



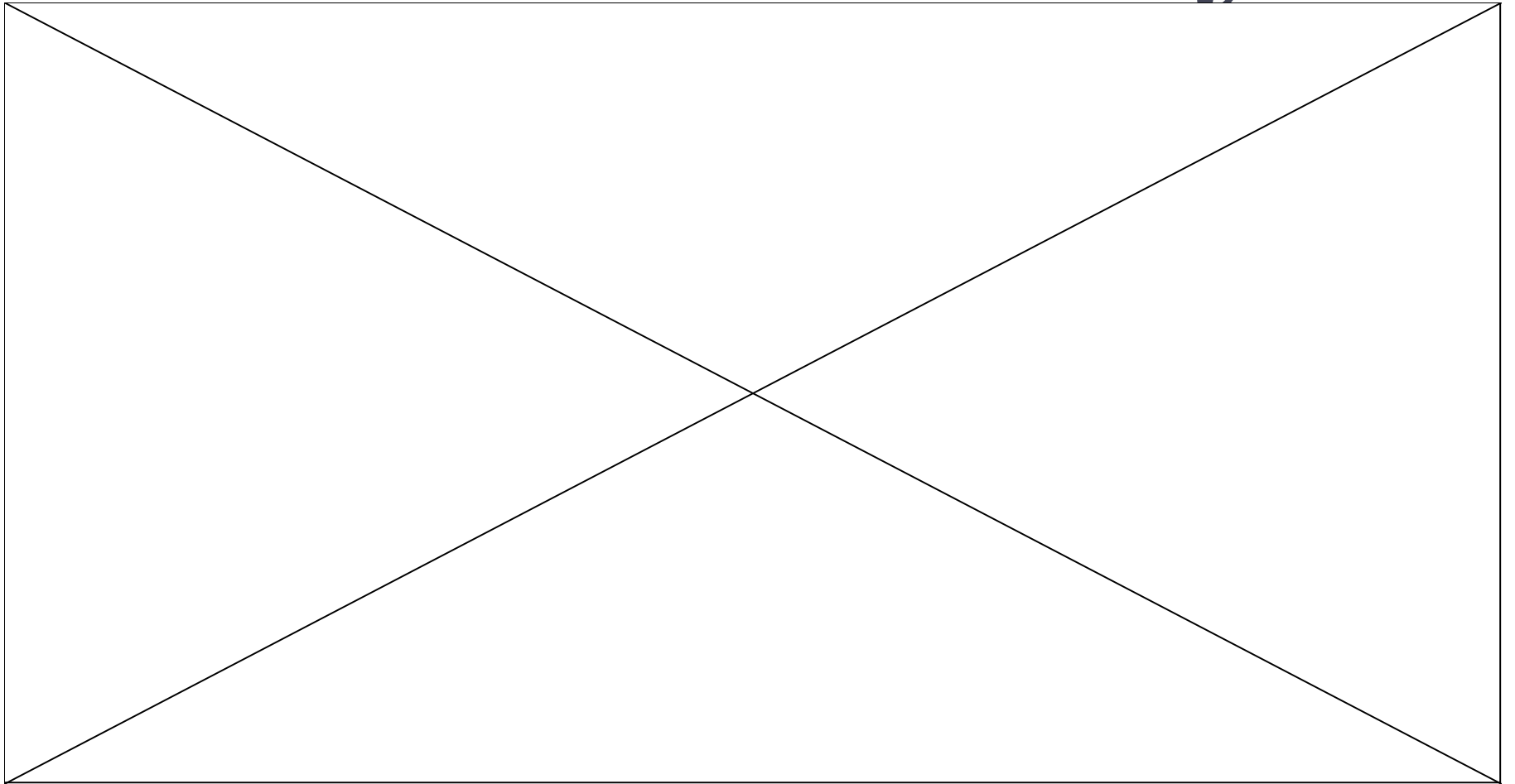
# Welcome

## Fair Housing Rights and Responsibilities

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# FHA History



# What the LFHC Does:

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



# Protected Classes

- Under Federal and Kentucky State Fair Housing Law:
  - **Race, color, national origin, religion, sex, familial status, disability**
- Under Local Fair Housing Ordinances in Midway, Lexington, Louisville, Frankfort, Danville, Covington, Morehead, and Vicco:
  - **Includes sexual orientation and gender identity** as protected classes

# On the basis of any of the protected classes, it's illegal to...

- **Refuse to rent, sell, or negotiate for housing**
- **Refuse to make a mortgage loan, to provide information about loans, or to purchase a loan**
- **Refuse to provide homeowners insurance coverage or to provide available information on the full range of coverage options**
- **Falsely represent that a property is not available for inspection, sale, or rental**



# On the basis of any of the protected classes, it's illegal to...

- **Set different terms, conditions, or privileges for housing**
- **Discriminate in appraising property**
- **Provide different housing services or facilities**
- **Engage in “blockbusting”**
- **Threaten, coerce, intimidate or interfere with anyone exercising their fair housing rights or assisting others in doing so**



# FHA Covers all Aspects of Housing

- **Apartment Living**
- **Single Family Homes**
- **Mobile Homes/Parks**
- **Condominiums**  
**Communities**
- **Senior Citizen Housing**
- **Vacant or Unimproved**  
**lots**
- **Renting**
- **Selling**
- **Advertising**
- **Financing**
- **Making Statements**
- **Steering**

