

Hanover Miscellaneous Professional Advantage

Who is a “Protected Class” for Housing Discrimination? It Depends . . .

Discrimination is illegal – but who exactly can bring a claim of discrimination, i.e., who is “protected”? When it comes to rental real estate, the definition varies from state to state. Depending on the locale, the definition may also require understanding of county and/or city definitions. Property managers should never assume that the rules are static, especially if they manage multiple properties in multiple locations.

Federal versus State

The traditional categories of protected classes can be found in the federal Fair Housing Act: race, color, national origin, religion, sex, familial status, and disability. However, individual state legislatures often increase statutory protections as a matter of law for classes of individuals not enumerated under the Fair Housing Act. For example, look at the comparison between federal law and the States of Washington and Idaho:

<i>Federal</i>	<i>Washington</i>	<i>Idaho</i>
Race	Race	Race
Color	Color	Color
National Origin	National Origin	National Origin
Religion	Religion	Religion
Sex	Sex	Sex
Familial Status	Familial Status	Familial Status
Disability	Disability (see below)	Disability
		Age (40 and over)
	Pregnancy	
	Sexual Orientation	
	Gender Identity	
	Veteran/military Status	
	Use of a service animal	
	HIV or Hepatitis C	
	Marital Status	
	Sensory, mental or physical actual or perceived disability	
	State employee whistleblower	

State versus County versus Municipality?

County and local ordinances may even go further. Staying in Washington state, King County adds:

- Ancestry
- Age
- Participation in Section 8 or other subsidy programs
- Alternative source of income

The City of Seattle (located in King County) adds:

- Political ideology
- Criminal history

Other considerations?

On top of this, each state, county or city may have its own separate complaint process and regulatory agency authorized to hear and investigate a housing discrimination or retaliation claim (in addition to the housing discrimination complaint process administered by the Department of Housing and Urban Development).

Conclusion

To avoid an allegation of housing discrimination, a key step for any property manager and their staff is to fully comprehend exactly who falls within a protected class in the specific location where your rental property is located. This typically requires the research and review of local laws. As a public service, many states enlist the assistance of non-profit organizations dedicated to tenant rights. These organizations offer advisory services and training for landlords who wish to become knowledgeable on fair housing issues, including understanding protected classes. Property managers should consider these resources (often available online on a state's ".gov" website) when looking to make sure they are compliant with local requirements.

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