

Lexington Fair Housing Council

Fair Housing Training
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LFHC:

- Represent housing discrimination victims
- Serve the entire state of Kentucky
- Testing Program
- Resource for the housing industry
- Education and outreach
- Work with community partners



What Fair Housing Laws Exist in Kentucky?

The Kentucky Civil Rights Act:
Kentucky Revised Statute (KRS) Chapter 344

<http://www.lrc.state.ky.us/home.htm>



Who and What Does the Fair Housing Act Protect?

Federal Protections

- ▶ **Race**
- ▶ **Color**
- ▶ **Religion**
- ▶ **Sex**
- ▶ **National Origin**
- ▶ **Familial Status**
- ▶ **Disability**

Additional Protections

- ▶ In some cities in Kentucky
 - ▶ **Sexual Orientation**
 - ▶ **Gender Identity**
- ▶ In other states
 - ▶ **Source of Income**
 - ▶ **Marital Status**

Housing Transactions Covered

Types of Housing

- ▶ Apartment living
- ▶ Single Family Homes
- ▶ Mobile Home Parks
- ▶ Condominium Communities
- ▶ Senior Citizen Housing
- ▶ Vacant or Unimproved Lots

Transaction Types

- ▶ **Renting**
- ▶ **Selling**
- ▶ **Advertising**
- ▶ **Financing**
- ▶ **Making Statements**
- ▶ **Steering**



**HOT
TOPICS**

Race & Color

Criminal Background Checks

- ▶ Mass Incarceration = Disparate impact on African-Americans and Latinos
- ▶ New HUD Rule (2016)
 - ▶ No blanket rules
 - ▶ Case-by-case assessment
 - ▶ Arrests vs. convictions
 - ▶ Justify management policy



National Origin Discrimination

- ▶ **National Origin discrimination is unfavorable treatment based on a persons region or country of origin.**
- ▶ **Discriminatory behaviors are illegal even if the parties are of the same protected class.**

Considerations when working with people with LEP:

- ▶ It is alright to notice cultural differences.
- ▶ A heavy accent does not mean the person is uneducated or does not understand.
- ▶ Non-native English speakers may sound rude and demanding when they do not intend to.
- ▶ Do not lump groups together and resist the temptation to stereotype.
- ▶ Choose vocabulary wisely and avoid negative phrasing.
- ▶ Watch for signs that you have not been understood and participate in the communication process.

Language Access Plan and Providing Appropriate Language Assistance

- ▶ Oral interpretation services
- ▶ Bilingual staff
- ▶ Telephone interpretation lines
- ▶ Written translation services
- ▶ Notice to staff and recipients of LEP services available
- ▶ Referrals to community liaisons proficient in language of people with LEP

Familial Status Discrimination

▶ Covers:

- ▶ Presence or absence of children under the age of 18 living in the home
- ▶ Pregnant women
- ▶ Adoptive or foster parents
- ▶ Legal custodians

Exemptions:

Some senior housing facilities and communities, and other specialized housing



Sexual Orientation & Gender Identity



Sexual Orientation & Gender Identity

Are sexual orientation and gender identity protected from housing discrimination throughout all of Kentucky?

Sexual Orientation & Gender Identity

No.



Sexual Orientation & Gender Identity

In Kentucky, what cities have adopted fairness ordinances against housing discrimination?

Sexual Orientation & Gender Identity

1. Midway
2. Lexington
3. Louisville
4. Frankfort
5. Danville
6. Covington
7. Morehead
8. Vicco



Sexual Orientation & Gender Identity

May also be protected under other classifications

- Familial Status
- Sex
- Disability
- HUD assistance

LGBT Discrimination & HUD

- ▶ Final Ruling February 3, 2012
- ▶ Equal Access to Housing
- ▶ Prohibits the inquiry of orientation and gender

Covers **all aspects** of housing that receive federal money



Discrimination Based on a Person's Sex



Sex Discrimination

What Does this Look Like?

- ▶ Sexism
- ▶ Source of income (e.g., alimony)
- ▶ Domestic violence
- ▶ Sexual harassment

Sex Discrimination

Domestic Violence

- ▶ 1 in 3 women will experience physical violence by an intimate partner within their lifetime
- ▶ 1 in 4 homeless women report that domestic violence was what caused them to be homeless
- ▶ Of mothers with children who have experienced homelessness, 80% report previous experiences of domestic violence

National Center for Injury Prevention & Control. (2010). *National Intimate Partner and Sexual Violence Survey*

Jasinski J., et al. (2005). *The experience of violence in the lives of homeless women: A research report*

Aratani, Y. (2009). *Homeless Children and Youth, Causes and Consequences*. New York, NY: National Center for Children in Poverty.

