



DIRECTOR'S MESSAGE: Fair Housing Act Turns 50

A refresher on Fair Housing laws

The federal Fair Housing Act celebrates its 50th anniversary in 2018, beginning in April with National Fair Housing Month. This landmark civil rights legislation was the result of years of individual and collective struggle against discrimination in sales, financing, renting, and other housing-related transactions.

The Fair Housing Act and Maine's Fair Housing laws make it illegal to discriminate in the buying, selling or renting of a home because of a person's race, color, national origin, religion, sex, familial status, disability, sexual orientation, gender identity or expression, marital status, ancestry, and/or receipt of public assistance.



Lauren Bustard
HCV Program
Director

Fair Housing is not just an important tool for eliminating discrimination; it also helps to strengthen families, communities, businesses, and our overall economy. Fulfillment of the letter and spirit of the law means that every community can be a place of opportunity where people can live in diverse, inclusive, accessible neighborhoods with quality schools, healthy foods, meaningful jobs, health care, green spaces, quality credit, and the other opportunities that affect our lives and well-being.

We are dedicating this issue of *Mainely Landlords* to the topic of Fair Housing, as we believe it is extremely important for our landlords to understand what their



President Lyndon B. Johnson signs the federal Fair Housing Act on April 11, 1968.

responsibilities are under federal and state law.

The following information (on Page 2) is gleaned from a copyrighted article titled *10 Things Landlords Should Know About Fair Housing*, written by attorney Kristi Bunge of Colorado for the American Bar Association. I think it provides a good summary of the major aspects of the law that landlords should know.

And on Page 3, we've provided a small poster that you may copy and post at your properties.

Thanks to all of you for providing safe, quality housing for our participants and their families.



Learn more at:

www.mainehousing.org/education/fair-housing-education/fair-housing-mainehousing

www.hud.gov/fairhousingis50

Mainely Landlords

MaineHousing landlord forum on Fair Housing laws to be held May 17 at Auburn Housing Authority

MaineHousing, in partnership with Auburn Housing Authority, is hosting a landlord outreach event on Thursday, May 17, from 9:30-11:30 a.m. at Auburn Housing's administrative offices, 20 Great Falls Plaza in Auburn. Lewiston Housing Authority also is taking part in this forum.

Fair Housing laws will be the event's focus. Speakers include: Amy Sneirson, executive director of Maine Human Rights Commission; Elaine Bourne, director of Community Mediation Services; Chris Delenick, an independent living specialist at Alpha One; and,

Fatuma Hussein, executive director of the Immigrant Resource Center of Maine; plus MaineHousing and Auburn Housing staff.

Information about lead paint remediation, smoke free housing, service animals, and other subjects will be available at a resource table. Also, Lowe's ProServices, Alpha One, Smoke Free Housing, Efficiency Maine, and MaineHousing's Lead Hazard Control Program will be among the vendors.

Seating is limited. Please email your RSVP to alachance@mainehousing.org.



Be part of MaineHousing's Owner Excellence Program!

Learn more at MaineHousing.org

Maine State Housing Authority ("MaineHousing") does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, national origin, ancestry, physical or mental disability, age, familial status or receipt of public assistance in the admission or access to or treatment in its programs and activities. In employment, MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, age, physical or mental disability or genetic information. MaineHousing will provide appropriate communication auxiliary aids and services upon sufficient notice. MaineHousing will also provide this document in alternative formats upon sufficient notice. MaineHousing has designated the following person responsible for coordinating compliance with applicable federal and state nondiscrimination requirements and addressing grievances: Louise Patenaude, Maine State Housing Authority, 353 Water Street, Augusta, Maine 04330-4633, Telephone Number 1-800-452-4668 (voice in state only), (207) 626-4600 (voice) or Maine Relay 711.

HCV director: 10 Fair Housing facts for landlords

All information contained in this article is consistent with the Fair Housing Act (42 U.S.C.A. 3601 et seq.). Information was also obtained from the Federal Housing and Urban Development website (www.hud.gov).

Because a good understanding of Fair Housing law is the best defense a landlord has in response to a Fair Housing complaint, here are 10 important topics to explore:

Advertising

It's important to consider how an advertisement for your rental property may be received. While you can describe the property and amenities, be sure not to state what you are looking for in a tenant, such as 'great for a couple.' This could be perceived as discriminatory to families with children. It's a good idea to use the Fair Housing logo or language indicating you don't discriminate against protected groups at the end of your ad.

Steering

"Steering" is when a landlord directs a potential tenant to a certain area of the property such as an area with other children the same age as the potential tenant's children. All potential tenants should be shown all available units unless they choose to skip an area or unit. It's also important to only present information about the property and not about other tenants or neighbors.

