

NEW YORK STATE DIVISION OF HUMAN RIGHTS FAIR HOUSING GUIDE



**Division of
Human Rights**

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**Division of
Human Rights**

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Introduction

Housing discrimination is an evil that hurts both its victims and society as a whole. It goes against our vision of a free society, and its elimination is a New York State and national priority. Housing discrimination seriously injures victims, causing them emotional and financial harm.

There are strong national, state and local laws against housing discrimination. They provide many places to file complaints. The laws also afford many different forms of remedy to victims and to society, including monetary damages and fines. The laws give a court or administrative body the power to order violators to stop discriminating and to make up for past wrongdoing.

In New York State, the Executive Law (Human Rights Law) prohibits housing and lending discrimination, as well as other forms of discrimination. The New York State Division of Human Rights is responsible for enforcing the Executive Law. The Division receives and investigates housing and lending discrimination complaints and, if warranted, holds hearings and issues enforceable orders.

If you think your rights have been violated, you can file a complaint with the Division and the agency will investigate. You do not need a lawyer to file a complaint. You may also file a complaint under the Human Rights Law in a court of law.

This pamphlet describes your fair housing rights under the Human Rights Law. It describes who is protected by the law, who must follow the law, what actions are prohibited, and what to do if your rights have been violated. It is important to remember that there are also federal and local laws prohibiting discrimination. If an issue is not covered by the Human Rights Law, you should consult federal and local law, because they might cover it.

To help you determine whether your rights have been violated, this publication offers examples of behavior that may violate the law. Generally, however, more investigation is necessary to decide whether behavior is illegal. The government agencies and organizations listed at the end of this pamphlet can conduct such investigations.

Who Is Protected?

The New York State Human Rights Law prohibits housing discrimination on the basis of several “protected characteristics.” It is illegal for someone to discriminate against you because of one of these protected characteristics. The protected characteristics are:

Race

Creed

Except: A religious institution can, under certain circumstances, limit the sale or rental of housing to a member of the same religion to further its religious principles.

Color

National Origin

Sex

Except: Single-sex housing accommodations such as female- or male-only dormitories at a college are permitted.

Age

Except: Housing accommodations for seniors are permitted; housing discounts to people 65 years or older are permitted.

Disability

Except: Housing discounts to people with disabilities are permitted.

Marital Status

Military Status

Family Status

Sexual Orientation

Gender Identity (sex and/or disability discrimination)

The Human Rights Law does not give preference to any one particular race, creed, color, national origin, sex, age, disability, marital status, family status, sexual orientation, or gender identity. If someone denies housing to you, and the reason is one of these characteristics, whatever that characteristic happens to be, it is illegal.

Examples:

A landlord instructs a real estate agent not to rent apartments in his building to “minorities.”

A landlord refuses to rent apartments to single people.

A housing complex has a “no children” rental policy.

Who Must Follow The Law?

Anyone who sells, rents, or leases housing must follow the Executive Law. This includes:

- Owners
- Tenants
- Subtenants
- Managing agents
- Real estate brokers
- Real estate agents
- Agents and employees of the above persons

Examples:

A family member who assists her relative in selling her home cannot discriminate.

A tenant of an apartment cannot discriminate if subletting the apartment to another person.

What is Prohibited?

I. DISCRIMINATION IN CONNECTION WITH THE SALE, RENTAL, OR LEASING OF HOUSING

The Human Rights Law makes it illegal to discriminate in the sale, rental, or leasing of housing because of a protected characteristic. Specifically, the law makes it illegal to do the following because of a protected characteristic:

Refuse to sell, rent, or lease housing.

Example: An owner refuses to sell a home to Asian-Americans.

Discriminate in the terms, conditions, or privileges in the sale, rental, or lease of housing.

Examples: A landlord requires higher security deposits from African-American families in connection with renting apartments.

A homeowner decides to require a larger down payment from a Latino family in connection with the sale of a home.

Discriminate in providing facilities or services in connection with the sale, rental, or lease of housing.

Example: A landlord refuses to allow Latino children to play at a playground.

Print or circulate a statement, advertisement, or publication expressing a limitation, specification, or discrimination in the sale, rental, or lease of housing.

