

Could YOU Be Discriminating? **by Robert L. Cain**

Protected Classes Under the Federal Fair Housing Act

- Race
- Color
- Religion
- Sex (including sexual harassment)
- National Origin
- Disability
- Familial Status (children under the age of 18)

Who is Considered Disabled?

1. Individuals with a physical impairment or mental impairment that substantially limits one or more major life activities.
2. Individuals who are regarded as having such an impairment.
3. Individuals with a record of such an impairment.

The term “physical or mental impairment” includes, but is not limited to such diseases and conditions as orthopedic visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV) infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

The term “substantially limits” suggests that the limitation is “significant” or “to a large degree.”

The term “major life activity” means those activities that are of central importance to daily life such as seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self, learning and speaking. The Supreme Court has questioned, but not yet ruled, on whether “working” is to be considered a major life activity.

**- US Department of Justice and Department of Housing and Urban Development,
May 17, 2004**

The Federal Fair Housing Act prohibits several types of discriminatory behavior if they are based solely on race, color, national origin, religion, sex, familial status or disability:

1. Refusing to sell to, rent to or otherwise deal with an interested tenant or buyer. This includes not returning calls or ignoring firm sales offers.
2. Applying different sale, rental or occupancy terms for different people. This includes asking people of color to pay higher security deposits.
3. The refusal by real estate professionals or companies to service minority customers, steering customers to certain neighborhoods or making claims about the racial makeup of an area. This includes a real estate agent who tells clients interested in a

certain home that a minority family lives next door or companies that purposely place ads where they are not likely to be seen by minorities.

4. Lying about the availability of housing. This includes telling people of color, families or a disabled person that an apartment is already taken, when it is not.
5. Frightening people into renting or selling their property by manipulating their prejudices. Called blockbusting, this includes efforts to buy property at below fair market value by telling people that members of a minority group are moving into the area.
6. Discrimination in financing housing by a bank, savings and loan association or other business. This includes charging credit worth minority customers higher interest rates than other customers.
7. Harassment. Tenants and homeowners have the right not to be harassed or frightened into abandoning their leases or leaving their homes. This includes racial and sexual harassment, such as slurs and threats of violence and sexual advances and innuendoes.
8. Local zoning laws that have an unfair effect on minorities and are discriminatory in nature. In some communities, laws that restrict the size or number of occupants in a home have been used to target Latino and Asian households who live with several generations under the same roof.
9. Attempts to threaten or intimidate people so that they will not exercise their rights or file complaints under the Fair Housing Act.

Discrimination in Renting

The following practices by landlords or their agents (brokers and property managers) are prohibited:

1. Falsely stating that an available unit has been rented.
2. Setting higher or lower rents, security deposit requirements or credit criteria for applicants in a protected class.
3. Failure to respond to inquiries by prospective tenants of a protected class.
4. Failure to provide prospective tenants in a protected class with rental applications.
5. Encouraging long-term tenants to leave their apartments by making false allegations about property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities. This is usually done so that rents can be increased or so the units can be converted into condominiums or cooperatives and sold. (This is a form of the illegal practice called blockbusting.)
6. Applying house rules differently to tenants who are members of protected class.
7. Evicting a member of a protected class when a tenant who is not a member of a protected class is not evicted for the same reason.

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