

My Landlord is Discriminating Against Me...

(The Texas and Federal Fair Housing Acts)

Texas Rural Legal Aid

Both Texas and the federal government have a Fair Housing Act, both of which prohibit certain types of discrimination in renting and selling housing.

□ ***What type of discrimination is illegal under fair housing laws?***

The laws prohibit discrimination because of **race, color, national origin, disability, religion, sex, or familial status.**

“Disability” is defined under these laws as a physical or mental impairment that substantially limits a life activity or being regarded as having such an impairment.

Discrimination against familial status happens when someone is discriminated against because they live with a child younger than 18 years old or because they are pregnant.

In the City of Austin, it is also illegal to discriminate in housing because of creed, status as a student, marital status, sexual orientation or age.

□ ***What type of discrimination is legal?***

Landlords are allowed to create policies that discriminate against persons based on:

- Drug addiction
- Current drug use
- Criminal convictions for manufacturing or distributing drugs
- Anything that threatens the health or safety of others

Most landlords do not have to accept tenants who receive Section 8 vouchers. However, apartment complexes that have received tax credits to create affordable housing cannot refuse to take you as a tenant solely because you have Section 8.

□ ***What sort of actions by a landlord are considered discrimination?***

All of the following, **if done because of** race, color, national origin, disability, religion, sex, or familial status, are illegal:

- The landlord refuses to rent a property to you.
- The landlord in any way denies or makes housing unavailable to you.
- The landlord gives you different terms, conditions, or privileges than the other tenants.
- The landlord provides you with different services or facilities than the other tenants.
- The landlord prints or publishes a notice or advertisement that states a preference or limitation based on any of the prohibited factors.
- The landlord tells you that you cannot inspect the property because it is unavailable, when actually the unit is available for inspection.

All of these restrictions also apply when a person is buying a house, obtaining a home mortgage, or applying for a home improvement loan.

□ ***I am disabled. The policies and the physical layout of my apartment make it very difficult to live here. Is this discrimination?***

It can be. Apartment built after 1991 must be accessible to disabled persons. Texas and Federal Fair Housing Acts also require landlords to make reasonable accommodations or allow reasonable modifications if necessary for a disabled person to live in an apartment.

A **reasonable accommodation** is when the landlord allows a change in the rules, policies, or services in order for the person with the disability to have the opportunity to use and enjoy their housing as much as any other tenant. For example, an apartment with a no pets policy would be required to make a reasonable accommodation for a blind tenant with a seeing-eye dog, or a landlord can be required to designate a handicapped parking space for a physically disabled tenant. The owner of the property is responsible for any additional cost created by a reasonable accommodation.

A **reasonable modification** is a physical change to the unit that gives the tenant the opportunity to enjoy the property as much as any other tenant. For example, if a disabled tenant needed to install handrails to make it easier to get around her apartment, the landlord would generally have to allow it to be installed. The tenant is responsible for any costs associated with a reasonable modification, unless the apartment is federally subsidized or public housing.

Both modifications or accommodations must be reasonable, and not overly burdensome to the landlord.

If you need a reasonable accommodation or reasonable modification, you should make a request in writing to the landlord. It should state your specific request and the reason you require the change. Include the following: "I am making this request for a reasonable accommodation/modification [use appropriate word], under the Fair Housing Act." You should keep a copy for your records.

□ ***Do all landlords have to follow fair housing laws?***

Most do, but there are some exceptions:

(1) If you live in a single-family house, the landlord does not own more than three houses, and the landlord does not use a property management company, then the Fair Housing Act will not apply.

(2) If a religious organization owns housing, the organization can give preference or only rent to people of the same religion. The housing must be owned for other than a commercial reason, such as considering the housing as part of their ministry. All parts of the Fair Housing Act apply if the religion's

These question and answers are about the general law regarding fair housing. For questions about a specific situation, seek the advice of an attorney.

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membership is limited by race, color, or national origin.

(3) If the housing is designated for elderly residents, then the housing can discriminate because of familial status (having children under 18 living with you). Elderly housing is considered housing that has an age restriction of 62 or older or requires at least one person per unit be older than 55.

□ ***What should I do if a landlord has discriminated against me?***

You may either file an administrative complaint or file a lawsuit. You can file an administrative complaint with the Texas Commission on Human Rights. If you live in the Austin area, the Austin Tenants' Council Fair Housing Program can assist you in properly filing the complaint. Their phone number is 474-5444.

After you file the administrative complaint, the landlord will be told of your complaint within 20 days. The Commission has 100 days from when you first file your complaint to do an investigation and determine whether there is reasonable cause to believe you were discriminated against. If the Commission does not find evidence of discrimination, it will dismiss your complaint. If the Commission finds reason to believe discrimination took place, then it will issue a description of the events and actions that might be considered discrimination. This is called the "charge".

If you receive a charge from the Commission, you have two options:

Administrative Hearing – This hearing would be with the Commission. If, after the hearing, the Commission decides that discrimination took place, then the Commission can order the landlord to pay your damages, court costs, and attorney fees. The Commission also has the power to force the landlord to stop the discriminatory behavior. Large fines can be

given to the landlord if this is not the first time he has been found to discriminate.

Attorney General – After receiving a charge from the commission, you can choose to have the attorney general (the lawyer for the state of Texas) file a lawsuit on your behalf. If successful in proving discrimination, the court can award you damages, attorney's fees, court costs, and force your landlord to stop the discriminatory behavior.

In Austin, the Austin Human Rights Commission will do the investigation and the administrative hearing will be before the Austin Human Rights Commission. The City Attorney will provide representation if the matter goes to court.

You always have the option to file your own lawsuit against the landlord in court. This can be done whether or not you have filed a complaint with the Commission, but must be done within two years of the discrimination. If successful in proving discrimination, the court can award damages, attorney's fees, court costs, and force the landlord to stop the illegal discrimination.

□ ***If I file a complaint about my landlord, can he evict me?***

A landlord cannot retaliate against you for filing a fair housing complaint. The landlord cannot evict you, refuse to renew your lease, keep you from using the premises, increase your rent, terminate your lease, or interfere with your rights under the lease in retaliation for filing a complaint. ***However, if there are valid reasons for the eviction, such as not paying rent or violating the terms of your lease agreement, the landlord can file an eviction.*** Rent can be increased after you file a complaint only if it is a scheduled increase or if it affects all of the units.