



Community
Legal Services

Fair Housing

What You Need To Know



Community Legal Services (CLS)

is a nonprofit law firm that provides legal advice, assistance, and direct representation in civil matters, including Fair Housing, to low income Arizonians. CLS works with Fair Housing clients to investigate, verify and pursue discriminatory housing practices.

CLS also provides Fair Housing education and outreach to raise community awareness and prevent harmful discrimination. CLS educational trainings and presentations are available to community organizations, residents, real estate agents, property management professionals, and other public and private agencies. CLS provides information and referrals to other housing programs in the community.

What is Fair Housing?

Fair Housing is the right for individuals to obtain the housing of their choice, free from discrimination based on race, color, religion, sex, disability, familial status, or national origin. This right is assured by the **Federal Fair Housing Act of 1968** and the **Arizona Fair Housing Act of 1990** which make it unlawful to discriminate in the sale, rental, financing and insuring of housing.

What is Housing Discrimination?

The Fair Housing Laws give all individuals the right to live wherever they choose, and can afford. These laws prohibit discrimination based on **RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, DISABILITY, and FAMILIAL STATUS (“protected classes”)**. The laws prohibit landlords, property managers, sellers, lenders and insurance agents from discriminating against anyone because of membership in any one of these “protected classes” in the purchasing, rental, financing, appraising or insuring of housing. All types of dwellings are covered, including single family homes, apartments, condominiums, mobile homes, and other dwellings.

History of Fair Housing Legislation

Laws protecting civil rights were first introduced in the United States in 1866. However, housing discrimination remained a problem. In 1968, in an effort to eliminate housing discrimination, and to provide equal access to housing for all individuals, Congress passed Title VIII of the Civil Rights Act, also known as the Fair Housing Act. This law prohibited discrimination on the basis of race, color, religion, national origin and sex. In 1988, this law was amended to include disability and familial status.

The Purpose of the Arizona Fair Housing Act

The Arizona Fair Housing Act provides substantially the same protections as the federal Fair Housing Act. The Act identifies unlawful housing related practices and establishes a statutory procedure to resolve housing discrimination complaints at the local level in a timely, cost efficient and effective manner. It provides different procedures for the administrative complaint processing than the federal act provides, which are administered by the Arizona Civil Rights Division of the Arizona Attorney General's Office. It also allows for a Fair Housing complaint to be brought in Arizona state court.

Familial Status and Housing for Older Persons

The Familial Status provision of the Fair Housing Act protects anyone wishing to rent or lease a home who has or will have children under 18 years of age residing in the home with the parent or legal guardian. This provision also includes anyone who is pregnant. Exceptions to the Familial Status provision include Housing for Older Persons.

In order to qualify for the Housing for Older Persons exemption, housing must meet the following requirements:

1. Housing must be specifically designed and operated to assist elderly persons under a federal or state program;

OR

2. Housing must be intended for, and solely occupied by, persons 62 years of age or older;

OR

3. Housing must be intended for and operated for occupancy by persons 55 years of age or older. A minimum of 80% of all units must be occupied by one person over 55.

Housing for People with Disabilities

The Fair Housing Act guarantees four fundamental rights for persons with disabilities:

Freedom from Discrimination It is unlawful to discriminate in the sale or rental or to otherwise make unavailable or deny a dwelling to any buyer or renter because of disability. It is unlawful to discriminate against any person in the terms, conditions, privileges and provision of services related to the sale or rental of a dwelling because of disability.

The Right to Request Reasonable Modification

A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. The Act makes it unlawful for a housing provider to refuse to allow a reasonable modification to the premises when such modification may be necessary to afford persons with disabilities full enjoyment of the premises. The tenant is responsible for the cost of the modification. The tenant is obligated to restore those portions of the interior of the dwelling to their previous condition only where it is "reasonable to do so" and where the housing provider has requested the restoration.

The Right to Request Reasonable Accommodation

The Act makes it unlawful for any person to refuse "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford person (s) with disabilities equal opportunity to use and enjoy a dwelling."

The Right to Accessible Construction

The Fair Housing Amendments Act of 1988, requires that covered multifamily dwelling units built for first occupancy after March 13, 1991 include certain features of accessible design. Covered multifamily dwellings are buildings consisting of four or more dwelling units. This includes apartments, condominiums, single-story townhouses, vacation time-sharing properties, homeless shelters and other similar residential buildings. This means the covered multifamily dwellings must include: accessible entrance on an accessible route; accessible public and common-use areas; usable doors for wheelchairs; accessible routes into and through the dwelling unit; accessible light switches, electrical outlets, and environmental controls; reinforced walls in bathrooms; usable kitchens and bathrooms for wheelchairs.

How to Recognize Discrimination

In the sale and rental of housing, all of the following actions are discriminatory and illegal, if they are based on race, color, religion, national origin, sex, familial status or disability (“protected classes”).

- Refusing to rent, sell, negotiate or make housing unavailable because of membership in a protected class.
- Setting different terms, conditions, privileges or services in the sale or rental of a dwelling because of membership in a protected class.
- Falsely denying that a dwelling is not available for inspection, sale or rental because of membership in a protected class.
- Advertising or making verbal or written statements indicating a limitation or preference based on membership in a protect-ed class.
- Refusal to make reasonable accommodation in rules, policies, practices or services to allow a person with a disability an equal opportunity to use and enjoy the housing of their choice.
- Refusal to permit reasonable modification to a dwelling because of a disability.
- Unlawful discrimination in a residential real estate-related transaction because of membership in a protected class.

