



FAIR HOUSING 101

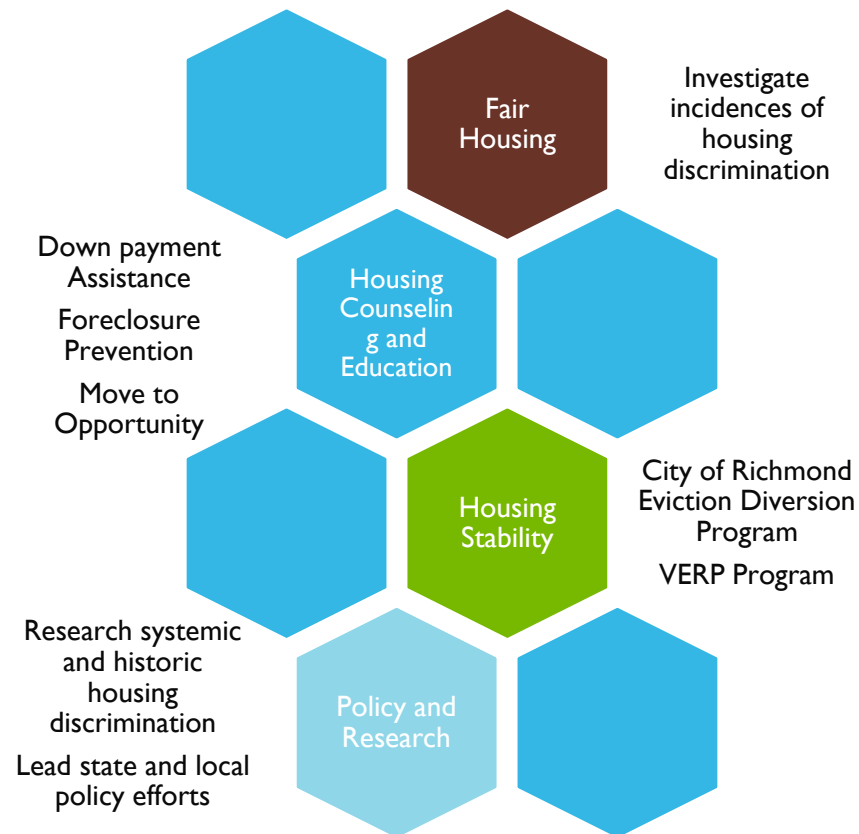
LOUDOUN COUNTY /HOUSING

APRIL 28, 2022

PRESENTER: REGINA CHANEY

HOUSING OPPORTUNITIES MADE EQUAL (HOME) OF VIRGINIA

Mission: Ensure equal access to housing for all people



- Enforcing the Fair Housing Act of 1968
- Expanding housing choice and opportunity
- Combatting housing discrimination based on Federal and State protected classes
- Understanding the connections between where we live and the impact it has on accessing opportunity

THE FAIR HOUSING ACT



- To eliminate housing discrimination.
- To promote residential integration.
- It shall be unlawful to restrict or attempt to restrict the choices of a person by word or conduct in connection with buying or renting a dwelling so as to perpetuate segregated housing patterns or to discourage or obstruct choices in a community, neighborhood or development.



WHY IS
FAIR
HOUSING
IMPORTANT??

FAIR HOUSING TRENDS DATA

- **VIRGINIA FAIR HOUSING OFFICE (2021)**

- **Fair housing complaints: 400**

- Disability – 120 (30%)
- Race – 118 (30%)
- Sex/gender – 33 (8%)
- Familial Status – 32 (8%)
- Source of funds – 27 (7%)
- National Origin – 20 (5%)
- Elderliness -18 (5%)

- **NATIONAL FAIR HOUSING ALLIANCE DATA (2020)**

- **Fair housing complaints: 28,712**

- Disability – 15,664 (55%)
- Race – 4,821 (17%)
- Familial status -2,276 (8%)
- Sex/gender - 2,094 (7%)
- National Origin – 1,636 (6%)
- Color – 811 (3%)
- Religion – 333 (1%)

