

Fair Housing in Federally Funded and LIHTC Rental Projects

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AGENDA

What is Affordable Housing

- Identifying residents and owners

What are the rights and responsibilities of individuals in fair housing

- Identifying tenant, owner and Housing Finance Agency roles and responsibilities

What is Fair Housing

- Identifying 7 protected Classes
- Identifying disparate impact and disparate treatment

AGENDA CONTINUED

Identifying Housing Discrimination Impacts

- Socioeconomic impacts
- Disinvestment
- Lack of educational opportunities
- Lack of health care
- Lack of adequate food resources
- Lack of viable employment opportunities

IHCDA's Partnership with ICRC for Fair Housing Testing

- Testing, Findings, Mandatory Training

Addressing Fair Housing Complaints

- How to handle complaints, investigations and findings of fair housing violations

What is Affordable Housing

Low Income Housing Tax Credit

- Under IRS code, developers agree to build affordable units in exchange for a reduction of their federal tax liability
- In exchange for credits, developers and owners agree to keep program units rent and income restricted and to keep property safe, decent and sanitary for the entirety of the compliance period

Federally Funded Programs

- Funding from US Department of Housing and Urban Development (HUD)
- Allocated from HUD to IHCDA
- IHCDA allocates funds to cities and towns throughout Indiana that are not large enough to receive their own funds from HUD
- In exchange for funding, owners agree to keep units rent and income restricted and to keep the property safe, decent and sanitary for the duration of the compliance period- POA

Who lives in Affordable Housing?



Tenants

- Individuals who belong to any of the seven protected classes under the Fair Housing Act-
 - Families
 - Former Youth in Foster Care
 - Elderly
 - Individuals with disabilities
 - Individuals who have been chronically homeless, and their families
 - Formerly Homeless Veterans
 - Formerly incarcerated who meet criminal screening criteria
 - Family Unification Program Participants
 - Individuals at risk of homelessness



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Who owns Affordable Housing Properties?

Landlords

Person or entity who owns real estate property that is for rent or lease to a tenant

- Private individuals
- Investors
- Corporations
- Public Housing Agency
- Not for Profit Organizations
- Local Units of Government
- For Profit Organizations
- Limited Partnerships
- LLC
- Property management organizations



Tenant Rights Under IHCDA's Affordable Housing Programs

- Right to live in community of their choice
- Right to Rent restricted to published rates
- In some cases, not to lose eligibility if income increases after initial eligibility
- Section 8 Housing Choice Vouchers must be accepted
- Cannot be discriminated against based on the seven protected classes- race, color, national origin, familial status, disability, religion, or sex
- Right to reasonable accommodations and/or reasonable modifications in accordance with the Fair Housing Act.
- Right to good cause evictions/Non-Lease renewals
 - Prohibits eviction/non-renewal of lease without good cause
- VAWA Protections
- Right to – safe, habitable and affordable housing
- Free from retaliation for reporting non-compliance, fair housing violations and/or VAWA violations

Tenant Responsibilities

- Completely and accurately report information related to household size, income, assets, and student eligibility status
- Pay tenant rent timely
- Pay tenant utilities timely
- Comply with lease terms
- Comply with property rules
- Recert annually



Owner Responsibilities

- Ensure units are leases to eligible households in non-discriminatory manner
- Charging no more than the maximum allowable gross rent (rent + tenant paid utilities + non-optional fees)
- Maintaining property in habitable condition
- Ensure record retention
- Attend IHCDA Compliance trainings
- Be knowledgeable about funded program requirements
- Complete an Annual Owner certification
- Participate in audits
- Respond to IHCDA inquiries, audits, findings, and remediate any concerns timely
- Train staff
 - *At least annually, all employees should attend fair housing training.
- Reporting changes timely
- Review reasonable accommodations and reasonable modifications
- Develop and Distribute Affirmative Fair Housing Marketing Plan
- Develop tenant selection plan
- Develop any additional application requirements i.e. credit checks, criminal background requirements.
- Enforce lease



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IHCDA's Oversight of Affordable Housing

- Conduct Compliance Audits
- Conduct Physical Unit Inspections
- Annually review owner required compliance certifications
- Partner with ICRC to conduct Fair Housing Testing
- Partner with Fair Housing Center of Central Indiana to offer Free Virtual Fair Housing Training
- Contract with leaders in Compliance to provide free in person and virtual trainings to property owners, managers and their staff
- Receive and remediate tenant complaints
- Provide referrals and resources
- Provide technical assistance to owners/owner agents to ensure compliance
- Report fair housing violations to appropriate entities

IHCDA's partnership with ICRC Fair Housing Testing



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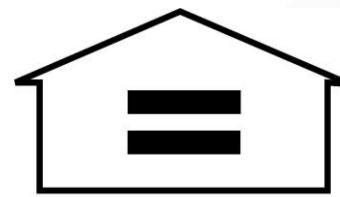
FAIR HOUSING ACT

1968- enacted

1988- Congress passed the Fair Housing Amendments Act which expanded housing protections to include individuals with disabilities and familial status (pregnant women or presence of children age 18 or younger)

7 Protected Classes

- Race
- Color
- Religion
- National Origin
- Disability
- Sex and Sexual Orientation/Identity
- Familial Status



Equal Housing
Opportunity

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FAIR HOUSING



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What is housing discrimination?

