writing (email is great)
  - Tell your CTI rep. or the Fair Housing Program
    - We keep records
- Raise awareness
  - Talk about concerns with CTI
  - Ask for help



# SELF-ADVOCACY

## REFUSAL TO RENT

- Do not ask for permission – it is your right
  - Are assistance animals ok?
  - Are young children ok?
  - Do you accept housing subsidies?
- You do not need to share your protected class status
  - You do not need to share your protected class status.
  - Wait to raise special needs based on protected class until the housing provider is ready to rent to you.
- Red flags
  - Did the housing provider ask questions about protected class status?
  - Did the housing provider change behavior?
- Track your rental applications
- Get help immediately
  - Tell the Fair Housing Program
  - Connect with legal aid testing programs

# SELF-ADVOCACY

## EVICCTIONS

- Eviction or threat of eviction may violate Fair Housing Laws
- Legal basis to evict:
  - Tenant with Lease – non-payment, violating lease (if stated), use of apartment for illegal purposes.
  - Tenants at will – may also be evicted for “no fault”
  - Tenants with a subsidy – greater protections under HAP contract
- Legal Rights:
  - Written notice
  - Only a court can make you leave
- Discriminatory evictions:
  - Eviction as retaliation for exercising rights -harassment/accommodation
  - Eviction as different treatment based on protected class status
  - Threat of eviction to coerce tenant because of protected class status

# ENFORCEMENT OPTIONS

- File a complaint with the state or federal government
  - The Federal Department of Housing and Urban Development
  - The Massachusetts Commission Against Discrimination
  - The Massachusetts Office of the Attorney General
- File a civil action (go to court)
  - Federal district court
  - State court
    - Housing Court
    - District Court
    - Superior Court

# CTI FAIR HOUSING COMPLAINTS PROCESS

- Intake – complaint received
  - Is there a fair housing issue?
  - Is there another issue?
- Available services
  - Information and resources
  - Technical assistance
  - Informal resolution
- Referrals
  - To legal aid services
  - To Enforcement Agency
  - To other social services
- Tracking
  - Track discriminatory conduct
  - Identify egregious offenders

QUESTIONS?

# RESOURCES - LEGAL

- Legal aid organizations by region
  - <https://mlac.org/wp-content/uploads/2022/04/MLAC-Legal-Aid-Org-Map-and-Contact-New-Logo.pdf>
- Legal aid and subject matter legal aid organizations
  - <https://mlac.org/help/#lawyer>
- Massachusetts court information
  - Housing Court: <https://www.mass.gov/orgs/housing-court>
  - District Court: <https://www.mass.gov/orgs/district-court>
  - Court Service Centers: <https://www.mass.gov/info-details/learn-about-court-service-centers>
- Filing a Fair Housing Complaint
  - HUD: [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/online-complaint](https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint)
  - MCAD: <https://www.mass.gov/file-a-complaint-of-discrimination>

# RESOURCES – SELF HELP

- MassLegalHelp
  - <https://www.masslegalhelp.org/legal-tactics>
- MADE – complete eviction forms online
  - <https://interviews.gbls.org/run/eviction/#/1>
- Made Up to Code – complete housing code forms online
  - <https://madeuptocode.org/>
- Restraining Orders – complete forms online
  - [https://apps.suffoklitlab.org/run/housing\\_tro/#/1](https://apps.suffoklitlab.org/run/housing_tro/#/1)
- Bazelon Guide on Fair Housing for People with Disabilities
  - [https://securereservercdn.net/198.71.233.111/d25.2ac.myftpupload.com/wp-content/uploads/2018/05/Fair-Housing-Guide\\_2018-Update.pdf](https://securereservercdn.net/198.71.233.111/d25.2ac.myftpupload.com/wp-content/uploads/2018/05/Fair-Housing-Guide_2018-Update.pdf)

# BASICS ON DISABILITY DISCRIMINATION AND REASONABLE ACCOMMODATIONS

- Understanding your rights
  - HUD Overview: [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/disability\\_main](https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main)
  - Bazelon Center for Mental Health Law Fair Housing Guide: [https://secureservercdn.net/198.71.233.111/d25.2ac.myftpupload.com/wp-content/uploads/2018/05/Fair-Housing-Guide\\_2018-Update.pdf](https://secureservercdn.net/198.71.233.111/d25.2ac.myftpupload.com/wp-content/uploads/2018/05/Fair-Housing-Guide_2018-Update.pdf)
  - Disability Law Center Guide on Emotional Support Animals: <https://www.dlc-ma.org/wp-content/uploads/2018/10/Emotional-Support-Animals-in-Housing.pdf>
  - Disability Law Center Guide on Reasonable Accommodations: <https://www.dlc-ma.org/wp-content/uploads/2018/06/Housing-and-RA.pdf>
- Doctor's letters
  - MassLegalHelp General Tips: <https://www.masslegalhelp.org/health/sickle-cell-disease/housing-doctor-letter-article>
  - Bazelon Sample Service Provider letter: <https://secureservercdn.net/198.71.233.111/d25.2ac.myftpupload.com/wp-content/uploads/2017/04/ESA-Sample-Letter.pdf>

# TECHNICAL GUIDANCE ON ACCOMMODATIONS AND MODIFICATIONS

- HUD/DOJ Joint Statement on Reasonable Accommodations:  
[https://www.hud.gov/sites/documents/DOC\\_7502.PDF](https://www.hud.gov/sites/documents/DOC_7502.PDF)
- HUD/DOJ Joint Statement on Reasonable Modifications:  
[https://www.hud.gov/sites/documents/DOC\\_7502.PDF](https://www.hud.gov/sites/documents/DOC_7502.PDF)
- HUD FHEO Assistance Animal Guidance:  
[https://www.hud.gov/sites/documents/DOC\\_7502.PDF](https://www.hud.gov/sites/documents/DOC_7502.PDF)

# HOUSING ASSISTANCE

- Community Action Agencies by region
  - <https://www.masscap.org/agencies/>
- RAFT
  - <https://www.mass.gov/service-details/residential-assistance-for-families-in-transition-raft-program>
- Housing Consumer Education Centers
  - <https://www.masshousinginfo.org/>

# STAY CONNECTED

- Email: [fairhousng@commteam.org](mailto:fairhousng@commteam.org)
- Website: [www.commteam.org](http://www.commteam.org)
  - Online Request for Assistance:  
<https://www.cognitoforms.com/CommunityTeamwork1/FairHousingRequestForAssistance>
  - Online Training Registration:  
<https://www.cognitoforms.com/CommunityTeamwork1/FairHousingTrainingRegistration>
  - Email Listserv
    - Tenant  
<https://www.cognitoforms.com/CommunityTeamwork1/FairHousingTenantMailingList>
    - Housing provider  
<https://www.cognitoforms.com/CommunityTeamwork1/FairHousingHousingProvidersMailingList>

# THANK YOU!



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