Sex Discrimination

Domestic Violence

Fair Housing Problems

- ▶ “Crime-free”
- ▶ Zero-tolerance policy
- ▶ Refusal of tenant history from shelters
- ▶ Extra fees

Sex Discrimination

Domestic Violence

Fair Housing Best Practices

- ▶ Transfer to different unit
- ▶ Allow early termination of lease
- ▶ Liability for damages caused by perpetrator
- ▶ Change locks request
- ▶ Obtain a no trespassing order

Sex Discrimination

Kentucky Coalition Against Domestic Violence
 111 Darby Shire Circle
 Frankfort, KY 40601
 Phone: 502-209-5382
 Fax: 502-226-5382
www.kcadv.org

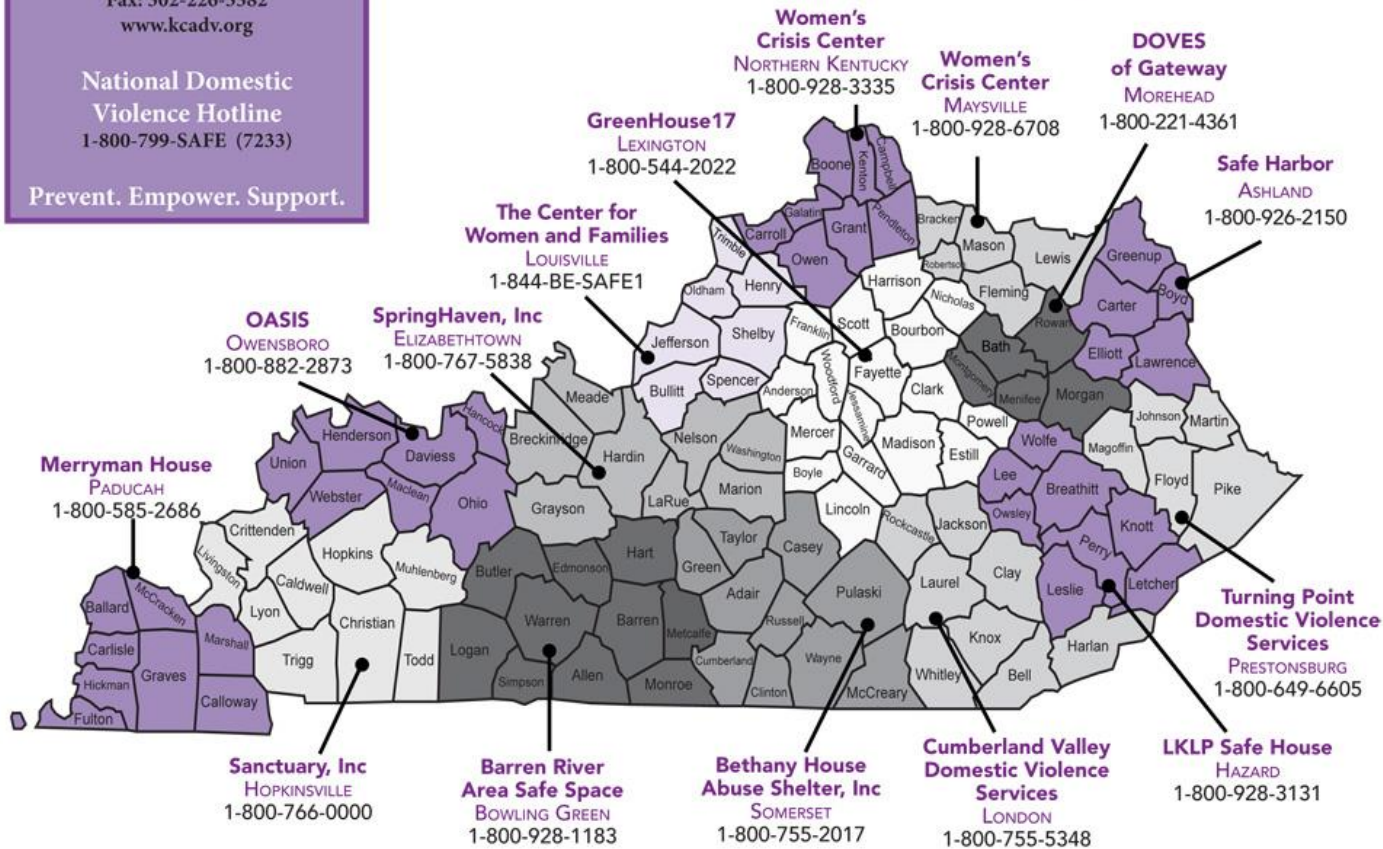
National Domestic Violence Hotline
 1-800-799-SAFE (7233)

Prevent. Empower. Support.



Kentucky Coalition
 Against Domestic Violence
KCADV

Domestic Violence Programs in Kentucky



Sex Discrimination

Sexual Harassment

- ▶ Services in exchange for sexual acts
 - ▶ *Quid pro quo*
- ▶ Hostile environment
 - ▶ Unwanted sexual advances
 - ▶ Gross remarks or gestures

Sex Discrimination

As a Housing Provider...