Screening applications

Many fair housing complaints are made regarding application and screening processes. It is important to have a written policy including: occupancy guidelines, availability policy, and rental criteria (i.e. employment history/income, credit history, etc.). The rental criteria and application process should be thoroughly explained in the policy. While questions about prior tenancies (evictions, etc.) may be asked, landlords should not ask questions about physical or mental disabilities. Once a policy is written it is very important to apply it equally to all prospective tenants unless an accommodation request is made based on that person's disabilities. Landlords are

highly encouraged to keep written records of all applicants.

Occupancy standards

Congress passed a law in 1996 stating that a 2-person bedroom occupancy standard was acceptable in the majority of situations. While this is a general rule of thumb, exceptions in the number of occupants can be made based on the specific layout and size of a particular unit.

Apartment rules

Many landlords have "house rules" which apply to all residents of a property. It is important that they be written using phrases like 'residents or guests' instead of singling out a specific group such as children, which could be considered discriminatory. Rules should be enforced in a fair manner and any violations should be documented, along with the actions the landlord took in relation to the violation.

Reasonable accommodation

A tenant may ask for an exception or change to a landlord's policies by making a "reasonable accommodation" request based on their disabilities. The request should come from the tenant and not be offered first by the landlord, as this may be perceived as discriminatory. Requests should be reasonable and if the request places an undue burden on the landlord it may be denied. If it is denied a written explanation of the denial should be provided to the tenant, along with an offer to meet with them.

Reasonable modification

This is a request to make modifications to the property based on a disability. Depending on the request landlords may require the tenant to pay for the modifications and/or remove them from the property when they move. Landlords should check with an attorney before denying a modification request as some modifications are required by law for the landlord to put in place.

Record keeping

Being able to provide records which demonstrate nondiscriminatory practices can often successfully defend a fair

housing complaint. Examples of records include: guest logs, applicant calls, available units, and all applications, even if the applications were withdrawn by the applicant.

Employee training

Landlords should have a written policy on how to deal with claims of harassment, especially sexual harassment. Employees should be trained on that policy as well as fair housing laws and what can happen to an employee or landlord who violates these policies and laws.

Eviction

Landlords should not be afraid to evict a resident for legitimate reasons because of a fear of a fair housing violation claim. The rules set by the landlord apply to all residents equally.

When contemplating an eviction for other than non-payment of rent a landlord should ask themselves the following two questions: (1) Has there been a serious violation of the lease agreement? (2) Do you and have you evicted other residents for the same type of problems or behavior? If the answer to these questions is yes, then an eviction would be warranted under the circumstances.

Resident files should contain records of all complaints against the resident and what has been done in response to each of the complaints.

HUD has historically looked for five types of documentation when dealing with fair housing claims. Landlords should document and include in resident files the following information:

1. warning letters/eviction notices,
2. written complaints by third parties,
3. written logs kept by management,
4. police records, and
5. photographs.

Resident file documentation needs to be consistent for all residents.

This documentation may prove there was a legitimate reason, unrelated to any fair housing claims, for evicting the resident.

Tips on how to avoid discriminatory advertising

The federal Fair Housing Act and state fair housing laws make it unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination based on race, color, national origin, ancestry, religion, sex, sexual orientation, gender identity or expression, marital status, disability, or familial status, or an intention to make any such preference, limitation, or discrimination. *See Section 804(c) of the Fair Housing Act (42 U.S.C. Section 3604(c)) and 5 MRSA Section 4581-A.*

However, there is an exception from the prohibition against familial status discrimination for housing for older persons, as defined in Section 807(b) of

the act; the specific requirements of this section must be met to qualify for the exception.

Under the act, advertising includes more than commercials or newspaper and on line advertisements; it also includes flyers, brochures, banners, leaflets, signs, posters, deeds, applications, and pictures. In fact, anything verbally said or suggested to potential tenants in person, writing, or by phone may be considered advertising.

Generally, a housing advertisement should describe the property itself, and not the potential tenant. For example, an advertisement for a housing unit stating "no children" would be considered discriminatory, because it denies housing based on familial status.

Avoid using words, phrases, photographs, illustrations, symbols, or forms of any kind that tend to give the impression that your property is available or not available to only certain types of people.

Fair Housing Practices are good business practices! For more information, HUD provides Fair Housing advertising guidelines as to what is acceptable in Fair Housing advertising. www.equalhousing.org/wp-content/uploads/2014/09/1995-Advertising.pdf

Consider using the Fair Housing logo or slogan "Equal Housing Opportunity" in your advertising as a means for people seeking housing to know the property is available to all persons under the Fair Housing Act..



The Maine Human Rights Act

EQUAL HOUSING OPPORTUNITY

We do business in accordance with the Maine Human Rights Act's fair housing provisions.

It is illegal to discriminate against any person because of race, color, religion, national origin, ancestry, sex, sexual orientation, disability, familial status, or receipt of public assistance.