Filing a Fair Housing Complaint

A person who feels that he/she has been discriminated against in the rental, sale, financing, appraising, or insuring of a dwelling can file a complaint within one year after the alleged discrimination has occurred with the Arizona Civil Rights Division of the Attorney General's Office. The complaint must be based on the belief and proof that **race, color, sex, religion, national origin, familial status, or disability** was the reason for the alleged discrimination by the housing provider. Individuals may file complaints at any one of the following four places:

1. Filing a Complaint with Community Legal Services (CLS)

If a person chooses to file with CLS, a preliminary investigation will be conducted. This investigation may include gathering information from the landlord/owner, real estate professional, lender or insurer, as well as from the complainant.

If there is sufficient evidence to support a lawsuit, the complainant may be represented by CLS attorneys, or he or she may be referred directly to HUD, the State Attorney General's office, or a private attorney.

If there is no evidence of a Fair Housing violation, the complainant may be referred to other, more appropriate, agencies.

CLS provides its services without cost or expectation of future payment from the complainant.

To file a complaint or for further information contact:

Community Legal Services
305 S 2nd Avenue Phoenix, AZ 85003
(602) 258-3434

2. Filing a Complaint with HUD

An aggrieved person may also file a complaint directly with the Department of Housing and Urban Development (HUD) or a State or local agency. Upon the filing of such a complaint, HUD has the responsibility to serve notice of the complaint and conduct an investigation into the alleged discriminatory housing practice. A complaint filed with HUD can be telephoned directly to the HUD regional office in San Francisco, or to the local HUD field office in Tucson.

To file a complaint or for further information contact:

San Francisco Regional Office of FHEO
HUD - Fair Housing
600 Harrison Street, 3rd Floor
San Francisco, CA 94107-1387
1 (800) 347-3739

3. Filing a Complaint with the State of Arizona Attorney General

After a complaint is filed, the Attorney General conducts an investigation within 100 days. If the investigation reveals no unlawful practice, both parties are informed, and the case is closed.

If a violation of the Fair Housing laws is found, the Attorney General attempts to resolve the issue by conciliation. If conciliation is successful and the terms of the settlement are mutually agreed upon, the case is closed. If conciliation is unsuccessful or if the terms of the settlement are violated, legal action may be taken.

To file a complaint or for further information contact:

State of Arizona Attorney General's Office
Arizona Civil Rights Division
2005 N. Central Avenue Phoenix, AZ 85004
(602)542-5025
(602) 542-5002 (TDD)

Tucson Office
400 West Congress, Suite S-215
Tucson, AZ 85701
(520) 628-6500
(520) 628-6872 (TDD)

Fair Housing Definitions Under The Fair Housing Act 42 U.S.C. 3601

Complainant

The individual or group who initiates a Fair Housing complaint.

Different Terms & Conditions

To offer one person less favorable provisions in the sale, rental, financing or insuring of a dwelling because of membership in a protected class. For example, a security deposit of \$400 instead of the advertised security deposit of \$200 because children under the age of 18 years old will reside in the dwelling.

Disabled/Handicapped Person

The Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment ; and (3) individuals with a record of such an impairment. A "major life activity" means those activities that are of central importance to daily life such as walking, seeing, hearing, breathing, performing manual task, caring for one's self, learning, and speaking.

Unlawful Discrimination

An act that is unlawful under federal and state Fair Housing laws because it seeks to deny a dwelling unit to a person based upon membership in a protected class.

Dwelling

Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy, as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction of location thereon of any such building, structure, or portion thereof.

Familial Status

One or more individuals (who have not reached the age of 18 years) living with a parent or a legal guardian; or any person who is pregnant.

Housing for Older Persons

Housing for older persons is exempt from the prohibition against familial status discrimination if:

1. The HUD Secretary has determined that it is specifically designed and operated to assist elderly persons under a Federal, State or local government program;

OR

2. It is occupied solely by persons who are 62 or older;

OR

3. The housing provider demonstrates that at 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older and adheres to a policy that demonstrates an intent to house persons who are 55 or older.

Reasonable Accommodation

It is unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.

Reasonable Modification

A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. The Act provides that while the housing provider must permit the modification, the tenant is responsible for paying the cost of the modification.

Respondent

The individual or group who is accused in a complaint of an unFair Housing practice.

Resources

Federal

The U.S. Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity (FHEO) can provide information on the Federal Fair Housing Act.

U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity –Region IX

600 Harrison Street, 3rd Floor
San Francisco, California 94107-1387
Voice: (800) 347-3739 (415)489-6524
TTY: (415) 489-6564 Fax: (415) 489-6560
www.hud.gov
espanol.hud.gov

State

The Arizona Civil Rights Division of the State Attorney General's Office has the authority to assist people with Fair Housing complaints.

State of Arizona Attorney General's Office

Arizona Civil Rights Division
Phoenix Office
2005 N. Central Avenue
Phoenix, AZ 85004
(602) 542-5263

Tucson Office

400 West Congress, Suite S-215
Tucson, AZ 85701
(520) 628-6500

Southwest Fair Housing Council

323 West Roosevelt Street
Suite 100B
Phoenix, AZ 85003
Telephone: (602) 252-3423
Fax: (602)252-3431
TOLL FREE:1-888-624-4611
TTY: (520)670-0233

City of Phoenix

City of Phoenix Equal Opportunity Department

251 W. Washington Street, 7th Floor
Phoenix, AZ 85003
(602) 262-7468
(602) 534-1557(TTY)

Arizona Fair Housing Center

615 N.5th Avenue
Phoenix, AZ 85003
(602) 548-1599

The information contained in this document is informational only and is not intended to be legal advice. It is the responsibility of the reader to seek legal counsel regarding his or her specific situation.



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LSC

America's Partner
for Equal Justice

LEGAL SERVICES CORPORATION

Community Legal Services
305 S 2nd Avenue Phoenix, Arizona 85003
602-258-3434 • (800) 852-9075 • 602-254-9852(TTY)

clsaz.org