Example: An advertisement for a vacant apartment expresses preference for a specific national origin.

Use an application for housing that expresses any limitation, specification, or discrimination in the sale, rental, or lease of housing.

Example: A real estate application asks questions about a protected characteristic.

Make any record or inquiry in connection with the prospective purchase, rental, or lease of housing that expresses any limitation, specification, or discrimination.

Example: A landlord asks the religion of prospective tenants.

Discriminate against a person with a vision impairment because of their use of a guide dog, or a person with a hearing impairment because of their use of a hearing dog. Discriminate against a person with a disability because of their use of a service dog. Discriminate against a person with a disability because of their use of an emotional support animal, where the animal is needed to use and enjoy the premises.

II. RETALIATION, AIDING AND ABETTING, AND COERCION

The Human Rights Law also prohibits participating in discrimination or retaliating against someone for helping to enforce the Law. Specifically, the Law prohibits:

Aiding, abetting, inciting, compelling, or coercing someone to violate the Human Rights Law.

Example: A co-op board informs an owner that it will not approve a sale to an African-American buyer. (Should they actually vote to deny a sale because the buyer is of a protected class, the co-op board will be liable directly for discrimination, as will each member of the board who voted to deny).

Retaliating against someone for opposing housing discrimination, filing a complaint, or testifying or assisting in any enforcement action under the Law.

Example: A real estate agency fires an employee for reporting that a landlord refused to rent to her Latino client.

III. DISCRIMINATION BASED ON ASSOCIATION WITH MEMBERS OF A PROTECTED CLASS

It is unlawful to discriminate against an individual because of that individual's known relationship with a member of a protected class under the Human Rights Law.

Example: A landlord refused to rent an apartment to a couple when he learns they are interracial.

IV. REAL ESTATE BROKERS, SALESPERSONS, AND EMPLOYEES; REAL ESTATE BOARDS

In addition to the above restrictions, the Human Rights Law adds additional obligations on real estate brokers, real estate salespersons and their employees. Specifically, it is illegal for them to:

Refuse to negotiate for the sale, rental, or lease of housing.

Example: A real estate agent refuses to negotiate with a person with a disability for the rental of housing.

Represent that housing is not available for sale, rental, or lease when it is available.

Example: A real estate salesperson shows housing to a white person, but then tells a minority person that the same housing is not available for rental.

It is also illegal for a real estate board to exclude or expel any person, or discriminate against a person in the terms, conditions, and privileges of membership on the board because of a protected characteristic.

V. REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

In addition to prohibiting housing discrimination on the basis of disability, the Human Rights Law requires persons covered by the law to accommodate the needs of persons with disabilities.

Specifically, the Law requires covered persons:

To permit a person with a disability to make reasonable modifications to the housing, at the person's expense, if the modifications are necessary to allow the person to have full enjoyment of the housing.

Example: A landlord permits a person in a wheelchair to widen the internal doors of his apartment to accommodate the wheelchair.

To make reasonable accommodations in rules, policies, practices, or services, when such accommodations are necessary to permit a person with a disability equal opportunity to use and enjoy the housing, including reasonable modification to common use portions of the dwelling.

Examples: A landlord makes an exception to a "no pet" policy to permit a tenant to keep an emotional support animal where the animal allows the person to use and enjoy their home.

A landlord provides and pays for the installation of a ramp at the common entryway to the building so that persons using wheelchairs have access.

To provide that in all buildings containing dwellings for three or more families constructed after March 13, 1991:

The public and common areas of housing are readily accessible to and usable by persons with disabilities.

Example: The entrance to such a building is accessible to a person in a wheelchair.

All doors are sufficiently wide to allow passage by persons in wheelchairs.

All units contain accessible passageways, fixtures, outlets, bathrooms, and kitchens.

Example: Bathroom walls are able to support grab bars.

What Housing Is Covered?

The Executive Law applies to nearly all housing accommodations. The only exceptions are:

Rental units in two-family homes occupied by the owner.

Example: A two-family home where the owner lives in one of the units is not covered by the Human Rights Law.

Rentals in rooming houses occupied by the owner or member of the owner's family.

