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# THE FAIR HOUSING ACT APPLIES TO:

## CONDOMINIUMS, COOPERATIVES AND HOMEOWNERS' ASSOCIATIONS

The Fair Housing Act prohibits discrimination in housing-related transactions because of race, color, religion, national origin, sex, disability, familial status, military status,\* gender identity,\*\* source of income,\*\* immigration status,\*\* and sexual orientation.\*\*

\*State protection \*\*Local protection (City of Toledo)

The Fair Housing Act applies to various housing transactions, including rentals, sales, home mortgages, appraisals, and homeowners insurance. Landlords, real estate agents, lenders, insurance companies, condominiums, cooperatives, and homeowners' associations must not discriminate because of one's membership in a protected class.

An association may have the right to approve or reject new residents and establish association policies and procedures, but it may not discriminate because of a protected characteristic while doing so.



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# Condominium & Homeowners' ASSOCIATIONS

Prepared by Northwest Ohio Realtors® and The Fair Housing Center (Toledo, OH)



# FITTING IN FAIR HOUSING

The Fair Housing Center recognizes that many members of condominium and homeowners' associations, particularly those who volunteer their time to serve on the governing boards of the association, often have little or no experience with fair housing.

While some associations hire professional management companies, other associations may rely on residents to govern the association and its bylaws. Although these residents may have little experience with or access to fair housing resources, their position within the condominium association may subject them to the same level of responsibility under fair housing laws as a professional management company, trained real estate agent, or landlord. For those reasons, The Fair Housing Center wishes to promote equal housing opportunity by helping condominium and homeowners' associations and their boards understand their rights and responsibilities under fair housing laws.



## COMMONLY ASKED QUESTIONS & ANSWERS

### ***How do fair housing laws apply to condominium and homeowners' associations?***

Condominium and homeowners' associations, their bylaws, officers, and management companies are subject to fair housing laws. A condominium association cannot take race, color, religion, sex, disability, national origin, familial status, military status, sexual orientation, gender identity, immigration status, or source of income into account when exercising the right of first refusal or considering an individual for residency. This includes making assumptions based on a person's name or address. Familial status should also never be taken into account, except as allowable within an association that has been legally established under federal guidelines for "housing for older persons" (such as 55+ or 62+ communities) which are exempt from familial status provisions of fair housing law.

### **AVOID FAIR HOUSING VIOLATIONS**

Associations are responsible for the statements and actions of those who work on their behalf, such as board members, property managers, maintenance staff, and real estate agents. Ensure that all staff are knowledgeable about their fair housing responsibilities.

### ***What is a reasonable accommodation?***

Housing providers must permit reasonable accommodations requested by residents. A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling. For example, reasonable accommodations include allowing an assistance animal even if you have a "no pets" policy. Another common example is creating a reserved accessible parking space for a specific resident.

### ***May the association ask for details or proof that a person is disabled?***

The association may ask for verification of a person's disability if it is not apparent or otherwise known to the association and may verify that a request is related to that disability. If requested, the individual may provide a written statement from a licensed medical or social service professional or other third party stating that the applicant/resident qualifies as an individual with a disability and verifying their need for the accommodation or modification. The association may not ask the person with a disability or the certifying professional about the nature or severity of the individual's disability.

### ***What is the definition of a disability?***

A disability is a physical or mental impairment that substantially limits one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. It also includes having a record of such an impairment or regarding someone as having such an impairment when they do not.

### ***Are all requests considered reasonable?***

A request for a reasonable accommodation or modification may be denied if providing the accommodation would impose an undue financial and administrative burden on the association or would fundamentally alter the nature of the association's operations, determined on a case-by-case basis.

When an association refuses a requested accommodation or modification because it is not reasonable, they should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs.

### ***Housing for older persons - a special exception to the normal rules regarding familial status discrimination.***

The Fair Housing Amendments Act offers a special exception to the normal rules on discrimination based on familial status. This exception is known as "Housing for Older Persons." Some HOAs and condo associations specifically intended for older persons may exclude younger persons and children, but the HOA or condo association must follow certain rules to invoke this exception.

The exception provides for two sets of rules, depending on the age restrictions the housing provider invokes--ages 62 and over, or ages 55 and over. These rules can be technical. HOAs and condo associations should consult with an attorney to ensure that they are in compliance with the requirements.

***Questions? Contact the Fair Housing Center!***

 **419.243.6163**

## BEST PRACTICES FOR ASSOCIATIONS & PROPERTY MANAGERS

- Treat all applicants and residents alike regardless of race, color, religion, national origin, sex, disability, familial status, military status,\* gender identity,\*\* source of income,\*\* immigration status,\*\* and sexual orientation.\*\*
- Put eligibility criteria in writing and apply them in the same manner to all applicants.
- Establish the same terms and conditions for all applicants.
- Provide information about and/or show all applicants all available units for sale.
- Never discourage applicants from applying or suggest they would be happier living elsewhere.
- Do not refuse to allow families with children unless the community qualifies for the "Housing for Older Persons" exemption under the Fair Housing Act.
- Establish a written procedure for responding to requests for reasonable accommodations and modifications from or on behalf of residents with disabilities.
- Review all promotional materials and advertisements to ensure that there is no suggestion of a preference, limitation, or discrimination based on protected class.
- Regularly review the bylaws and any other rules, policies, or procedures to ensure compliance with all applicable fair housing laws. Amend bylaws as necessary and record amendments with the County Register of Deeds. The bylaws, policies, and procedures should be applied equally to all persons regardless of protected class and all persons should consistently receive the same quality of treatment.
- Any exercise of the right of first refusal or review of a prospective occupant or resident should not request, document, or take into account any protected class, including making assumptions based on a person's name.
- Any definition of family or restriction on single family use should be consistent with fair housing law, specifically with the Fair Housing Act's definition of familial status.