- ▶ Try to remain compassionate and patient
- ▶ Consider a No Trespassing order
- ▶ Avoid giving out any personal info about victim/tenant
- ▶ Waive early lease termination penalty
- ▶ Document EVERYTHING!

Disability Discrimination

- ▶ **Physical or mental disability** that substantially limits one or more major life activities, including but not limited to:
 - ▶ Hearing, mobility and visual impairments
 - ▶ Cancer
 - ▶ Chronic mental illness
 - ▶ HIV/AIDS
 - ▶ Mental retardation
 - ▶ Substance abuse or alcoholism
(excluding current abuse)
 - ▶ Autism
 - ▶ Diabetes
 - ▶ Epilepsy



Housing Provider Inquiries

Illegal Inquiries

- ▶ Whether a person has a disability
- ▶ The nature or severity of the disability

- ▶ **FHA has specific provisions about when you can ask about disability:**
 - ▶ Where disability is a requirement for eligibility
 - ▶ 202/811 housing
 - ▶ HOPWA
 - ▶ Where disability is necessary for a preference
 - ▶ Accessible units

It's okay to ask....

- ▶ Whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance
- ▶ Whether an applicant is a current abuser or addict of a controlled substance
- ▶ Questions that regard whether or not the applicant meets the requirements for tenancy

Reasonable Modifications

- ▶ A housing provider must allow a **reasonable modification** to a dwelling or common use areas at the tenant's expense if it may be necessary for the tenant to fully use the housing.
 - ▶ Wheelchair ramps
 - ▶ Installing grab bars in shower and near toilet
 - ▶ Widening doorways
 - ▶ Installing curb cuts
 - ▶ Moving light switches and electrical outlets
- ▶ Federally-funded housing providers have to pay for reasonable modifications.
- ▶ Housing providers which do not receive federal funds are typically not responsible for the cost of the modification.
- ▶ In most situations, the tenant is responsible for the cost.



Reasonable Modification Case

- ▶ 14 physically disabled tenants living in a senior housing complex request that the property owner install automatic doors in the common entrance of the apartment building.
- ▶ The tenants need the modification to access the building because they use assistive devices (i.e. canes, walkers, manual/electric wheelchairs) as a result of various medical conditions.
- ▶ The apartment managers make threats to increase rent, pull housing assistance, drop the senior-housing designation, and other retaliatory actions in response to the tenants' request.
- ▶ All of their actions are illegal.

Reasonable Accommodations

- ▶ A housing provider must allow a **reasonable accommodation** in rules, policies, practices, or services if it may be necessary for a tenant to use the housing on an equal basis with nondisabled persons.
- ▶ Examples:
 - ▶ Allowing service or emotional support animals regardless of “no pets” policy without requiring pet deposit or fees
 - ▶ Designating parking near the unit in an otherwise unassigned lot (first-come, first-serve parking)
 - ▶ Accepting references from other sources when a mentally ill client has no rental history due to being institutionalized



Reasonable Accommodation Case

- ▶ A mentally ill tenant has difficulty getting along with other tenants and leaves harassing voicemails and letters for the apartment managers, cussing at staff and threatening them.
- ▶ The landlord filed for an eviction based on a lease violation of harassing and disturbing the quiet enjoyment of other tenants and management.
- ▶ The tenant's lawyer requested a reasonable accommodation to allow her to remain in housing, explaining that the tenant's mental illness occasionally cause her to have altercations with other people.
- ▶ As a condition of the landlord dropping the eviction, the tenant agreed to comply with therapy and case management, to take her medication as prescribed, and to cease harassing and threatening behavior against her neighbors and staff.

Making Reasonable Modifications and Accommodation Requests

- ▶ The request may be made by or on behalf of the tenant at any time and in any manner.
 - ▶ It is recommended that requests be documented in writing.
- ▶ The disability must be documented.
 - ▶ Medical records or statements from medical, mental health, or social work professional; or a credible peer support group
- ▶ The request must be related to the tenant's disability.
- ▶ The request must be reasonable.
 - ▶ i.e.) It does not cause undue financial or administrative burden, nor fundamentally alter the nature of the provider's operation.
- ▶ The landlord may request documentation if:
 - ▶ The disability is not readily apparent.
 - ▶ It is not obvious that there is a relationship between the modification or accommodation request and the tenant's disability
- ▶ **Denial of a reasonable modification or accommodation request, or retaliation for making such a request, is a violation of fair housing law.**

Design and Construction Requirements under the Federal Fair Housing Act

- ▶ **Covers multi-family housing (4 or more units) constructed for first occupancy (never before used for any purpose) after March 13, 1991**
- ▶ Establishes accessibility standards for entrances, common areas, and rental units

Key Features of the FHA for Disability Discrimination Design and Construction Requirements

1. Accessible building entrance on an accessible route
2. Accessible public and common use areas
3. Usable doors
4. Accessible route into and through the covered units
5. Light switches and other environmental controls in accessible locations
6. Reinforcements in walls for grab bars
7. Usable kitchens and bathrooms

Questions and Answers

