

# **Fair Housing**

A guide for local elected officials in  
North Central Texas

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# **Introduction**

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This guide is designed to provide you, an elected official in North Central Texas, with suggestions for promoting fair housing in your community. Any community that receives federal funding, whether it is in the form of community development funds or highway and road use improvement funds, must “affirmatively further fair housing”, according to laws passed by Congress and executive orders issued by the President.

The guide provides practical information about what the law says, along with ways that you can build a stronger community by promoting home ownership and fair housing for all citizens. The guide is organized as follows:

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# **What does “fair housing” mean?**

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"Fair housing" refers to practices that comply with the federal Fair Housing Act, originally passed in 1968, and other laws and executive orders (listed below). The Fair Housing Act as amended prohibits discrimination in housing and related transactions on the basis of:

1. race,
2. color,
3. national origin,
4. sex,
5. religion,
6. disability (physical or mental) and
7. familial status (the presence or anticipated presence of children under 18 in a home).

The Act covers all kinds of housing-related transactions, including but not necessarily limited to:

- |                     |                          |
|---------------------|--------------------------|
| ➤ rentals,          | ➤ homeowner's insurance, |
| ➤ home sales,       | ➤ home improvement and   |
| ➤ mortgage lending, | ➤ zoning.                |

## **Other federal fair housing laws and Presidential Executive Orders include:**

Title VI of the Civil Rights Act of 1964

Section 504 of the Rehabilitation Act of 1973

Section 109 of Title I of the Housing and Community Development Act of 1974

Title II of the American with Disabilities Act of 1990

Architectural Barriers Act of 1968

Age Discrimination Act of 1975

Title IX of the Education Amendments Act of 1972

Executive Order 11063 – Non-Discrimination

Executive Order 12892 – Equal Opportunity in Housing

Executive Order 12898 – Environmental Justice

## **What housing is covered?**

Most housing is covered. In some circumstances, the Fair Housing Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker and housing operated by organizations and private clubs that limit occupancy to members.

## **This brochure breaks down fair housing into two categories:**

1. **Available housing** – housing that is made available to anyone through fair lending and sales practices, regardless of their race, color, national origin, sex, religion, disability status, or familial status; and
2. **Accessible housing** – the Fair Housing Act sets certain requirements for accessible design in new construction, to make sure that housing is accessible to persons with disabilities.

# **What is available housing?**

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The Fair Housing Act ensures that housing that is made available to anyone through fair lending and sales practices, regardless of their race, color, national origin, sex, religion, or familial status.

## **What does the Fair Housing Act protect against?**

The Fair Housing Act states a number of illegal practices, including:

➤ **Refusals to sell or rent.**

Refusing to negotiate for housing, making housing unavailable, and denying a dwelling are also illegal.

➤ **Discrimination in terms, conditions or privileges of sale.**

This type of discrimination is more subtle than outright refusal to rent or sell. For instance, an apartment manager might require a higher security deposit from families with children than those without, or demand an extraordinarily high application fee from minority applicants. Such different treatment is every bit as illegal as a more blatant outright refusal to rent or sell.

➤ **Advertising.**

It is illegal to advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap.

➤ **Denying availability.**

A real estate agent, apartment manager, etc. may not falsely claim a lack of available properties or units to prospective tenants based on their membership in a protected class.

➤ **Blockbusting and Steering.**

Blockbusting is an effort to induce panic in a neighborhood by telling white homeowners that other whites are leaving the area and that minorities are moving in, with the goal of getting white homeowners to sell their homes at unusually low prices.

Steering is a practice whereby a real estate agent shows white clients homes in predominantly white neighborhoods and minority clients homes in predominantly non-white neighborhoods.

➤ **Failure to make reasonable accommodation.**

If you or someone associated with you has a physical or mental disability (including hearing mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation) that substantially limits one or more major life activities, your landlord may not

- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary for the handicapped person to use the building.
- Refuse to make reasonable accommodations in rules, policies, practices, or services if necessary for the handicapped person to use the housing.

