



A Walk Through the Fair Housing Act

Presented By:

Alphonso Eason, Attorney-Advisor,
Region VII, U.S. Department of
Housing and Urban Development
(HUD)

A Walk Through the Fair Housing Act

- Brief History
- Policy Goals
- Provisions
 1. Definitions
 2. Exemptions
 3. Substantive
 4. Enforcement
 5. Other
- Questions and Answers

Fair Housing Act

This title may be cited as the “Fair Housing Act”.

- Title VIII of the Civil Rights Act of 1968
- Housing and Community Development Act of 1974
- Fair Housing Amendments Act of 1988

Title VIII of the Civil Rights Act of 1968

- Address inequality in housing opportunities
- Protected classes: Race, color, national origin and religion
- Private suit in federal district court
- Limited punitive damages

Housing and Community Development Act of 1974

Protected class: Sex (gender) added

Fair Housing Amendments Act of 1988

- Protected classes: Handicap (Disability) and familial status added
- HUD Administrative Process
- Design and construction requirements
- Unlimited punitive damages

Declaration of Policy

- It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.
- Twin housing goals: Fair treatment and integration

Definitions

As used in this subchapter---

- (a) "Secretary" means the Secretary of Housing and Urban Development.
- (b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of this title.

Definitions

- h) "Handicap" means, with respect to a person---
- (1) a physical or mental impairment which substantially limits one or more of such person's major life activities;
 - (2) a record of having such an impairment; or
 - (3) being regarded as having such an impairment.

Definitions

- (k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with--
- (1) a parent or another person having legal custody of such individual or individuals; or
 - (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person; or
 - (3) any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Definitions

- (i) "Aggrieved person" includes any person who-
 - (1) claims to have been injured by a discriminatory housing practice; or
 - (2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

Definitions

- (j) "Complainant" means the person (including the Secretary) who files a complaint under section 810.

- (n) "Respondent" means--
 - (1) the person or other entity accused in a complaint of an unfair housing practice; and

 - (2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

Exemption: Single-family house

Applies if owner of any single-family house sold or rented :

- Does not own more than three such single-family houses at any one time;
- Such house is sold or rented without the use of a real estate agent, or salesperson; and
- Does not violate Section 804(c) (Advertising)

Exemption: Ms. Murphy's

Applies if:

- Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other;
- The owner actually maintains and occupies one of such living quarters as a residence; and
- Does not violate Section 804(c) (Advertising).

Exemption: Religious organization

- May limit the sale, rental or occupancy of dwellings which it owns or operates;
- To Persons of the same religion;
- Noncommercial purpose; and
- Membership in such religion does not discriminate based on race, color, or national origin.

Exemption: Private Club

- Not open to the public;
- Membership in club;
- Primary purpose to provide lodgings which it owns or operates to members; and
- Noncommercial purpose.

Exemption: Reasonable Occupancy Standard

Any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

Exemption: Housing for Older Persons

Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

1. Any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
2. intended for, and solely occupied by, persons 62 years of age or older; or
3. intended and operated for occupancy by persons 55 years of age or older, and--at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older.

Section 804(a): Refuse to sell or rent

- To refuse to sell or rent after the making of a bona fide offer; or
- To refuse to negotiate for the sale or rental of, or otherwise make unavailable; or
- Deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

Section 804(b): Terms, conditons, or privileges

To discriminate:

- against any person in the terms, conditions, or privileges of sale or rental of a dwelling; or
- in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

Section 804(c): To make, print, or publish

- Any notice, statement, or advertisement;
- Sale or rental of a dwelling;
- Preference, limitation, or discrimination;
- Based on race, color, religion, sex, handicap, familial status, or national origin; or
- an intention to make any such preference, limitation, or discrimination.

Section 804(d): To represent ... dwelling is not available

To represent:

- to any person because of race, color, religion, sex, handicap, familial status, or national origin;
- any dwelling is not available for inspection, sale or rental; and
- when such dwelling is available.

Section 804(e): Blockbusting

- For profit; and
- To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of person(s) of a particular race, color, religion, sex, handicap, familial status, or national origin.

Section 804(f): Disability

- General information
- Reasonable modification
- Reasonable accommodation
- Design and construction

Section 805: Residential Real Estate-Related Transactions

General rule: It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(1) The making or purchasing of loans or providing other financial assistance--

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

Exception: Appraisal Exemption.--Nothing prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

Section 806: Provision of Brokerage Services

Unlawful to deny any person access to or membership or participation in:

- Any multiple-listing service;
- Real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings; or
- To discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

Section 818: Retaliation

Unlawful to:

- coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of; or
- on account of his having exercised or enjoyed; or
- on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806.

Section 810: HUD Administrative Enforcement

- Complaints and Answers
- Investigative Report and Conciliation
- Referral for State or Local Proceedings
- Reasonable Cause Determination and Effect

Three Federal Judicial Forums

- Section 812- Enforcement by (HUD) Secretary
- Section 813- Enforcement by Private Persons
- Section 814- Enforcement by the Attorney General (DOJ)

Section 812: Enforcement by HUD

- Administrative Law Judge Hearing
- Election to Federal District Court
- Expedited Discovery and Hearing
- Relief available

Section 813: Enforcement by Private Persons

- Federal District Court
- Statute of Limitations
- Relief available

Section 814: Enforcement by DOJ

- Federal District Court
- Election cases
- Pattern or practice cases
- Relief available

Section 817: HUD's Involvement with Fair Housing Assistance Programs

- HUD cooperates with State and local agencies charged with the administration of State and local fair housing laws.
- HUD utilizes the services of such agencies and their employees.
- HUD reimburses such agencies and their employees for services rendered in carrying out the goals of the Fair Housing Act.

Section 901: Criminal Acts

- HUD refers fair housing cases involving violence and/or threats of violence against Complainants to DOJ for resolution.
- Examples: Cross-burnings, assaults on persons, firebombing of homes, vandalism of property
- Enforced through criminal proceedings.

QUESTIONS?

Contact Information

Alphonso Eason

Attorney-Advisor

Office of Counsel

**U.S. Department of Housing
and Urban Development**

(913) 551-5442

Alphonso.L.Eason@hud.gov