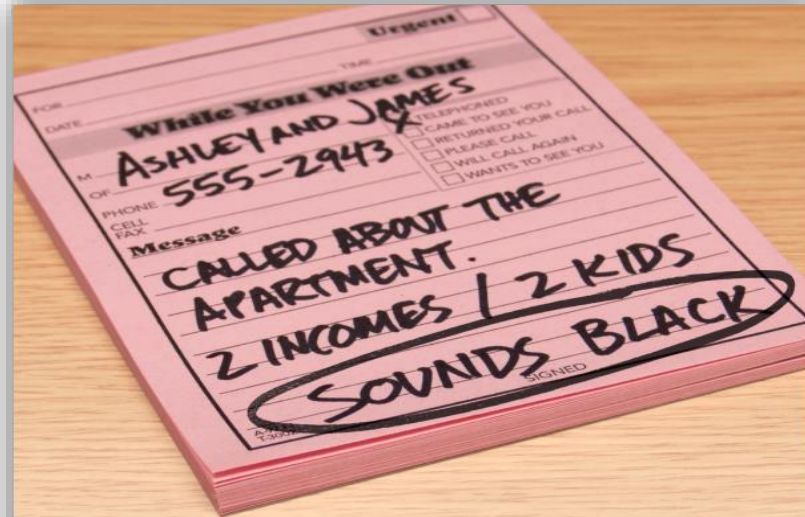
WHAT IS FAIR HOUSING

Fair housing is the right to the housing of one's choice without unlawful discrimination.

- **Fair housing laws** (*federal, state and & local*) protect all individuals who seek to secure housing or to maintain housing, to include renters, homebuyers, persons seeking to obtain a mortgage or homeowners insurance, and more.
- **The Fair Housing Act** prohibits discrimination in housing based on and because of a person's membership in a **PROTECTED CLASS**.

RACE – ALL RACES ARE PROTECTED

COLOR – BASED ON SKIN TONE



SOUNDS LIKE DISCRIMINATION.

What matters is how you look on paper – not how you sound over the phone. Judging you by your race or color instead of your qualifications is discrimination. It's unfair, it's painful... and it's against the law. The best way to stop housing discrimination is to report it.

If you believe you may be a victim of housing discrimination,
contact HUD or your local Fair Housing Center:

Visit www.hud.gov/fairhousing or call the HUD Hotline
1-800-669-9777 (voice) 1-800-927-9275 (TTY)

Your Choice. Your Right. Your Home.



A public service message from the U.S. Department of Housing and Urban Development in partnership with the National Fair Housing Alliance. The federal Fair Housing Act prohibits discrimination because of race, color, religion, national origin, sex, familial status or disability. For more information, visit www.hud.gov/fairhousing.

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NATIONAL ORIGIN- ORIGIN/ANCESTRY



Choosing where you live is a right.
Housing discrimination is wrong.

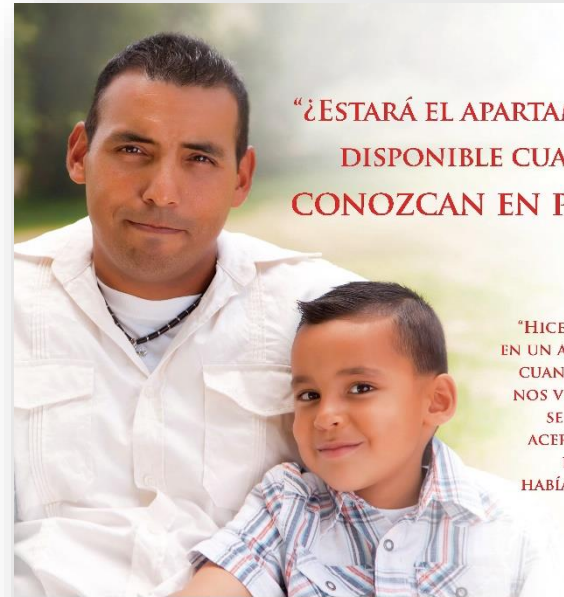
Discrimination because of race, color, religion or national origin is illegal. The only way to stop it is for *you* to report it.

Visit www.hud.gov/fairhousing or call the HUD Hotline
1-800-669-9777 (voice) 1-800-927-9275 (TTY)



A public service message from the U.S. Department of Housing and Urban Development in partnership with the National Fair Housing Alliance. The Federal Fair Housing Act prohibits discrimination because of race, color, religion, national origin, sex, family status or disability. For more information, visit www.hud.gov/fairhousing.

NFHA
National Fair Housing Alliance



“¿ESTARÁ EL APARTAMENTO AÚN
DISPONIBLE CUANDO ME
CONOZCAN EN PERSONA?”

“HICE UNA CITA PARA VER
EN UN APARTAMENTO, PERO
CUANDO EL PROPIETARIO
NOS VIO A MI HIJO Y A MÍ,
SE ALEJÓ. CUANDO ME
ACERQUÉ A ÉL, DIJO QUE
EL APARTAMENTO YA
HABÍA SIDO ALQUILADO.”