**Example:** A building with a “no pets” policy must allow a visually impaired tenant to keep a guide dog. *People with disabilities also have the right to keep emotional support animals (Fair Housing Amendments Act, 1988, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act).*

**Example:** An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility impaired tenant for a reserved space near her apartment if necessary to assure that she can have access to her apartment does not include current, illegal use of or addiction to a controlled substance.

➤ **Lending discrimination and 'redlining.'**

Discrimination in making loans for the purpose of real-estate transactions is illegal. 'Real-estate transactions' includes purchasing, constructing, improving, repairing or maintaining a dwelling. The following actions are illegal if the action is based on race, color, national origin, religion, sex, familial status, or handicap:

- Refusing to make a mortgage loan,
- Refusing to provide information regarding loans,
- Imposing different terms or conditions on a loan,
- Discrimination in appraising property,
- Setting different terms or conditions for purchasing a loan.

Redlining is a term derived from the practice of loan officers who would evaluate home mortgage applications by relying on a residential map where integrated and minority neighborhoods were marked off in red as poor risk areas. It is the practice of denying loan applications based on the neighborhood of the home in question.

➤ **Other prohibited practices**

While the abovementioned practices are specifically prohibited by the Fair Housing Act, it is important to note that the broad language of the act provides consumers with blanket implied protection against all other discriminatory practices.

An excellent example is insurance discrimination. While insurance discrimination is not specifically covered in the act, redlining by insurers is a significant barrier to equal opportunity in housing. Many lawsuits have been filed against insurance agencies based on the provisions of the Act.

**Signals of Discrimination:**

- “This neighborhood isn’t safe for women...”
- “What income do you have set aside from child support and alimony....”
- “I think there’s a synagogue a few miles from here. Maybe you should try that area....”

## **Is housing discrimination still a problem?**

Minorities trying to buy homes still face discrimination from mortgage lending institutions, according to a new report commissioned by HUD. *What We Know About Mortgage Lending Discrimination in America* finds that minorities are less likely than whites to obtain mortgage financing and, if successful in obtaining a mortgage, tend to receive less generous loan amounts and terms. The study provides a comprehensive review and reanalysis of the best available evidence on possible discrimination by mortgage lenders and assesses evidence of discrimination at each stage in the mortgage lending process. The report presents 3 major findings:

- Discrimination can begin at the early stages of the mortgage lending process, including pre-application inquiries by would-be borrowers. Overall, minorities received less information about loan products, less time and information from loan officers, and were quoted higher interest rates.
- At later stages of the process, racial disparities in loan denial rates cannot be “explained away” by differences in creditworthiness or by technical factors affecting the analyses of denial rates.
- Good intentions on the part of lenders are not enough. Examination of the mortgage loan origination process from an individual lender’s perspective suggests that even among institutions with good intentions, and where loan officers take pride in working with borrowers who need additional help on loan applications, minority customers may not be receiving equal treatment.

*What We Know About Mortgage Lending Discrimination in America* is available from HUD USER at <http://www.huduser.org/publications/fairhsg/lending.html> or 1-800-245-2691.

### **The following are illegal if false and therefore used to discriminate:**

- ⇒ “We’ve decided to take the house off the market temporarily....”
- ⇒ “The apartment already has a deposit on it....”
- ⇒ “Sorry, the house/apartment has already been taken....”
- ⇒ “I don’t make the decisions. Just fill out the rental application and we’ll let you know if you are accepted....”
- ⇒ “I’m sorry, we only rent to working people....”
- ⇒ “No pets allowed ... not even your seeing-eye dog....”
- ⇒ “I don’t want you living here because I heard you treat AIDS patients.”

# **What is accessible housing?**

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Accessible housing is designed to accommodate persons with disabilities. The Fair Housing Act sets certain requirements for accessible design in new construction, to make sure that housing is accessible to persons with disabilities.

