FAIR HOUSING LAWS AND FAIR HOUSING FAMILIAL STATUS PROTECTIONS CENTER

FACT SHEET # 3

Published by High Plains Fair Housing Center

Federal and North Dakota fair housing laws forbid discrimination on the basis of familial status. This is to ensure that two- and single-parent households with individuals under the age of eighteen are treated equally with other home seekers and residents. Unfortunately familial status remains one of the most common forms of housing discrimination.

Though the Fair Housing Act was amended more than twenty years ago to add in protection for families with children, many people remain unaware that it is unlawful to discriminate solely due to having children in the household. This fact sheet will help you understand the rights of home seekers with children and teenagers in North Dakota as well as the responsibilities of housing providers.

What is familial status? Familial status is defined as having an individual or individuals under the age of eighteen living with their parent(s) or legal guardian(s). This includes adopted children, foster children, and stepchildren, as well as any person who is pregnant or in the process of obtaining custody or guardianship of a child under eighteen.

What actions are classified as familial status discrimination? It is unlawful to deny or limit housing to a family because they have children under the age of eighteen. Examples of this include:

- Refusing to rent to a family with individuals under eighteen.
- Making claims that a property is unavailable after learning a prospective tenant has children.
- Advertising that states or implies that children or teenagers are unwelcome or unwanted in a housing community.
- Requiring that households with children comply with terms and conditions different from those of adult residents.
- Evicting a tenant following the birth or adoption of a child.
- Restricting families' housing options by only permitting them to rent properties in a certain building or on a certain floor (also called “steering”).

Enacting rules that disproportionately or unfairly affect children or households with children is also a violation of fair housing laws. Examples of this include:

- Not allowing individuals under eighteen to use neighborhood facilities such as pools or clubhouses that adults are permitted to use.
- Reserving a period of time where only adults can access neighborhood amenities.
- Having a curfew or “quiet hours” that only apply to children and teenagers.
- Enforcing an occupancy limit more restrictive than the U.S. Department of Housing and Urban Development standard of two people per bedroom.
- Forbidding children of different genders from sharing a bedroom.
- Requiring households with children or teenagers to pay higher rent or security deposits than residents without children.

“Per head” surcharges for tenants are unlawful unless a landlord or manager can prove how s/he came to this amount, for example through increased utility prices as measured by a meter. Occupancy fees have been shown to disproportionately impact families with children and therefore must be based on legitimate increased business expenses to not be considered a form of discrimination.

Similarly, any situation in which these rules or regulations

are applied to a single-parent household and not to a two-parent household, or to a specific age range, for example teenagers, is potentially a violation of fair housing laws based on familial status.

What about restrictions based on safety, for example limiting families with children to first- floor apartments? Rules and regulations for a community must apply to all residents equally. It is the parents' or guardians' decision to determine what property is most appropriate for their family and they have the right to consider all units on a property regardless of their familial status. To only present concerns about a certain unit or a certain location to prospective tenants who have children is discriminatory. Families with children are required to abide by the property's rules and policies as long as these rules and policies are applied to everyone and not just the families with children.

Is familial status discrimination unlawful only in rentals? Discrimination on the basis of familial status is unlawful in all real estate transactions, including leasing, purchases, lending, insurance, zoning, and advertising. It is also a violation of the fair housing laws for neighbors or other members of the community to harass or otherwise imply that residents are unwelcome because of their familial status or for a lender to require loan requirements just because a woman may be pregnant.

What are the rules on advertising? It is illegal to state or imply in housing advertisements that individuals under eighteen are not welcome to a property. Advertising for "mature" or "professional" residents or otherwise deterring prospective tenants with children from applying is also unlawful. This is true of all forms of advertising, including print, online, and verbal advertisements.

It is permissible to advertise that a community is "family friendly" because this does not infringe on any other protected class's opportunity to apply for housing. However, language which states "adult preferred," "no kids," "$550 for 3, $650 for 4," "Ideal for single professional" or other such terms could be found to be a violation of fair housing laws.

Are there circumstances where a household with children can be denied housing in favor of a single adult without violating the fair housing laws? A landlord has the right to deny housing to any prospective tenant on objective criteria that apply to all applicants. Examples include credit reports and tenant history, which do not have a disparate effect on families. However, if the sole reason someone is being denied is due to the presence of children, that would likely be a violation of fair housing laws.

Are there exceptions? The only housing that is exempt from the familial status protection of fair housing laws is qualified senior housing as established in the Housing for Older Persons Act of 1995 and allowed as an exempt form of housing under fair housing laws. It is very important for housing established for older persons to advertise it as such and meet any other regulatory requirements in order to deny families with children. If it does not, it may not be considered exempt from familial status protections.

What should I do if I believe I'm a victim of familial status discrimination? Housing discrimination is unlawful and you have the right to file a complaint. Please contact the HPFHC with any questions or to receive counseling about your rights or options.

The mission of the High Plains Fair Housing Center is to strengthen communities and to ensure equal access to fair housing in the region through training, education, enforcement and advocacy. For more information please contact: Phone: 701-203-1077 Toll Free: 1-866-380-2738;
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EQUAL HOUSING OPPORTUNITY