FAIR HOUSING IT'S THE LAW

BILL DE BLASIO, Mayor

NYC COMMISSION ON HUMAN RIGHTS
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2014

NYC Commission on Human Rights
FAIR HOUSING. IT'S THE LAW.

Fair Housing means that you have a right to live wherever you choose and be treated according to the same rules as everyone else. Fair housing laws promote equal opportunity and prohibit discriminatory practices that can unfairly limit the housing choices of numerous groups. The NYC Commission on Human Rights enforces those laws in the five boroughs.

FAIR HOUSING LAW

The New York City Human Rights Law prohibits discrimination in housing, employment and public accommodations in New York City and encourages mutual understanding and respect among the City's diverse groups.

The Human Rights Law prohibits housing discrimination on the basis of a person's real or perceived race, color, national origin, gender (including gender identity and sexual harassment), creed, disability, sexual orientation, marital status, partnership status, alienage or citizenship status, age, lawful occupation, lawful source of income, or because children may be or would be residing with you. These are called "protected classes."

Unlawful practices, based on these protected classes, include:

- Refusing to sell or rent housing;
- Misrepresenting the availability of housing;
- Setting different terms, conditions or privileges for the sale or rental of housing;
- Providing different housing services or facilities;
- Posting discriminatory advertising or marketing that indicates a preference, limitation, or discrimination based on a protected class. For example, ads that say "no children" or "married couples only" would be discriminatory;
- Refusing to provide a reasonable accommodation for a person with a disability;
- Steering a potential homebuyer or renter to – or away from – an

A March 2008 amendment to the city Human Rights Law adds "any lawful source of income" in housing as a protected class.

area on the basis of race or national origin;

- Pressuring, for profit, homeowners to sell by exploiting ethnic, racial or other demographic changes (blockbusting); and,
- Threatening, coercing or intimidating individuals because they exercise their fair housing rights or assist others in doing so.

FAIR LENDING PRACTICES

The Human Rights Law prohibits discriminatory lending by banks, mortgage brokers and other lenders.

Unlawful lending practices include:

- Refusing to make a mortgage loan to a qualified applicant;
- Refusing to provide information regarding loans;
- Imposing different terms or conditions on a loan, such as different interest rates, points, or fees;
- Discriminating in appraising properties; and,
- Denying conventional mortgages in certain communities (redlining).

Predatory lending is the practice of exploiting loan applicants who are shut out of the conventional mortgage market and those who may be financially unsophisticated. Predatory lenders aggressively market home purchase and home repair or improvement loans that have exorbitant interest rates and excessive fees. Consumer and equal credit laws prohibit predatory lending. Predatory lending drains homeowner's equity and places modest income households into higher interest rates and higher payments than they can afford.

REASONABLE ACCOMMODATION

Landlords, and boards of co-ops and condominiums must provide a reasonable accommodation to meet the needs of people with disabilities. The only defenses for refusing to provide a reasonable accommodation are that the accommodation is architecturally impossible or would pose an undue financial hardship. Both defenses must be proved.

Reasonable accommodations can include the installation of a ramp at the primary entrance for wheelchair users, or grab bars in the bathroom. They can also involve policy or rule changes, such as permitting a blind tenant to have a service animal, making a parking space available, or allowing a disabled tenant to move to an available ground floor apartment.

If you have a disability and need an accommodation, you should inform the landlord in writing and identify the type of accommodation you need. The landlord may request documentation from a health care professional stating that you have a disability and describing the functional limitations that your disability imposes. You do not have to give the landlord your medical records.

Failure to provide a reasonable accommodation such as installing a ramp for a wheelchair user, grab bars in someone's apartment, or lowering a mailbox may constitute discrimination under the Law.

Most disability-related complaints at the Commission are resolved through pre-complaint intervention. Yet, when advocacy is unsuccessful, people are encouraged to file a formal complaint with the NYC Commission on Human Rights (see page 9). For more information regarding disability access, please read CCHR's *Equal Access: It's The Law.*

TYPES OF DISCRIMINATION

Disparate Treatment

The most common form of all discrimination involves treating people differently because of their membership in a protected class. This is called disparate treatment. In a housing situation, for example, a superintendent's practice of making repairs for Dominican tenants but not for Central American tenants would constitute discrimination. If proven, this would be an intentional form of discrimination based on real or perceived national origin.

