



FAIR HOUSING & REASONABLE ACCOMMODATIONS

KNOW YOUR RIGHTS

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The Fair Housing Act of 1968 and the Executive Order, New York State Human Rights Law were both intended to protect renters (and buyers) from landlord (and seller) discrimination.

Protected Characteristics under federal and state law, between the Fair Housing Act and NYS Human Rights Law include:

- Race
- Creed (*Except: A religious institution can, under certain circumstances, limit the sale or rental of housing to a member of the same religion to further its religious principles.*)
- Color
- National Origin
- Sex (*Except: Single-sex housing accommodations such as female- or male-only dormitories at a college are permitted.*)
- Age (*Except: Housing accommodations for seniors are permitted; housing discounts to people 65 years or older are permitted.*)
- Disability (*Except: Housing discounts to people with disabilities are permitted.*)
- Marital Status
- Military Status
- Family Status
- Sexual Orientation
- Gender Identity (sex and/or disability discrimination)
- Source of Income (DSS income, Section 8 vouchers, etc)

Prohibited Actions:

- Refusal to sell or rent a dwelling to any person because of protected characteristic
- Discrimination based on protected characteristic in the terms, conditions or privileges of sale or rental of dwelling
- Advertising the sale or rental of a dwelling indicating preference, limitation or discrimination based on protected characteristic
- Coercing, threatening, intimidating, or interfering with a person's enjoyment or exercise of housing rights based on protected characteristic
- Retaliating against a person or organization that aids or encourages the exercise or enjoyment of fair housing rights

Exceptions:

- Owner occupied housing
- Multifamily housing of two to four units where one unit is owner-occupied
- Same sex housing, senior housing, or housing for folks with disabilities can be limited to folks with those characteristics but cannot discriminate against other protected characteristics (IE – senior housing cannot discriminate based on creed, color, etc.)

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Where can Tenants go to Protect Their Rights?

If a tenant suspects they have been the victim of discrimination, there are a number of government agencies and private organizations that can help.

Tenants can file a discrimination complaint with different government agencies, seeking damages, the housing in question, and other appropriate relief such as a promise from the housing provider not to discriminate. Tenants can file a complaint on their own. They do not need a lawyer.

Albany Regional Office
Agency Building 1, 2nd Floor
Empire State Plaza
Albany, New York 12220
(518) 474-2705

OR

New York State Homes and Community Renewal
Fair Housing and Equal Opportunity Office
25 Beaver Street
New York, NY 10004
(866) 275-3427
www.nyshcr.org

Tenants who believe they have experienced housing discrimination who would like to file a complaint with the federal government can do so by contacting the Office of Fair Housing and Equal Opportunity (FHEO) and HUD's Office of General Counsel. The easiest way to do this is to fill out the online fillable form at **hud.gov**.

They can also call FHEO 1-800-669-9777 to speak with an intake specialist

Reasonable Accommodations

- Discrimination under the FHA includes "a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [a person with a disability] an equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B).
- So long as the requested accommodation does not constitute an undue financial or administrative burden for the landlord, or fundamentally alter the nature of the housing, the landlord must provide the accommodation.
- To qualify for a reasonable accommodation under FHA, the tenant must meet the definition of having a disability. The statutes recognize three broad categories of disabilities: (1) a physical or mental impairment that substantially limits one or more major life activities (such as walking, seeing, working, learning, washing, dressing, etc.); (2) a record of having such an impairment; or (3) being regarded as having such an impairment.
- The tenant should request an accommodation, in writing, from the landlord. The request should state that the tenant has a disability and explain how the requested accommodation will help enhance the tenant's ability to enjoy the home and lessen the effects of the disability. In addition, the request should include a note from a service provider, doctor, or therapist verifying the need for the support animal or accommodation (see sample letter from service provider on p. 6). Note that the tenant is not obligated to disclose the details of the disability, nor provide a detailed medical history.
- If the requested accommodation is unreasonable, the landlord may propose a substitute accommodation. In so doing, the landlord should give primary consideration to the accommodation requested by the tenant.
- In private housing, a housing provider may require that the tenant/resident pay for the cost of the modification and request that funds be set aside to restore the unit to its original condition before the modification (except for reasonable wear & tear).