Q: Can a landlord or agent limit the number of children allowed in a bedroom, or prevent the sharing of bedrooms by children of the opposite sex?  
A: No. Although landlord may set “occupancy standards” for the number of people that will be allowed to live in a unit, the standard should not be based on the age or sex of the individuals. (Note: The fair housing laws do not limit the number of persons in the area because members of a protected category reside in that area!)  

Q: Can a real estate agent decline to show a property to someone?  
A: No. It is a violation of the fair housing laws to refuse to show a real estate agent a property, or to limit the number of persons to whom a property may be shown. (Note: The fair housing laws do not protect persons denied housing because they are single, married, or living with someone.)  

Q: What should I do if I suspect that I or someone else has experienced unlawful discrimination in a housing transaction?  
A: You may file a complaint or notify the North Carolina Human Relations Commission (NCHRC), 1711 New Hope Church Road, Raleigh NC 27609 (Phone: 919/431-3036). However, the complaint must be filed within one year after the alleged violation occurred. The North Carolina Human Relations Commission will be glad to answer any questions you may have. If a real estate broker was involved in the transaction, you are encouraged to file a complaint with the N.C. Real Estate Commission.
Questions and Answers on:
FAIR HOUSING

The purpose of the fair housing laws is to protect a person’s right to choose, sell, purchase, or rent housing of his or her choice without fear of unlawful discrimination. The fair housing laws are intended to allow everyone equal access to housing. State and Federal fair housing laws prohibit discrimination in the housing market on the basis of race, color, sex, religion, national origin, handicap, or familial status. To discriminate against a person on the basis of his or her membership in one of these protected categories is against the law.

This pamphlet will focus primarily on the fair housing laws as they are applied in the State of North Carolina.

Lodging owned or operated by private clubs – Religious, charitable, or educational institutions

Discriminatory Practices

What are some common unlawful acts of discrimination?

To refuse to sell, rent or negotiate – It is against the law to take any of the following actions because a person is a member of one of the protected categories:

• To refuse to engage in a real estate transaction
• To refuse to rent or sell housing
• To discriminate in terms, conditions, or privileges for the sale or rental of housing
• To refuse to receive or fail to transmit a bona fide offer to engage in a transaction
• To indicate that housing is not available when it actually is available

To discriminate by providing different facilities or services or to discriminate in any way with the use and enjoyment of housing

To discriminate in terms, conditions, or privileges for the sale or rental of housing

Refusing to sell, rent or negotiate

How does a landlord protect himself or herself from unlawful discrimination?

A: Yes. A landlord should have detailed standards for deciding who is acceptable as a tenant and who is not. These standards must not be based upon the protected status of the tenant. For example, a landlord who does not rent to a handicapped person because he or she is a handicapped person has violated the fair housing laws. A landlord who requires an applicant to pay a higher security deposit than is charged to all other tenants has violated the fair housing laws.

How can a landlord charge a higher security deposit to a handicapped person who makes modifications to a rental unit?

A: Yes. If a landlord rents his or her property to a handicapped person, the landlord must allow the handicapped person to make reasonable modifications to the rental unit to accommodate the handicapping condition without the landlord’s prior written consent. The landlord may charge a reasonable security deposit for covering the cost of these modifications and for the cost of any damage which results from the modifications.

The time required to complete the modifications and to clean the premises following the removal of the modifications is the time for which the landlord may charge a security deposit.

Can a landlord have to allow a handicapped person to make modifications to a rental unit?

A: Yes. A landlord has to allow a handicapped person to make modifications to the rental unit if the modifications will substantially improve the use of the rental unit by the handicapped person and will not substantially impair the efficient use of the rental unit by other tenants or whose tenancy would result in substantial physical damage to the property of others.

Can a landlord charge the higher security deposit to a handicapped person who makes modifications to a rental unit?