Examples of Covered Activities:

- Oral or written inquiries concerning protected traits
- Sale or rental of housing or residential lots
- Advertisements
- Financing of housing
- Provision of real estate brokerage services
- Appraisal of housing
- Blockbusting and steering
- Harassment
- Unequal terms and conditions of housing

ANYONE WHO FEELS THAT HE OR SHE HAS BEEN SUBJECT TO DISCRIMINATION MAY FILE A COMPLAINT OF HOUSING DISCRIMINATION WITH THE:

MAINE HUMAN RIGHTS COMMISSION

51 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0051
PHONE (207) 624-6290 FAX (207) 624-8729 TTY MAINE RELAY 711

www.maine.gov/mhrc



"I'M AFRAID TO COMPLAIN."

It is illegal to retaliate against someone for complaining about unlawful harassment, for filing a complaint with the Commission, or for assisting in the investigation of a Commission complaint.

If you are a landlord or manager, do not treat someone who has complained about housing harassment any differently than other tenants.

If you are a tenant, you may contact the Maine Human Rights Commission if you have suffered retaliation for reporting harassment to your landlord or manager or because you filed a complaint with the Commission.

**EVERYONE DESERVES A HOME
FREE FROM FEAR!**

To file a complaint or for more information, contact:

Maine Human Rights Commission

**Mail: 51 State House Station,
Augusta, Maine 04333-0051**

Street Address: 19 Union Street

Website: www.maine.gov/mhrc

Phone: (207) 624-6290

TTY: Maine Relay 711

Fax (207) 624-8729



When is Housing Harassment Illegal?

The Maine Human Rights Act makes it unlawful to discriminate in the terms, conditions or privileges of the rental of any housing accommodation on the basis of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin, or familial status. 5 M.R.S.A. §4582.

Harassment based on someone's protected class status is a form of unlawful housing discrimination when the following standards are met:

1. The harassment was unwelcome.
2. The harassment was because of the target's protected class (e.g., race, sex, etc.).
3. (a) The harassment was so severe or pervasive that it created a hostile or abusive housing environment, or
(b) Housing benefits were explicitly or implicitly conditioned on the tenant engaging in unwelcome behavior (e.g., trading rent for sexual favors).

When the harasser is a co-tenant, a landlord or manager is generally liable if he or she knew or should have known of the harassment and failed to take immediate and appropriate action to stop the harassment.



UNLAWFUL HOUSING HARASSMENT



A Guide for Tenants and Landlords



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**UNLAWFUL HOUSING
HARASSMENT**

The Maine Human Rights Act prohibits harassment in housing that is based on race, color, sex, sexual orientation (which also includes gender identity and gender expression), physical or mental disability, religion, ancestry, national origin, familial status (having one or more minor children) or receipt of public assistance.

Harassment may be verbal or physical. A single violent act of intimidation, like a physical assault, may be unlawful. Unlawful harassment may also involve a series of incidents that may include, for example, intimidation, propositions for a date, or vandalism.

■ ■ ■ **IMPORTANT** ■ ■ ■

Harassment is judged by how the conduct feels to the target and what is offensive to the ordinary person.

Even though many harassers feel that their behavior is funny, flattering, or harmless, their conduct is illegal if it unreasonably interferes with the tenant's use and enjoyment of their home.

A FEW EXAMPLES

Racial or ethnic harassment may include:

- Racial slurs or jokes;
- Ridicule or insults because of someone's race or ancestry;
- Vandalism of someone's property because he or she is friendly with people of a different race.

Sexual harassment may include:

- Making sexual advances, requests, or demands that are unwelcome;
- Using slurs like "bitch";
- Offering to trade rent for sex or refusing to make repairs unless the person gives in to sexual demands.

Disability harassment may include:

- Mimicking a person's physical impairment;
- Using derogatory names like "psycho" or "cripple";
- Tormenting someone's service animal.

Sexual orientation harassment may include:

- Using slurs like "faggot" or "dyke";
- Leaving harassing messages on the door or phone;
- Throwing objects at or physically attacking someone due to their sexual orientation.



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**I'M A TENANT. WHAT CAN I DO
ABOUT HARASSMENT?**

Be sure the harasser knows you want the conduct to stop.

If you are physically attacked or threatened, you should call the police immediately.

If the owner or manager has a complaint process, be sure to make a complaint so that they can remedy the situation.

You may also contact the Human Rights Commission at any time to discuss filing a complaint.

**I'M A LANDLORD OR MANAGER.
WHAT SHOULD I DO ABOUT A
HARASSMENT COMPLAINT?**

Do what you can to prevent harassment from happening. Develop and distribute policies to your staff and to tenants that prohibit harassment and provide a reporting procedure.

Take every tenant complaint of harassment very seriously. Investigate every complaint without delay. Take prompt and effective corrective action if the complaint is true. Consider the full range of options available to you including warnings, eviction, and termination of an employee harasser.