Discriminatory harassment may constitute disparate treatment if it is based on a person's sex, race, national origin, religion, sexual orientation or other protected class. Discriminatory harassment includes unwelcome comments or conduct that creates a "hostile environment." Sexual harassment is a common form of discriminatory harassment.

Disparate Impact

Disparate impact describes a form of discrimination where a seemingly neutral policy has a disproportionate or disparate impact on a protected group even if there is no intention to discriminate. In a housing situation, zoning ordinances that prohibit subsidized housing or group homes for the developmentally disabled have been found to be unlawful because the consequences of these policies have a disparate impact on minorities or people with disabilities. Another example would be a zero tolerance policy that evicts tenants involved in domestic disturbances or abuse, since well over 90% of domestic violence victims are women. This policy would consequently have a disparate impact based on gender, a protected class.

WHAT TYPES OF HOUSING ARE COVERED?

The Human Rights Law protects residents and applicants of most types of housing in New York City against discrimination. You are covered under the Law if you reside in:

- Privately-owned housing;
- Public or government-subsidized housing;
- Cooperatives and condominiums;
- Residential hotels (transient hotels are considered places of public accommodation);
- Two-family owner-occupied housing, if the owner makes the rental apartment available to the public through advertising or public notice.

The Law exempts rooms in an owner-occupied dwelling, such as in a person's apartment or rooming house. It also permits housing limited to the elderly or disabled under certain government restrictions, as well as gender-specific dormitory-type residences.

WHO CAN BE HELD LIABLE FOR HOUSING DISCRIMINATION?

Any person with the authority to rent, sell or deal with applicants for, or residents of, a housing accommodation may be liable for unlawful practices. This includes landlords, superintendents, rental and managing agents, real estate brokers and agents, and co-op and condominium board members. Newspapers that print discriminatory advertising may be held liable for publishing

Real Estate

All real estate advertising in this newspaper is subject to the Federal Fair Housing Act of 1968 as amended in 1988 which makes it illegal to advertise "any preference, limitation or discrimination based on race, color religion, sex handicapped, familial status, or national origin, or intention to make such preference, limitation or discrimination." This newspaper will not knowingly accept any advertising for real estate which is in violation of the law. Our readers are hereby informed that all dwellings advertised in this newspaper are available on an equal opportunity basis. To complain of discrimination, call HUD toll free at 1-800-689-9777. The toll free telephone for hearing impaired is 1-800-927-9275. Or call the Anti Discrimination of New York (the Fair Housing Agency for the 5 boros Of New York) at 212-346-7600, or The New York City Commission of Human Rights Hotline at 212-306-7500

ads that convey discriminatory limitations. Lending institutions, such as banks and mortgage brokers, insurance companies, and appraisers may also be held liable for housing discrimination.

DISTINGUISHING FAIR HOUSING FROM TENANT RIGHTS

Some people confuse fair housing rights with tenant rights. Fair housing prohibits discrimination in the sale, rental and financing of residential housing based on your real or perceived race, color, national origin, gender (including gender identity and sexual harassment), creed, disability, sexual orientation, marital status, partnership status, alienage or citizenship status, age, lawful occupation, lawful source of income, or because children may be or would be residing with you. Fair housing does not deal directly with landlord/tenant matters, such as rent, building services, or repairs unless disparate treatment is based upon membership in a protected class.

Tenant rights deal with landlord obligations, such as the Warranty of Habitability, rent payments, and lease renewals. However, when a landlord's conduct involves disparate treatment based on a person's protected class, discriminatory harassment, or the denial of a reasonable accommodation, it may violate the Human Rights Law.

Some examples where tenant issues and housing discrimination may overlap:

- A landlord requires a greater security deposit from an applicant with children or a disability than from an applicant who is childless or not disabled.

