



# FAIR HOUSING

Presented by:

Texas Workforce Commission

Civil Rights Division

# DISCLAIMER

Any opinion, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Housing and Urban Development.

## TEXAS WORKFORCE COMMISSION

### CIVIL RIGHTS DIVISION

Civil Rights Division is the State agency whose purpose is to enforce state and federal laws concerning discriminatory practices within employment and housing.

We provided the following services: employment and housing discrimination complaint investigations, training and technical assistance to public and private entities, and personnel policy reviews of state agencies and institutions of higher education.

# ORGANIZATION

## Housing Investigation

The team responsible for investigating and conciliating Fair Housing Issues and Complaints consists of a manager, supervisors, intake, and investigators.

## Employment Investigation

The team responsible for investigating and mediating Employment Issues and Complaints consists of a manager, supervisors, intake, and investigators.

## Outreach and Compliance

The team is responsible for the prevention of employment and housing discrimination through training and outreach efforts. This team also certifies compliance of all state agencies.



# INVESTIGATION CONCILIATION AND MEDIATION

The Civil Rights Division conducts neutral investigations and gathers information to determine if discrimination has occurred. We work in cooperation with the federal Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD).

## Housing

An investigator will try to reach an agreement between the parties throughout the investigation process

## Employment

A certified, impartial mediator will work with the parties to attempt a mutual resolution.

If an agreement is signed, CRD will take no further action on a complaint unless CRD has reasonable cause to believe that the conciliation agreement has been breached.



# FAIR HOUSING ACT AND THE TEXAS FAIR HOUSING ACT

It is the policy of the United States to provide, within constitutional limitations, for fair housing through the United States.

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The purpose of the Texas Fair Housing Act is to:

- Provide for fair housing practices
- Create a procedure for investigation and settling complaints
- Provide rights and remedies substantially equivalent to federal law



# Fair Housing Scope

- Rent, Sell, Terms & Conditions
- Publication
- Inspection
- Brokerage Services
- Loans and Financial Assistance



# Unlawful Actions

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- Discrimination
- Interferences
- Retaliation





# PROTECTED CLASSES/BASES

Race

Color

National  
Origin

Familial  
Status

Religion

Sex

Disability





## FAIR HOUSING ISSUES PUBLIC

## REASONABLE ACCOMMODATIONS

A change, exception, or adjustment to a rule, policy, practice, and/or service

- Pet policy
  - Assigned Parking
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## REASONABLE MODIFICATIONS

A structural change to a dwelling unit or common area

- Accessible ramps
- Grab bars





## WHAT DO THE ACTS REQUIRE?

Housing providers to make reasonable accommodations and/or allow for modifications when such *may be necessary* to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

# Assistance Animals

The American with Disabilities Act (the “ADA”) covers service dogs in “areas of public of accommodation.” Areas of public accommodation are where business with the public is conducted.

The Fair Housing Act covers the sale or rental of housing and the accommodations you must make and modifications you must allow, such as allowing an emotional support animal.

Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities

Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the FHA.



# Assistance Animal Types

## Service Animal

This means any **dog** that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

## Emotional Support Animal

This means an animal that provides emotional support to a person with a disability. They are trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities

Typically, the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes





# Fair Housing Exemptions

- Own three or more properties or single-family houses at any one time
- Owner occupied
- Housing for the elderly
- Religious Organizations
- Private Clubs





# FAIR HOUSING ISSUES FOR LOCAL GOVERNMENTS



# Local Officials

Local governments and their public officials (including but not limited to county officials, council members, zoning commissioners, and city staff) must comply with fair housing laws when making decisions that have an impact on the development of affordable housing serving persons with disabilities or other protected classes.

Fair housing law covers decisions relating to funding, zoning, special-use permits, and other land use decisions.



# The FHA, Land Use & Zoning

## How does the Fair Housing Act apply to state and local land use and zoning?

The Supremacy Clause of the U.S. Constitution enables federal laws such as the FHA to take precedence over conflicting state and local laws.