## **What are the new construction requirements?**

The Fair Housing Act requires that **covered multifamily** dwellings built for first occupancy after March 13, 1991, include certain features of accessible design. Architects, builders, and other persons involved in the design and construction of housing must be aware of these requirements.

## **What are covered multifamily dwellings?**

Covered multifamily dwellings are buildings consisting of 4 or more dwelling units, if such buildings have one or more elevators, and ground floor dwelling units in other buildings consisting of 4 or more dwelling units. This includes apartments, condominiums, single-story townhouses, vacation time-sharing properties, homeless shelters and other similar residential buildings. Examples of buildings that are not covered include detached single-family houses, duplexes or triplexes, and multistory townhouses (without elevators).

## **Who must comply with the law?**

- Architects,
- Builders,
- Building contractors,
- Site engineers, and
- Any other person(s) involved in the design and construction of residential housing.

## **What are the accessibility requirements of the Fair Housing Act?**

Based on the Fair Housing Act, as amended, there are 7 technical requirements for covered buildings:

### **1. Accessible building entrance on an accessible route**

- Each covered multifamily dwelling must have at least one entrance on an accessible route. However, there are exceptions for unusual site characteristics or terrain.
- An accessible entrance must be located on a route that a person in a wheelchair can easily travel, leading to and from meaningful locations, e.g. parking, public transportation, other buildings in the complex, amenities such as laundry room, recreational facilities.

### **2. Accessible and usable public and common-use areas**

- Public and common-use areas must be accessible to people with disabilities. These areas include, but are not limited to, parking lots, building lobbies, lounges, elevators, storage areas, recreational facilities, mailboxes, rental or sales offices, and laundry rooms.

### **3. Usable doors**

- Doors must be wide enough to enable a person in a wheelchair to maneuver through them.
- Included are public and common-use doors, doors leading into an individual dwelling unit, and **all** doors within the dwelling unit itself. Note that many typical 6' sliding doors do not offer a wide enough opening.

### **4. Accessible routes into and through the covered unit**

- This requirement applies to all premises within a covered dwelling unit, including accessible routes that continue through the dwelling unit and onto decks, balconies, and patios.

### **5. Accessible light switches, electrical outlets, thermostats, and other environmental controls**

- Covered controls must be within the reach of people with disabilities. Examples of controls that are not covered include controls on range hoods, controls for garbage disposals, circuit breaker panels, special use wall outlets (such as those designed exclusively for refrigerators) and television and telephone jacks.

### **6. Reinforced walls in bathrooms for later installation of grab bars**

- Reinforced walls are only required where grab bars will be placed.

### **7. Usable kitchens and bathrooms**

- Kitchens and bathrooms must be designed so that an individual in a wheelchair can maneuver around them and use the fixtures and appliances.

## **What are the safe harbors for compliance?**

HUD has identified seven “safe harbors”, which provide detailed access standards. Following any one of the seven safe harbors fulfills compliance with the access requirements of the Fair Housing Act. The safe harbors are as follows:

1. *The Fair Housing Act Accessibility Guidelines* (March 6, 1991) and the *Supplemental Notice to Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines* (June 28, 1994).
2. *ANSI A117.1* (1986), used with the Fair Housing Act, HUD’s Fair Housing Act regulations, and the *Fair Housing Act Accessibility Guidelines*.
3. *CABO/ANSI A117.1* (1992), used with the Fair Housing Act, HUD’s Fair Housing Act regulations, and the *Fair Housing Act Accessibility Guidelines*.
4. *ICC/ANSI A117.1* (1998), used with the Fair Housing Act, HUD’s Fair Housing Act regulations, and the *Fair Housing Act Accessibility Guidelines*.
5. *The Fair Housing Act Design Manual* (1998).
6. *Code Requirements for Housing Accessibility 2000*, published by the International Code Council.
7. The 2000 edition of the *International Building Code*, including the *2001 Supplement to the International Codes*, published by the International Code Council.