- A tenant alleges that the superintendent will only make repairs in exchange for sex; this would be a form of gender discrimination known as sexual harassment.

- Tenants allege that they are refused repairs because of their national origin, while tenants with a different ancestry receive repairs.

- A landlord refuses to permit a resident with a disability to have a service or emotional support animal because it would violate the "no-pet" clause in the lease; the landlord is obligated to provide a reasonable accommodation (providing it doesn't cause an undue hardship), which would result in waiving this provision in the lease.

- A landlord refuses to permit succession rights to a surviving domestic partner despite his/her long relationship and shared living with the primary occupant. Rent regulations also contain protections for domestic partners.

- A building manager refuses to transfer a qualified Muslim household to an available larger apartment, despite a history of honoring transfer requests.

Below are some examples where tenant issues do not involve a civil rights violation:

- The landlord does not provide heat in an ethnically diverse building; everyone is treated the same because heat is a building-wide service.

- The superintendent requires "key" money from applicants; if this is required of all applicants, it is not discriminatory, although it does violate other state laws.

- The building manager does not provide repairs to any of the tenants in an ethnically diverse building. Tenants can address the lack of services in other ways (e.g., filing service complaints with the NYS Division of Housing and Community Renewal or organizing a tenant association).

- The landlord refuses to paint a disabled tenant's apartment, as well as the apartments of her non-disabled neighbors; her disability is not a factor in his refusal.

- A building manager refuses to transfer a Muslim family because the household has a history of rent arrears.

SCREENING AND UNLAWFUL INQUIRIES

Housing providers have a right to screen applicants. They can set financial and credit qualifications, a process that provides some assurance that the applicant will be a good tenant. Qualifications and inquiries must be applied equally to all applicants and must not be influenced by race, national origin or other protected factors.

Screening may include credit checks, work and landlord references, home visits, and interviews. Whatever qualifying screening criteria a landlord uses, he or she should apply them equally to all applicants.

The Human Rights Law generally prohibits housing providers from asking direct or indirect questions that may reveal a person's protected class. However, inquiries designed to qualify you for housing for senior citizens or people with disabilities are permissible.

Examples of inquiries that may be evidence of discrimination include:

- Do you have a disability?
- What is your religion?
- How old are you?
- Where were you born?
- Are you gay?
- Are you married?
- What is your race?

Additional examples of inquiries that may be evidence of discrimination include:

- Requiring you to submit medical documentation (unless you request an accommodation for a disability);
- Requiring a marriage certificate;
- Requiring a passport, birth certificate or any document that reveals your age, race, national

origin, or alienage/citizenship status; and,

- Requiring your picture with your application. You can be asked to provide I.D. but this requirement must be applied consistently to all applicants and should not be restricted to a particular form of identification, e.g., a drivers license.

FILING A COMPLAINT

If you believe you have been the victim of housing discrimination in New York City, you may file a complaint with the Law Enforcement Bureau of the City's Commission on Human Rights. You have one year from the last incident of discrimination to file a complaint. You have three years to file a suit in civil court.

Some complaints involve a continuing harm that extends the statute of limitations. To schedule an appointment, please call (212) 306-7450 or dial 311. If you are unable to travel to the Commission's offices, alternative arrangements will be made.

Filing a complaint triggers an investigation into the merits of the allegations and the possibility of a trial before an administrative law judge, if warranted by the facts.

RETALIATION

Retaliation is an act of harm by the housing provider against the resident or person applying for housing because that person asserted his or her rights such as filing a complaint or serving as a witness in a fair housing investigation. That retaliation could take the form of refusal to deliver services, delays in service delivery, or threats of eviction. It is illegal to retaliate against someone alleging discrimination or assisting in a discrimination investigation, even if their original allegation is not supported by sufficient evidence.

REMEDIES

The Commission has broad remedial powers. It can order a housing provider to:

- Sell or rent a housing accommodation;
- Provide repairs or services;
- Provide a reasonable accommodation for a person with a disability;
- Stop harassment;
- Pay damages to a victim for emotional distress and out-of-pocket expenses;
- Implement anti-discrimination policies, such as a change in repair or transfer procedures;
- Participate in fair housing training;
- Make records available for monitoring of its practices;
- Make units available for members of a protected class; and,
- Pay civil penalties to the City of up to $250,000.