# 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>





# Enforcement of Fair Housing Law

- **U.S. Department of HUD**
  - Administrative Complaints
- **U.S. Department of Justice**
  - Federal lawsuits
- **Federal or State Courts**
  - Private lawsuits
- **State and Local Fair Housing Enforcement Agencies** (Human Rights Commissions)
  - Investigate violations and bring enforcement actions



# Remedies Following Violations of Law



- Award of **compensatory damages** to victims of discrimination
- Orders for **comprehensive corrective actions**
- Awards of **punitive damages** to victims
- **Civil penalties** to the government
- Design and Construction Cases:
  - **Retrofitting**

# 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 exempt housing**



# Familial Status Discrimination

- **Refusal to rent or sell housing to individuals/families with children or to pregnant women**
- **Imposing illegal occupancy standards**
  - **HUD's general rule is to allow 2 people per bedroom**
    - **Local occupancy standards may vary depending on fire code**
  - **A child under 1-year-old does not count towards occupancy**
  - **A pregnant woman is counted as 1 person**
- **Steering to certain units, buildings, areas, or neighborhoods**
- **Restricting access to building or facilities for families**
- **Increased rent or security deposit**



# National Origin

- **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.**

# Limited English Proficiency

- **LEP persons- Individuals who, as a result of national origin, do not speak English as their primary language**
- **May include any or all limited abilities to: read, speak, write, and/or understand English**

# Title IV of the Civil Rights Act of 1964

- **Title VI is federal law that protects individuals from discrimination based on their race, color, or national origin in programs that receive federal assistance**
- **All programs that receive federal assistance must work to ensure language access to LEP persons**

# Ensuring Language Access

## HUD's Four Factor Analysis:

- **Factor 1: Number of LEP persons served or encountered in the eligible service area**
- **Factor 2: Frequency of contact with the program**
- **Factor 3: Importance of service, information, program, or activity**
- **Factor 4: Costs versus resources and benefits**
- HUD guidelines note that no matter how few LEP persons the recipient is serving, oral interpretation services should be made available in some form.

# 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 LEP persons**



# Considerations when working with LEP persons:

- **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.**

# Sex Discrimination

- **Unequal treatment of the sexes**
- **Refusal to rent to a person because of his/her sex**
- **Not considering a woman's income when determining a family's ability to afford housing**
- **Not considering payments from child support or alimony when determining a woman's ability to afford housing**
- **Discrimination against victims of domestic violence**
  - **Disparate impact on women**



# Sexual Harassment

## ❖ Sexual harassment:

### ❖ Quid pro quo

- ❖ Denial of services available to other tenants until a sexual relationship is established
- ❖ Request for sex in exchange for rent or housing

## ❖ Creating or Allowing a Hostile Environment

- ❖ Unwanted touching or inappropriate comments of a sexual nature
- ❖ Sexual assault/rape

## ❖ Including: Vendors, Guests, and Neighbors

# Fair Housing Issues Related to Sexual Assault and Domestic violence

- Victim needs additional security measures to remain in the home
  - Locks changed
  - Prohibitions against perpetrator being on the property
  - Permission to install security system
- Perpetrator is a neighbor, landlord, maintenance worker, or another employee of the rental property
- Landlord imposes a seemingly neutral policy which has a *disparate impact* on victims



# Fair Housing Issues Related to Sexual Assault and Domestic Violence

- Victim is evicted due to criminal activity on property related to the assault
- Victim is denied housing or otherwise treated differently by the landlord based on a history of victimization or stereotypes of victims
- Victim is held liable for property damages caused by perpetrator
- Victim needs out of the lease for safety reasons
- Victim needs to be transferred to another unit or property owned by landlord for safety reasons
- Perpetrator is a cohabitant of the victim
  - Victim wishes to stay in home and remove perpetrator from lease



# Domestic Violence and Sexual Assault

If you are not sure about what resources are available in your community, please call the Kentucky Domestic Violence Association At (502)-209-5382 during business hours or the National Domestic Violence Hotline at 1-(800)-799-SAFE

## Suggested Guidelines

- ❖ Be Compassionate
- ❖ Change the Locks
- ❖ Allow Installation of Security System
- ❖ Attain a No Trespassing order
- ❖ Allow Victim to terminate lease early WITHOUT penalty
- ❖ Be understanding about limited or no rental history
- ❖ Do NOT give out personal information
- ❖ Document! Document! Document!

# LGBT Individuals and Housing

- If you receive any funding from HUD you cannot discriminate against people based on their sexual orientation, gender identity, or marital status
  - Sexual Orientation: homosexuality, heterosexuality, or bisexuality
  - Gender Identity: Actual or perceived gender-related characteristics; sex change surgery; biological differences



# The US Department of Housing and Urban Development

Final Ruling

February 3, 2012

- **Proposed January 24, 2011**
- **Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity**
- **[www.hud.gov/lgbthousingdiscrimination](http://www.hud.gov/lgbthousingdiscrimination)**
- **Prohibits the inquiry of Orientation and Gender (Except where otherwise lawful)**
- What does this cover?
  - All aspects of housing that receive federal money



# 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

# Fair Housing Best Practices



- Written Procedures
- Written Applicant Criteria
- Offer all open units to the prospective tenant
- Fair Housing policy should be signed by all employees
- All employees should received Fair Housing training
- Fair Housing poster visually displayed
- Written policy in place for a timely dealing with RA and RM requests
- Written policy regarding harassment

# Questions and Answers