La discriminación por motivos de raza o situación familiar está prohibida por la ley. Si usted cree que ha sido víctima de discriminación de vivienda, comuníquese con HUD o con su Centro Local de Equidad de Vivienda:

Visite www.hud.gov/fairhousing o llame a la línea Directa de HUD
1-800-669-9777 (voice) 1-800-927-9275 (TTY)

Su Elección, Su Derecho, Su Hogar.



Un mensaje de servicio público del Departamento de Vivienda y Desarrollo de los Estados Unidos en asociación con la Alianza Nacional de Equidad de Vivienda. La Ley de Equidad de Vivienda prohíbe la discriminación por motivos de raza, color, religión, nacionalidad, sexo, situación familiar o discapacidad. Para más información, visite www.hud.gov/fairhousing.

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SEX OR GENDER

**I'VE HEARD ABOUT
SEXUAL HARASSMENT
AT WORK... BUT I DIDN'T EXPECT IT
IN MY OWN APARTMENT.**

SO I FILED A COMPLAINT WITH HUD.
If a landlord makes unwelcome sexual advances or if he threatens you with eviction or refuses to make repairs because you deny him sexual favors, he is violating the Fair Housing Act. Report sexual harassment and put a stop to it.

**Fair Housing Is Your
Right. Use It!**


SCAN HERE FOR
MORE INFO

Visit hud.gov/fairhousing or call the HUD Hotline
1-800-669-9777 (English/Español) **1-800-927-9275** (TTY) **NFHA**
National Fair Housing Alliance

A public service message from the U.S. Department of Housing and Urban Development in partnership with the National Fair Housing Alliance. The Federal Fair Housing Act prohibits discrimination because of race, color, religion, national origin, sex, familial status or disability. For more information, visit www.hud.gov/faq/fairhousing.



RELIGION



Housing discrimination based on any form of religion isn't just unfair – it's against the law. If you feel that you've been denied the sale, rental or financing of a home because of religion, race, color, national origin, sex, familial status or disability, report it to HUD or your local fair housing center.

Here are some possible signs of housing discrimination:

- "I'll show you neighborhoods with mosques."
- "We only take people who speak English clearly."
- "You might be more comfortable living elsewhere."

Fair Housing Is Your Right. Use It.

Visit www.hud.gov/fairhousing or call the HUD Hotline
1-800-669-9777 (English/Español) **1-800-927-9275** (TTY)



It's a reality that housing discrimination based on religion exists today. It isn't just unfair – it's against the law. If you feel that you've been denied the sale, rental or financing of a home because of religion, file a discrimination complaint with HUD or your local fair housing center.

Visit hud.gov/fairhousing or call the HUD Hotline
1-800-669-9777 (English/Español) **1-800-927-9275** (TTY)

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FAMILIAL STATUS – FAMILIES WITH CHILDREN



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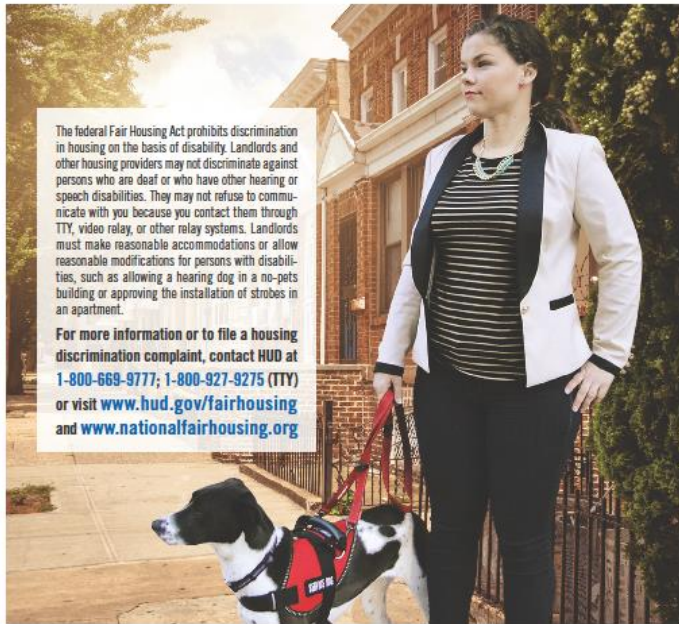
**When it comes to housing,
little things shouldn't make a difference.**

If you have children or are pregnant and a landlord refuses to rent to you, requires a higher security deposit, limits the use of facilities, or says you can only live in certain areas of a housing complex... that could be discrimination. And housing discrimination because of familial status is against the law.