FIGHTING HOUSING DISCRIMINATION

- Establish building or community organizations that support open housing, expose discrimination, and represent all residents.

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- Assist victims of discrimination, e.g., support women who are sexually harassed.
- Welcome new neighbors whose background is different.
- Organize building and community events, e.g., block parties or fairs, that bring people from diverse backgrounds together.
- Oppose high-pressure real estate solicitation practices, such as predatory lending, that undermine community stability.
- Oppose harassment (anonymous or known) that pressures homeowners or brokers from selling to a qualified buyer whose background is different. Volunteer as a tester for a fair housing organization.

HELPFUL NUMBERS

Complaints of Discrimination in Employment, Housing and Public Accommodations
NYC Commission on Human Rights
NYC Citizen Service Center - **311**
Outside of NYC, dial 212.639.9675
TTY – 212.504.4115

NYC Heat and Hot Water Complaints
NYC Department of Housing Preservation and Development
NYC Citizen Service Center - **311**
Outside of NYC, dial 212.639.9675
TTY – 212.504.4115

Building Maintenance and Violations Regarding NYC Rent Regulated Apartments
NYC Department of Housing Preservation and Development
NYC Citizen Service Center - **311**
Outside of NYC, dial 212.639.9675
TTY – 212.504.4115

Senior Citizen Rent Increase Exemption (SCRIE)
New York City Department for the Aging
NYC Citizen Service Center - **311**
Outside of NYC, dial 212.639.9675
TTY – 212.504.4115

Disabled Rent Increase Exemption (DRIE)
New York City Department of Finance
NYC Citizen Service Center - **311**
Outside of NYC, dial 212.639.9675
TTY – 212.504.4115

Mortgage Counseling and Predatory Loan Prevention
NYC Commission on Human Rights
Dial 718.886.6162
TTY – 212.504.4115

Information, Complaints, Services Regarding City-Owned Housing
NYC Housing Authority (NYCHA)
NYC Citizen Service Center - **311**
Outside of NYC, dial 212.639.9675
TTY – 212.504.4115

Questions/Complaints Regarding NYC Rent Regulated Apartments
NYS Division of Housing and Community Renewal
Rent Infoline 718.739.6400

Discrimination Complaints in Federal Housing
US Department of Housing and Urban Development
800.669.9777

Landlord/Tenant Disputes in Federal Housing
US Department of Housing and Urban Development
800.685.8470
TTY - 800.432.2209

NEW YORK CITY COMMISSION ON HUMAN RIGHTS

100 Gold Street
New York, NY 10038
www.nyc.gov/cchr

NY Relay Services:
English: (800) 421-1220 Spanish: (877) 662-4886

Dial 311 for NYC's Government Services and Information Center which operates 24 hours a day, 7 days a week. Caller assistance is available in 170 languages.

MANHATTAN
100 Gold Street, Suite 4600
New York, NY 10038
R to City Hall
2 3 4 5 A C J Z to Fulton St./ Broadway-Nassau
M5 to Broadway and Fulton St.
M15 to Water St. and Fulton Sts.
M9, M103 to Park Row and Pace University
M22 to Frankfort and Gold Sts.

BRONX
1932 Arthur Avenue, Suite 203A
Bronx, NY 10457
4 to East Burnside Ave.
5 to East Tremont Ave., West Farms Square.
BX40, BX42 to Arthur Ave.

BROOKLYN
275 Livingston Street, 2nd Fl.
Brooklyn, NY 11217
2 3 4 5 to Nevins St.
R M B Q to DeKalb Ave.
B37, B41, B45, B67 and B103 to Livingston and Nevins Sts.
B25, B26, B38 and B52 to Fulton and Bond Sts.