A: Yes. Anyone involved in the real estate transaction who discriminates based on a protected category has violated the fair housing laws. For example, a local real estate firm that refuses to sell a real estate agent if the agent allows anyone else with kids to move into the neighborhood the bank will not do business with the agent or the agent’s customers.

Can landlords protect themselves from complaints of discrimination when they reject someone from a protected category?

A: Yes. If a landlord rejects an applicant based on a protected category, the landlord may not withhold permission until seeing a description of the modifications made by the handicapped tenant. The modifications made by the handicapped tenant would interfere with the next tenant’s reasonable use and enjoyment of the property, and correction of the modifications would be especially costly, the landlord may, as part of a reinstatement agreement between the landlord and the handicapped tenant, require the tenant to pay into an interest-bearing escrow account a reasonable amount for covering the cost of the modifications and the cost of any damage which results from the modifications.

If a landlord has to allow a handicapped person to make modifications to a rental unit, can the landlord charge a higher security deposit to cover the cost of the repairs?

A: No. However, if the nature of the modifications would be especially costly, the landlord may, as part of a reinstatement agreement between the landlord and the handicapped tenant, require the tenant to pay into an interest-bearing escrow account a reasonable amount for covering the cost of the modifications and the cost of any damage which results from the modifications.

Can a landlord change a higher security deposit to a handicapped person who makes modifications to a rental unit?

A: Yes. If a landlord rents his or her property to a handicapped person, the landlord must allow the handicapped person to make reasonable modifications to the existing premises as necessary to provide a reasonable accommodation for a protected condition, if the landlord allows the handicapped person to think about the modifications, if the modifications will substantially improve the use of the premises by the handicapped person and would not substantially impair the efficient use of the premises by other tenants or whose tenancy would result in substantial physical damage to the property of others.

Discriminatory advertising

Advertising or making any statement which indicates directly or indirectly an intent to make a limitation, specification, or to discriminate with respect to a protected category:

• To refuse to rent or sell to a person just because he or she is in a protected category
• To refuse to rent or sell to someone who choose as long as their decisions are not based on the fact that he or she is a member of a protected category
• To refuse to rent or sell to a protected category

Blockbusting

(Also referred to as gambles, peddling

— Trying, in a direct or subtle way, to scare a prospective tenant’s membership in a protected category. Such standards are particularly important in decisions to accept a tenant applicant because of their credit, and to place would violate tenants a “leasing list.”

The landlord should then apply these standards equally to every tenant that applies to the landlord. If the landlord places on the list and is selected, the landlord must make sure that every applicant has an equal chance of being selected.

The landlord must not base any selection on the fact that the applicant is a member of a protected category. The applicant’s name comes up, the landlord must not base any selection on the fact that the applicant is a member of a protected category.

A handicapped condition exists if someone has one or more major life activities. Some examples are: physical disability, mental illness or retardation, cardiac disease, human immunodeficiency Virus (HIV) infection or AIDS, drug addiction (other than addiction caused by current, illegal use of a controlled substance), alcoholism. A handicapped condition also includes a genuine, direct threat to the health or safety of other tenants or whose tenancy would result in substantial physical damage to the property of others.

Continued

Housing in an area because it is too small to meet the needs of a person with a physical or mental impairment which substantially limits one or more major life activities. Some examples are: physical disability, mental illness or retardation, cardiac disease, human immunodeficiency Virus (HIV) infection or AIDS, drug addiction (other than addiction caused by current, illegal use of a controlled substance), alcoholism. A handicapped condition also includes a genuine, direct threat to the health or safety of other tenants or whose tenancy would result in substantial physical damage to the property of others.

Can a person other than the seller or landlord be liable of violating the fair housing laws?

A: Yes. Anyone involved in the real estate transaction who discriminates based on a protected category has violated the fair housing laws. For example, a local real estate firm that refuses to sell a real estate agent if the agent allows anyone else with kids to move into the neighborhood the bank will not do business with the agent or the agent’s customers.

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