



Fair Housing Concerns for Section 8 Landlords

Housing Opportunities Made Equal

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Course Objectives

- To help Section 8 landlords avoid possible liability under the Fair Housing Act and other state and local laws.
- To provide practical, day-to-day guidance on working with tenants with disabilities.
- To examine resources that HOME and the Section 8 program has available for landlords.

AGENDA

- Introductions/Purpose/Objectives
- Overview of FH Laws for Section 8 Landlords
- Fair Housing Issues for Section 8 Landlords
- Section 8 Program and Section 8 Concerns
- Home's Mobility Program
- Fair Housing Guidelines / Adjourn

Legal Overview: Tenant Rights

- Ohio Landlord-Tenant Law (evictions, leases)
- Federal Fair Housing Act (discrimination)
- Ohio Fair Housing Laws
- Local Fair Housing Laws
- HUD Regulations for the Section 8 Program

Federal Fair Housing Act

- Civil Rights Act of 1968, amended in 1988
- Prohibits discrimination in housing based on protected classes
- Applies to all residential housing:
sales, rental, public, private

Federal Fair Housing Act

Prohibits discrimination based on:

Race/Color

Religion

National Origin

Sex (including sexual harassment)

Families with Children (1988)

People with Disabilities (1988)

Fair Housing Issues Effecting Section 8 Landlords

- Women's Issues (Domestic Violence/Sexual Harassment/Families with Children)
- Advertising Issues (Craigslist/Internet Ads)
- National Origin/Ancstry
- People with Disabilities (Section 8 vs Excell)
- HUD Regulation Changes (Gender Identity)
- Screening Tenants/Legal Discrimination Practices

Legal Discrimination

- Criminal Record/Eviction Record
- No Smoking/Pets (Except for Service Animals)
- History of Property Destruction
- Poor Credit/Bad Checks/Amount of Income
- Can't Provide Identification
- History of Disturbing Neighbors/Property Destruction

Legal Discrimination

- Falsifies Information
- Plans to use premises for other purposes
- Fails to complete/sign documents for rental
- Is a minor with no adult to co-sign
- Can't furnish references from previous landlord
- Can't pay security deposit/full month rent in full

Definition of “Disability”

- Different from Social Security
- Under the Fair Housing Act:
 - has a mental or physical impairment.... which substantially limits one or more major life activities, or
 - Has a history of such an impairment, or
 - Is regarded as having such an impairment

Definition of Disability includes

- Visual or hearing impairment
- Mobility impairment
- HIV infection
- Mental Health Limitations
- Mental illness
- Drug addiction (but not current illegal use of or addiction to drugs)

Definition of Disability

“Major Life Function” examples

- Seeing, hearing
- Breathing, walking
- Learning
- Speaking
- Working
- Performing manual tasks
- Caring for one’s self

Admission and Screening

- General Rule: Landlords may not ask questions about an applicant's disability
- Congress intended disability to be irrelevant to whether someone would be a good tenant
 - Pay the rent
 - Get along with neighbors
 - Maintain the dwelling unit
 - Obey basic rules about conduct

Discrimination in Application

- Cannot be turned down “because of” mental disability.
- Can be denied based on actual behavior, reports from previous landlords about disruptive behavior or criminal background.

Terms and Conditions

Discrimination can occur after a lease has been signed. Discriminating in the terms, conditions, or privileges of rental, because of a person's disability is illegal.

- Use of pool, exercise room, or common areas
- Refusing requests for maintenance or complaints.

Termination/Eviction

- While landlords are entitled to proceed with court evictions for lease violations, they must do so in an even-handed way. Treating people with disabilities more harshly is a violation of the Fair Housing Act.
- Is eviction for inappropriate behavior of client or because of fears of other tenants?

What is a Reasonable Accommodation?

Reasonable accommodations are changes in rules, policies, practices or services so that a person with a disability has an equal opportunity to use and enjoy the housing.

Examples of Reasonable Accommodations

- Service animals or emotional support animal
- Caregivers living in apartment
- Waiving lease violations when behavior or conditions has been corrected.
- Additional time to move.
- Copies of notices sent to caregiver.
- Assigned parking places

Accommodations Must be Requested

- In order to get a change in a rule or policy, **the tenant must request it.**
- An accommodation **may be requested at any time**, including at initial application, during the tenancy, or when the landlord seeks to evict.
- The decision to request an accommodation is entirely that of the tenant. **A landlord may not impose an accommodation on an unwilling tenant.**

More on Accommodations

- The tenant is entitled to an accommodation that is **effective in affording an equal opportunity to use and enjoy a dwelling**, even if it is not the one most favored by the tenant (interactive process).
- A landlord who fails or refuses to provide a reasonable accommodation is subject to the same penalties under the Fair Housing Act as a landlord who intentionally discriminates on the basis of disability.

Accommodations Must be “Reasonable”

- The Undue Burden Test: A landlord is not required to provide an accommodation if the landlord can show that doing so would create an undue financial or administrative burden.
- The Fundamental Alteration Test: The Fair Housing Act does not require a landlord to enact significant changes in its program or services to accommodate the special needs of tenants with disabilities.

Reasonable Modification

- It is a physical reasonable change in the a unit or common are that allows the person with a disability to have “full quality of life” while residing in a particular dwelling.
- In private housing, landlord must allow, but tenant pays.
- Only reason to deny is “undue financial burden.”

Examples of Modifications

- Ramps
- Widening doorways
- Grab bars
- Flashing light for smoke detector

What else??

Discriminatory Issues of Section 8 Landlords/Managers

- An inconsistent policies for all tenants who are both Section 8 and non Section 8 applicants/residents.
- Different screening criteria, services and treatment of section 8 tenants vs non Section 8 tenants.
- Use of credit scores for Section 8 vs non Section 8 Applicants.

Discriminatory Issues of Section 8 Landlords/Managers

- Section 8 vs Excell Voucher Holders. Will take Section voucher holder but won't take Excell voucher holders.
- Discriminatory advertising: Internet, Social Media, personal rent signs, etc.
- Differential Treatment: in screening, the application process, policy/procedures, and rules.

Discriminatory Issues of Section 8 Landlords/Managers

- Evictions (Landlords setting tenants up for evictions)
- Repairs were not done
- Race (Blacks vs Whites-differential treatment)
- People with Disabilities-don't know guidelines

Guidelines for Section 8 Landlords

- Know the rights you have as a landlord under
 - *Tenant-Landlord Laws
 - *Fair Housing Laws (Federal/State/Local)
 - *HUD Regulations with Section 8
- Establish a consistent screening and selection policy/procedure for all Tenants (Both Section 8/Non Section 8 Applicants)

Guidelines for Section 8 Landlords

- Be fair and try to mediate conflict with tenants (win/win situation)
- Call and get help with things you are not sure about concerning fair housing issues, HUD regulations, etc.
- Make sure all advertising is nondiscriminatory. Advertising your product (unit/house) and not the types of people or area

ENFORCEMENT OPTIONS

- Call HOME at 513-721-4663
- Use the Housing Mediation Service
- Formal HUD Administrative Complaint (must be filed within one year of last discrimination)
- Lawsuit (must be filed within two years of last discrimination)