Example: A rooming house with a resident owner is not covered by the Human Rights Law.

It is important to remember that although the Human Rights Law does not apply to these housing accommodations, federal or local fair housing laws may apply.

What About Lending Discrimination?

The Human Rights Law also prohibits discrimination in connection with lending, including real estate lending. It is illegal to discriminate in connection with lending on the basis of the same characteristics that are protected in connection with the sale or rental of housing. However, age can be considered in determining the credit worthiness of an applicant when age has a demonstrable and statistically sound relationship to determining credit worthiness. The Law prohibits the following in connection with an application for a loan for the purchase, acquisition, construction, rehabilitation, or repair or maintenance of a home:

Discriminating in granting, withholding, extending, renewing, or setting the terms, rates, or conditions of the loan.

Example: A lender charges higher interest rates to African-Americans.

Using an application for a loan or making any record or inquiry about an applicant that expresses any limitation, specification, discrimination.

Example: A credit application asks about the applicant's medical history.

Asking an applicant about her capacity to have children or about use or advocacy of any form of birth control or family planning.

Example: A loan officer asks a couple applying for a loan whether they plan to have children.

Refusing to consider sources of an applicant's income or discounting an applicant's income because of a protected characteristic, including childbearing potential.

Example: When considering the loan application of a married couple, a creditor refuses to consider the income of the wife because she is of childbearing age.

In connection with considering an applicant's credit worthiness, considering statistics or assumptions relating to a protected characteristic, including the likelihood of bearing children.

Example: A creditor refuses to lend in predominantly minority neighborhoods.

How Do I Know If My Rights Have Been Violated?

It is not always easy to tell if your fair housing rights have been violated. People will rarely come right out and say: "I will not rent this apartment to you because you are a young single woman" or "I will not rent the house to you because you are black and this is a white neighborhood." Instead, the signs of discrimination are usually more subtle.

One way to determine if you have been discriminated against is to seek the help of an agency or organization that can conduct a test.

As the following section illustrates, some private organizations funded by the U.S. Department of Housing and Urban Development investigate complaints of discrimination and can test a real estate agency or landlord to see if it is discriminating.

In a test, the agency hires pairs of individuals, or testers, to pose as undercover home seekers. In each pair, the two testers have the same qualifications for the housing, but differ in the protected characteristic that is the basis for the discrimination. If a person suspects that a real estate agency is discriminating because she is African-American, the testers will have similar qualifications for the home seekers, but one tester will be white and the other will be African-American.

Each tester will make a separate trip to the real estate office. If the real estate agent shows the white tester the housing in question and tells the African-American tester that nothing is available in her price range, that is strong evidence of discrimination.

The following examples demonstrate when you might suspect that discrimination has occurred. If you think discrimination has occurred, you are encouraged to take action by contacting one of the agencies or organizations listed in the next section.

Example 1:

Mr. Lowery, a single African-American male, is looking for an apartment. He sees an advertisement in a newspaper describing an apartment that meets his needs. Mr. Lowery calls the real estate agency and speaks to Mr. Connor, who tells Mr. Lowery that the apartment is available and asks him to come to the office to see it.

Thirty minutes later, Mr. Lowery gets to the office, identifies himself, and meets Mr. Connor. Mr. Connor says: “There must be some mistake.”

Mr. Lowery assures him he spoke to him on the phone. Mr. Connor then asks Mr. Lowery to wait while he checks to see if the apartment is available. Mr. Connor returns a few minutes later and informs him that he just checked with the landlord, and the apartment is no longer available.

Example 2:

Mr. Martin and Ms. Vernon are married. Mr. Martin is white and Ms. Vernon is African-American. They are in the process of purchasing a co-op apartment. They have signed a contract and need to meet with the co-op board for final approval. Mr. Martin has been handling all the details of the transaction and has been assured by the co-op owner, the building managing agent, and the co-op president, all of whom he has met, that there will be no problem at the interview with the co-op board.

Ms. Vernon gets to the interview first, and is informed by the co-op president that she must be in the wrong place. She insists she is in the right place and is Mr. Martin's wife. The co-op president expresses surprise. At the interview, a board member asks Mr. Martin and Ms. Vernon whether they face hostility because of their "mixed marriage" and whether it has had any impact on their children. Ultimately, the board refused to approve them for the apartment.