Compliance is not limited to these seven safe harbors. Other means may be used as long as an equal or greater degree of accessibility is provided.

# **What can my community do to support Fair Housing?**

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Your community can promote fair housing through 5 steps:

1. Assess the status of fair housing in your community. Conduct a community-wide housing analysis to determine impediments to fair housing. Meet with area realtors, neighborhood advocacy groups, planning and zoning commissions, and renters/buyers and brainstorm ways to eliminate these impediments.
2. Implement a fair housing ordinance and other measures. Based on your assessment, take action to eliminate impediments to fair housing. Every community should, at a minimum, pass a fair housing ordinance which contains a penalty clause. A sample fair housing ordinance is included in the appendix. If your community has passed a fair housing ordinance before 1988, please review the ordinance to ensure that all of the federally protected classes have been included in the ordinance.
3. Educate the community. Publicize the existence of the fair housing ordinance with a newspaper advertisement or fliers enclosed in utility bills. Educate the leasing and lending communities about fair housing requirements. Provide information to the public about whom to contact with a fair housing complaint.

Consider conducting a workshop related to housing opportunities. Discuss available funding for housing, community development, and social services. Include the topic of civil rights and fair housing laws and provide copies of brochures, posters, and related information.

Other educational possibilities include asking local businesses to display fair housing posters and sponsoring a Fair Housing essay writing contest at local schools.

4. Enforce the ordinance. Appoint a Fair Housing officer to investigate discrimination complaints, conduct education and training, and enforce city ordinances.
5. Encourage brokers to sign the Fair Lending “Best Practices” Agreement. Encourage mortgage brokers in your community to sign the Fair Lending “Best Practices” Agreement promoted by HUD and the Mortgage Bankers Association of America.

These voluntary Agreements offer an opportunity for lenders to incorporate fair housing and equal opportunity principles into their mortgage lending standards, as well as increase low income and minority lending. The companies and associations that have signed Agreements not only commit to meet their responsibilities under the Fair Housing Act, but also are making a serious effort to exceed those requirements. The signatories have generally assented to:

- Maintain a strong policy providing for adherence to fair lending practices,
- Administer a review process for loan applications so that applicants will be given every opportunity to qualify for a mortgage,
- Make loans of any size so that all borrowers may be served,
- Provide information on all loan programs for which an applicant qualifies.

Fair Lending “Best Practices” initiatives achieve results. As lenders find new and untapped markets, their minority and low-income loan applications and originations have increased. Consequently, low income and minority homeownership is increasing in many areas across the country. Former HUD Secretary Henry Cisneros stated, “Proactive, voluntary agreements like this one draw on the creativity of the private sector. They engage its commitment and they cast a wide net of real and immediate opportunity.”

For more information about the Fair Lending “Best Practices” Agreement, visit the HUD web site at <http://www.hud.gov/offices/fheo/>

## Where can I find more information?

For more information on what your community can do to promote fair housing, please contact the Office of Fair Housing and Equal Opportunity (US. Department of Housing and Urban Development) in Fort Worth at 1-800-669-9777. Rural communities may also contact Julie Hartley at the Office of Rural Community Affairs in Austin at 512-936-7883.

Below is a listing of websites that provide general information on fair housing. For an updated list, please visit <http://www.nctcog.org/envir/SEEDevEx/tcdp/index.asp>.

- Office of Fair Housing and Equal Opportunity (US Department of Housing and Urban Development): <http://www.hud.gov/offices/fheo/>
- The John Marshall Law School Fair Housing Legal Support Center: <http://fairhousing.jmls.edu/Resources.html>
- National Fair Housing Advocate Online: <http://www.fairhousing.com/>
- Fair Housing Accessibility FIRST: <http://www.fairhousingfirst.org/>
- National Fair Housing Alliance: <http://www.nationalfairhousing.org/>
- National Fair Housing Public Service Announcement Campaign: <http://www.fairhousinglaw.org>



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