Fight Discrimination- Support Fair Housing Testing

- Housing discrimination occurs when individuals and families are treated unequally/unfairly based on characteristics from one of the 7 protected classes:
 - Race,
 - Color
 - National Origin
 - Religion
 - Sex including Sexual Orientation
 - Familia Status
 - Disability
- Discrimination can be overt, such as outright refusal to rent based on a person's identified class or can be subtle such as steering/customer treatment.

42 US CODE § 3604(F)

- (f)(1) Discrimination ion sale or rental or otherwise make unavailable or deny
- (f)(2) Discrimination terms, conditions, or privileges of sale or rental of dwellings
- (f)(3) Discrimination includes
 - (A) Reasonable Accommodations
 - (B) Reasonable Modifications
 - (C) Design and Construction

DISPARATE IMPACT

Disparate Impact:

Refers to a legal doctrine where a seemingly neutral policy or practice disproportionately harms a protected class



Examples

- Criminal Background Checks: landlords rejecting tenant based criminal background history, particularly without considering the nature of the offense or the time elapsed.
- Employment Requirements: requiring full time employment as a condition for housing

DISPARATE TREATMENT

Disparate Treatment:
Involves intentional discrimination
towards a protected class



Examples

- Charging higher application fees to persons of a specific ethnic group
- Denying reasonable accommodations
- Refusing to rent to individuals based on their sex/sexual orientation
- Policies in place that prohibit same sex couples from residing in the same unit.



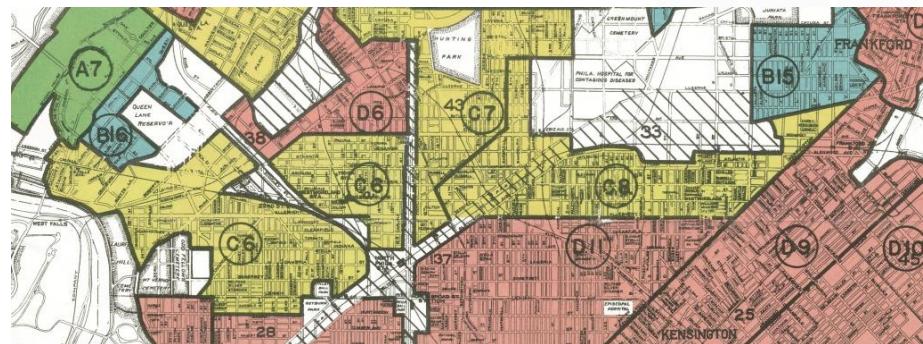
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IS IT IMPACT OR TREATMENT

- Requiring all applicants to be employed
- Blanket denials on basis of criminal history
- Municipalities zoning to restrict affordable housing in certain areas
- Blanket statement No Animals Allowed
- Having Minimum Income requirements
- Charging additional fees to individuals of specific national origins
- Denying applicants to rent on second or third floors due to having small children
- Evicting a resident for calling the police too often
- Blanket denials on apartment modification requests

IMPACTS OF HOUSING DISCRIMINATION

- Keeps communities segregated
- Impacts access to resources such as employment, transportation, infrastructure, education and health care
- Perpetuates cycle of economic disparities and limits social mobility
- Contributes to generational wealth gap
- Not a choice rather, a product of institutional racism



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EFFORTS TO AVOID FAIR HOUSING VIOLATIONS

Using a control group and a test group, IHCDA in partnership with ICRC randomly sample partners within the IHCDA affordable housing portfolio on an annual basis to determine if a real applicant, would the provider violate fair housing.

- Analyze data from tests
- Determine which of the protected class groups are being tested or if all are being tested.
- ICRC works with testers to develop scripts so that both the control and test group are presenting exactly the same with the exception of one being an identified member of a protected class.
- ICRC and IHCDA are always looking to revise tests, enhance testing areas, and ensure that we provide enough education to help partners be Fair Housing Superstars.



2023-2024 IHEDA'S FAIR HOUSING TESTING FINDINGS

113 Properties Tested in 2024

57 tests= Disability

- 13 favored the control group
- 6 Favored protected class
- 2= No significant differences
- 29=No significant difference
- 8 had significant differences
 - 2 significant diff favored control
 - 6 significant diff. favored protected class



56 tests= Race

- 13 favored control group
- 8 favored protected class
- 3 inconclusive
- 25 no significant differences
- 7 showed significant difference
 - 5 significant diff favored control group
 - 2 significant diff favored protected class

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2025 PROPOSED TESTING

- Test providers on all 7 protected classes.
- Testers will be visiting in person to apply for units vs. past attempts at phone calls first
- Incorporating VAWA into fair housing
- Adding areas specific to reasonable modifications/accommodations
- Developing better method of tracking partner compliance with mandated fair housing training needs identified
- Providing more referrals to ICRC for potential fair housing violations
- Continuing partnership with Fair Housing Center of Central Indiana to continue to offer free fair housing trainings on line to all partners.

Addressing Complaints/ Potential Violations

Mandated Training

IHCDA and/or ICRC may mandate owner's and their staff to participate in fair housing trainings

Referrals to Indiana Civil Rights Commission <https://www.in.gov/icrc/file-a-discrimination-complaint/housing>

If IHCDA compliance staff discover potential violations, they will work with ICRC to provide details and refer the case for further investigation

Referrals to HUD's Office Fair Housing and Equal Opportunity

<https://www.hud.gov/fairhousing/fileacomplaint>

Referral to Indiana Legal Services <https://www.indianalegalservices.org/>

Questions

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<https://www.in.gov/ihcda/developers/red-compliance/>



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