Example 3:

Ms. Abernanthy, an African-American, views an apartment she likes. Afterwards, she calls the real estate agent, Mr. Davis, and tells him she wants to rent it. Mr. Davis tells her the apartment is rented.

Ms. Abernanthy is suspicious and asks her friend, who is white, to pose as an apartment seeker. Her friend goes to the real estate office and meets Mr. Davis, who says the apartment is still available. Ms. Abernanthy then calls Mr. Davis to confront him.

He admits he lied to Ms. Abernathy, but claims he lied not because of her race, but because the landlord did not like Ms. Abernathy because she was “pushy” and “aggressive.”

Where Can I Go to Protect My Rights?

If you suspect you have been the victim of discrimination, there are a number of government agencies and private organizations that can help you.

I. Government Agencies

You can file a discrimination complaint with different government agencies, seeking damages, the housing in question, and other appropriate relief such as a promise from the housing provider not to discriminate. You can file a complaint on your own. You do not need a lawyer.

Under the Human Rights Law, you can file a housing or lending discrimination complaint using the mail-in complaint form on the Division’s website at www.dhr.ny.gov, or by contacting the Division at:

Bronx Central Office

One Fordham Plaza, 4th Floor
Bronx, NY 10458
(718) 741-8400

Albany Regional Office

Agency Building 1, 2nd Floor
Empire State Plaza
Albany, New York 12220
(518) 474-2705

Binghamton Satellite Office

NYS Office Building Annex
44 Hawley Street, 6th Floor
Binghamton, NY 13901-4465
(607) 721-8467

Brooklyn Regional Office

Shirley A. Chisholm State Office Building
55 Hanson Place, Room 304
Brooklyn, NY 11217
(718) 722-2385

Buffalo Regional Office

Walter J. Mahoney State Office Building
65 Court Street, Suite 506
Buffalo, NY 14202
(716) 847-7632

Upper Manhattan Regional Office

Adam Clayton Powell State Office Building
163 West 125th Street, 4th Floor
New York, NY 10027
(212) 961-8650

Long Island Regional Office

50 Clinton Street, Suite 301
Hempstead, NY 11550
(516) 539-6848

Hauppauge Satellite Office

State Office Building
250 Veterans Memorial Highway, Suite 2B-49
Hauppauge, NY 11787
(631) 952-6434

Rochester Regional Office

One Monroe Square
259 Monroe Avenue, 3rd Floor
Rochester, NY 14607
(585) 238-8250

Syracuse Satellite Office

State Office Building
333 East Washington Street, Room 543
Syracuse, NY 13202
(315) 428-4633

White Plains Regional Office

7-11 South Broadway, Suite 314

White Plains, NY 10601

(914) 989-3120

Office Of Sexual Harassment Issues/Queens

55 Hanson Place, Room 900

Brooklyn, NY 11217

(718) 722-2060

Toll Free Number: (888) 392-3644

You may also contact:

**New York State Homes and Community Renewal
Fair Housing and Equal Opportunity Office**

25 Beaver Street

New York, NY 10004

(866) 275-3427

www.nyshcr.org

Under the Human Rights Law, you can also file a lending discrimination complaint with the Superintendent of Banks at the following address:

New York State Department of Financial Services

One State Street

New York, NY 10004

(800) 342-3736

www.dfs.ny.gov

Federal law also prohibits housing discrimination. You can file a housing discrimination complaint under federal law with:

**The United States Department of Housing and Urban
Development**

26 Federal Plaza, Room 3532

New York, NY 10278

(212) 264-5072

Lafayette Court, 465 Main Street
Buffalo, NY 14203
(716) 846-5785

Toll Free Number: (800) 496-4294

**United States Department of Housing and Urban
Development, Office of Fair Housing and Equal
Opportunity**

451 Seventh Street, S.W., Room 5116
Washington, D.C. 20410-2000
(202) 708-2878
www.hud.gov

Nationwide Toll Free Number: (800) 669-9777

You can also file a complaint with your city, municipality, or county, if it has a law prohibiting housing or lending discrimination. You can contact the State Division of Human Rights for a list of such agencies.

