

Fair Housing of Marin, 2015

Gender and Sexual Orientation Discrimination in Housing

What is Fair Housing?

- The ability of people of similar income levels to have available to them the same housing choices, regardless of personal characteristics such as race or national origin

Federal Fair Housing Act

- Prohibits discrimination on the basis of:
 - Race, Color, National Origin
 - Religion
 - Sex (including Gender Identity)
 - Disability
 - Familial Status

California Fair Employment and Housing Act

- Additional Protected Classes:
 - Marital Status
 - Source of Income
 - Ancestry
 - Sexual Orientation
 - Gender Expression

Federal & State Fair Housing Laws

- Covers anything occupied or designed as a residence
- Is the property an abode to which the person intends to return?

Exemptions

- Gender-segregated dorms exempt from sex discrimination provisions
- Owner-occupied, single family home that sublets to only one other person

Prohibited Activities

- Refusal to rent, sell or negotiate
- Offering different terms or conditions
- Making false representations about availability
- Harassment, retaliation, intimidation or coercion
- Refusal to make necessary reasonable accommodations

Prohibited Activities

- Making discriminatory statements/advertisements
- Steering
- Blockbusting
- Refusal to make mortgage loans or offering different mortgage terms/conditions

Responsible Parties

- Include:
 - Property owners & managers
 - Administrative & leasing staff
 - Maintenance staff

What Does Sex Discrimination Look Like?

- Sex: binary assigned at birth

Disparate Treatment

- Landlord evicts female tenant who is victim of domestic violence based on gender stereotypes
- Lender refuses to make mortgage loans to women applicants on maternity leave until they return to work

What Does Sex Discrimination Look Like?

- Disparate Impact
 - “Zero tolerance” policies: 85% of domestic violence victims are women

What Does Sex Discrimination Look Like?

- Gender Identity: a person's internal sense of being male or female
 - Property manager refuses to rent apartment to prospective tenant who is transgender
 - Homeless shelter refuses to permit transgender woman to sleep in women's dormitory

What Does Sex Discrimination Look Like?

- Gender Expression: a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth

What Does Sex Discrimination Look Like?

- Sexual Harassment
 - Maintenance man makes lewd comments, touches female tenant's breasts and buttocks without consent, enters her home without notice

Sexual Orientation Discrimination

- Federal law does *not* explicitly prohibit discrimination on basis of sexual orientation in market-rate housing
- State law *does* protect based on sexual orientation

Sexual Orientation Discrimination

- 2011 HUD study: 6,833 email correspondence tests in 50 different areas
- Results:
 - Heterosexual couples favored over gay and lesbian couples in 15% of tests

Sexual Orientation Discrimination

- Protections under federal law: Equal Access Rule

Sexual Orientation Discrimination

- Federal protections: indirect

Enforcement

- 1 year Statute of Limitations for administrative complaint
- 2 year Statute of Limitations for lawsuit

Additional Legal Protections

- Unruh Act
 - Prohibits discrimination by business providers on basis of sex or sexual orientation
 - Provides for \$4,000 in statutory damages
 - File complaint with DFEH

Additional Legal Protections

- Ralph Civil Rights Act
 - Prohibits hate crimes based on sex or sexual orientation
 - Includes threats, assault, graffiti, vandalism
 - Does not just apply to housing providers
 - Provides for \$25,000 statutory damages
 - File with DFEH

Additional Legal Protections

- Violence Against Women Act
 - Protects survivors of domestic violence who live in federally-subsidized housing
 - Housing provider may not:
 - Deny housing on basis that applicant is/has been victim
 - Evict on basis that tenant is/has been victim

Violence Against Women Act

- Housing provider may:
 - Split lease or partially terminate Section 8 voucher to evict abuser while allowing victim to stay
 - Make policy exception to allow victim to port/transfer in order to preserve safety

Violence Against Women Act

- Proof:
 - Self-certification; or
 - Police, court or administrative record; or
 - Statement from third party

*For more information on housing discrimination, please
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