### Applies to:

- Buildings intended for occupancy as residences
- Vacant land that may be developed into residences.



# Land use and zoning laws that may violate the FHA include:

**Prohibiting or restricting the development of housing based on a protected class.**

- **Example:** A moratorium on the development of multifamily housing due to fears that residents would include a particular class.

**Enforcing neutral laws or policies differently because of the residents' protected class.**

- **Example:** Enforcing neutral laws by citing only persons from a certain protected class and not citing others.



# FHA Violations Considerations

Imposing housing restrictions due to alleged public safety concerns based on stereotypes concerning membership in a protected class.

- **Example:** Requiring a proposed development to provide additional security measures due to concerns that members of a particular protected class are more likely to engage in criminal activity.





# FHA Violations Considerations

Imposing restrictions or additional conditions on group housing for persons with disabilities and not other groups (families or unrelated persons).

- **Example:** Requiring occupancy permits for persons with disabilities to live in a single-family home but not others.

Refusing to provide necessary reasonable accommodations to policies that prevent persons with disabilities from using and enjoying the housing.

- **Example:** Denying a request to modify a setback requirement so an accessible sidewalk or ramp can be provided for one or more persons with mobility disabilities.
- **Example:** Not waiving an ordinance that limits the number of unrelated persons in single-family homes as a reasonable accommodation.



Intentional Discrimination = Disparate Treatment

### **Why?**

Because the action treats a person or group of persons differently because of their membership in a protected class.

- Impact
- Historical Background
- Sequence of Events
- Departures from the “normal procedural sequence”
- Substantive Departures
- Legislative or Administrative History

# Intentional Discrimination

## Unintentional Discrimination

Land use or zoning practices result in a discriminatory effect if:

It caused or predictably will cause a disparate impact on a group of persons

It creates, increases, reinforces, or perpetuates segregated housing patterns because of a protected characteristic/class.

However, a state or local government still has the opportunity to show that the practice is necessary if:

1. It's necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests, **and**
2. Those interests must be supported by evidence  
(not a hypothetical or speculative situation)

The practice does not violate the Act if the interests could not be served by another practice with a less-discriminatory effect.

(HUD's Discriminatory Effects Rule, 24 C.F.R § 100.500)

## Examples of Unintentional Discrimination

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Creating or reinforcing a minimum floor space or lot size requirement that increases the size and cost of housing may constitute a violation. An increase potentially has the effect of excluding persons from a locality or neighborhood because of their membership in a protected class, without a legally sufficient justification.

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Prohibiting low-income or multifamily housing without a legally sufficient justification may also constitute a violation if it creates a discriminatory effect against a protected class.



# State of Texas Analysis of Impediments (AI) to Fair Housing Choice

**TWELVE:** The AI should incorporate TOP's Four Rights of Fair Housing. The Texas Organizing Project ("TOP") has identified Four Rights of Fair Housing. According to TOP's model, which Texas Housers endorses, every Texan should have:

- The right to choose where they live, in a decent and affordable home, regardless of their race, color, national origin, sex, religion, familial status, or whether they have a disability;
- The right to stay in their neighborhood and enjoy improving conditions without fear of being involuntarily displaced by gentrification;
- The right to equal treatment by their government and private institutions; and
- The right to have a say in government policies that impact them, their homes, and their neighborhoods.

The 2024 AI should adopt these Four Rights as guiding principles and use them as a standard to measure impediments and actions against. An AI that uses the Four Rights as benchmarks will be well on its way to meaningfully considering impediments to fair housing choice.



# Final Considerations

- Intent vs Impact
- [TDHCA State of Texas Analysis of Impediments \(AI\) to Fair Housing Choice](#)
- Rehabilitation Act, Section 504



## TRAINING & TECHNICAL ASSISTANCE

Contact the Texas Workforce Commission

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