II. Private Organizations and Attorneys

Many private, not-for-profit organizations are dedicated to eliminating housing and lending discrimination. If you suspect you have been discriminated against in housing or lending, many of these organizations can help you investigate.

These private organizations can conduct a test of an owner, a real estate agency, or creditor to see if they are discriminating against you. They can also help you decide where to file.

III. Filing a Complaint in Court

Although you do not need a lawyer to file a complaint with the Division, you may want to consult an attorney with expertise in fair housing matters. You can file a housing or lending discrimination lawsuit in either the federal district court or the New York State Supreme Court that covers the area where you live. Private fair housing

organizations often have panels of cooperating attorneys, and they may be able to refer you to an attorney.

The Fair Housing Initiative Program (FHIP) provides support to private non-profit organizations located throughout New York State and to strengthen HUD's partnership in enforcing and enhancing compliance with the nation's fair housing laws.

The following private, non-profit, fair housing enforcement organizations are dedicated to preventing and eliminating discriminatory housing practices:

Brooklyn Housing and Family Services, Inc.

415 Albemarle Road
Brooklyn, NY 11218-2351
(718) 435-7585
www.brooklynhousing.org

Brooklyn Legal Services Corp. A

260 Broadway, Suite 2
Brooklyn, NY 11211-8344
(718) 487-2300
www.bka.org

Buffalo Urban League Inc.

15 Genesee Street
Buffalo, NY 14203
(716) 250-2400
www.buffalourbanleague.org

Fair Housing Council of Central New York, Inc.

328 W. Fayette Street
Syracuse, NY 13202-1265
(315) 471-0420
www.cnyfairhousing.org

Fair Housing Justice Center, Inc.

30-30 Northern Blvd #302,
Long Island City, NY 11101
(212) 400-8201
www.fairhousingjustice.org

The Housing Council

75 College Avenue, 4th Floor
Rochester, NY 14607-1009
(585) 546-3700
www.thehousingcouncil.org

Housing Opportunities Made Equal, Inc.

1542 Main Street
Buffalo, NY 14209
(716) 854-1400
www.homeny.org

Legal Assistance of Western NY, Inc.

361 South Main Street
Geneva, NY 14456
(315) 781-1465
www.lawny.org

Legal Services NYC

36 Richmond Terrace, Suite 205
Staten Island, NY 10301-1934

349 East 149th Street, 10th Floor
Bronx, NY 10451
(917) 661-4500
www.legalservicesnyc.org

Long Island Housing Services, Inc.

640 Johnson Avenue
Bohemia, NY 11716
(631) 567-5111
www.lifairhousing.org

New Economy Project

121 West 27th Street, Suite 804
New York, NY 10001
(212) 680-5100
www.neweconomynyc.org

MFY Legal Services, Inc.

299 Broadway, 4th Floor

New York, NY 10007

(212) 417-3700

www.mfy.org

Westchester Residential Opportunities, Inc.

470 Mamaroneck Avenue

White Plains, NY 10605

(914) 428-4507

www.wroinc.org

When Do I Have to File a Complaint?

Courts and agencies have deadlines, known as a “statute of limitations,” by which you must file a complaint in order to protect your rights. You have one year from the date the discriminatory act occurred to file an administrative complaint with the State Division of Human Rights, the U.S. Department of Housing and Urban Development, or the Superintendent of Banks. You have two years to file a lawsuit under the federal Fair Housing Act. You have three years under the federal Civil Rights Act and five years under the federal Equal Credit Opportunity Act to file a lawsuit.

You have three years to file a lawsuit directly in state court under the Human Rights Law. However, if you first file a complaint with the Division of Human Rights, your right to proceed in court may be limited unless the Division case is dismissed for administrative convenience or annulment of the election of remedies.

If you need immediate action to protect your right to buy or rent the particular housing in question, the Human Rights Law permits the Division of Human Rights to act immediately. Alternatively, you can file a lawsuit yourself and seek a temporary restraining order in a court. When you want to protect your right to buy or lease the particular housing in question, you should file your complaint right away.

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