STATEN ISLAND
60 Bay Street, 7th Fl.
Staten Island, NY 10301
Opposite Staten Island Ferry.
Staten Island Railroad to St. George.
S42, S46, S48, S51, S61, S62, S66, S67, S74, S76, S78, S81, S84, S91, S92, S96, S98 to Bay St., S40, S44, S52, S90, S94 to Richmond Terrace.

QUEENS
153-01 Jamaica Avenue, Room 203
Jamaica, NY 11432
J Z E to Jamaica Center-Parsons/Archer.
F to Parsons Blvd. and Hillside Ave.
Q25, Q34, Q65 to Jamaica Center-Parsons/Archer.
Q6, Q8, Q9, Q41, Q54, Q56, Q110 to Parsons Blvd. and Jamaica Ave.
Q30, Q31, Q44, Q83 to Jamaica Ave. between 153rd St. and Parsons Blvd.
Q111, Q112, Q113 to 153rd St. between Jamaica Ave and 90th Ave.

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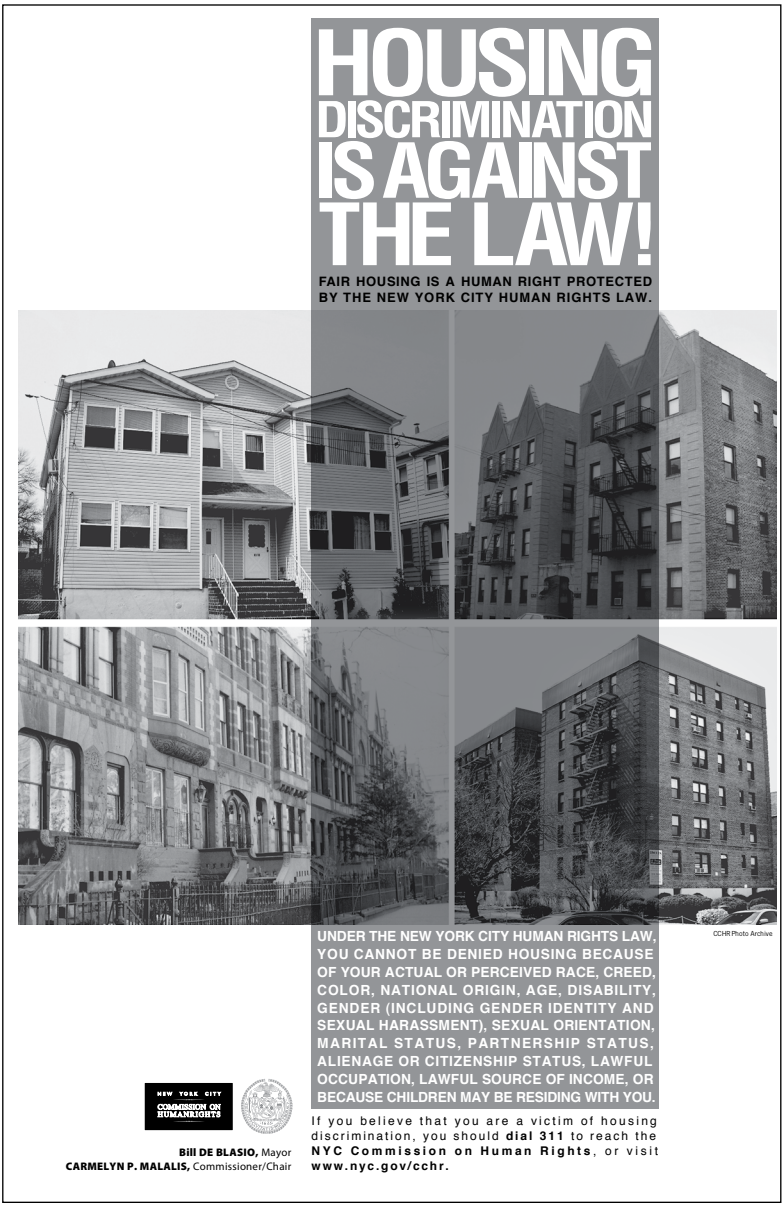

Posters for real estate professionals and housing service agencies. Contact the Commission for copies in English or Spanish.