If you believe you may be a victim of housing discrimination,
contact HUD or your local Fair Housing Center:

DISABILITY

THE FAIR HOUSING ACT PROHIBITS DISCRIMINATION AGAINST THOSE WHO ARE DEAF OR HARD OF HEARING



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National Fair Housing Alliance

Fair Housing Is Your Right. Use It.

A public service message from the National Fair Housing Alliance. The federal Fair Housing Act prohibits discrimination because of race, color, religion, national origin, sex, familial status or disability.



IT'S NOT EASY TO TURN OFF THE LIGHTS

IF YOU CAN'T REACH THE SWITCH



SCAN HERE FOR
MORE INFO

The Fair Housing Act requires that most multifamily dwellings built for first occupancy after March 1991 contain accessible light switches, outlets, thermostats, entrances and common areas, as well as usable kitchens and bathrooms. The Act also prohibits discrimination in housing based on disability, race, color, national origin, religion, sex and familial status.

Visit hud.gov/fairhousing or call the HUD Hotline
1-800-669-9777 (English/Español) **1-800-927-9275** (TTY)

Fair Housing Is Your Right. Use It!



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ADDITIONAL PROTECTED CLASSES IN VIRGINIA

- ELDERLINESS
- SOURCE OF FUNDS
- SEXUAL ORIENTATION
- GENDER IDENTITY
- MILITARY STATUS



TYPE OF HOUSING COVERED

- Single family
- Apartments
- Mobile home parks and lots
- Summer bungalows
- Nursing homes
- Farmworker housing
- Dormitories
- Residential hotels
- Coops
- Time share
- Housing authorities



TYPE OF DISCRIMINATORY BEHAVIOR

- **Refusal to sell or rent:** outright denial, reluctance to provide service, avoidance, retracing choices, showing units only in certain areas
- **Offer different terms and conditions:** requiring additional screening, denying or limiting services or facilities
- **Steer:** steering a potential tenant to a less desirable apartment/location/area
- **Misrepresent availability of housing:** “we don’t have anything at this time” – and you know that a unit is available.
- **Advertising a preference or limitation:** oral or written statements that indicate a preference or limitation, to include words, photographs or symbols.
- **Threaten, intimidate, coerce or interference:** holdup or delay in processing/review of application, pressure or bullying, threatening statements (verbal/written) pestering/stalking
- **Sexual Harassment** by housing providers is illegal under the Fair Housing Act as well as other federal laws

UNLAWFUL DISCRIMINATORY ACTIONS

Any of the unlawful discriminatory actions mentioned can take place at any stage of the housing process:

- **THE APPLICATION PROCESS**
- **DURING TENANCY/OCCUPANCY**
- **AT THE TERMINIATION OF TENANCY /OCCUPANCY**



FILING A FAIR HOUSING COMPLAINT

- **WHO CAN FILE A FAIR HOUSING COMPLAINT?**

- Anyone can file a complaint at no cost. Fair housing complaints can be filed by any entity, including individuals and community groups.

- **HOW DO YOU FILE A FAIR HOUSING COMPLAINT?**

- Complete a complaint form online or call the following agencies:
 - Virginia Fair Housing Office (DPOR) www.dpor.virginia.gov/fairhousing
 - Housing Opportunities Made Equal of VA www.homeofva.org
 - Equal Rights Center www.equalrightsnet.org
 - Housing and Urban Development www.hud.gov
- ***Complaints can be filed up to 1 year after the last discriminatory action. You may also file a lawsuit in court within 2 years of the last discriminatory incident. Complaints can be filed after moving from a property.***

WHAT HAPPENS WHEN YOU FILE A FAIR HOUSING COMPLAINT

- Intake: VFHO will finalize your complaint with you, and you'll sign the formal complaint
- Mediation: You will have an opportunity to resolve your complaint via mediation if all sides are interested.
- Investigation: An investigator will investigate the complaint and complete an investigative report to find Probable Cause or No Probable Cause.
- *If the case receives a Probable Cause finding*– all sides will have another opportunity to reach a settlement via mediation.
- *If the second round of mediation is unsuccessful*, the case will be filed in court by the Virginia Office of Attorney General.
- Time frame.... 90 days – 3 years?????

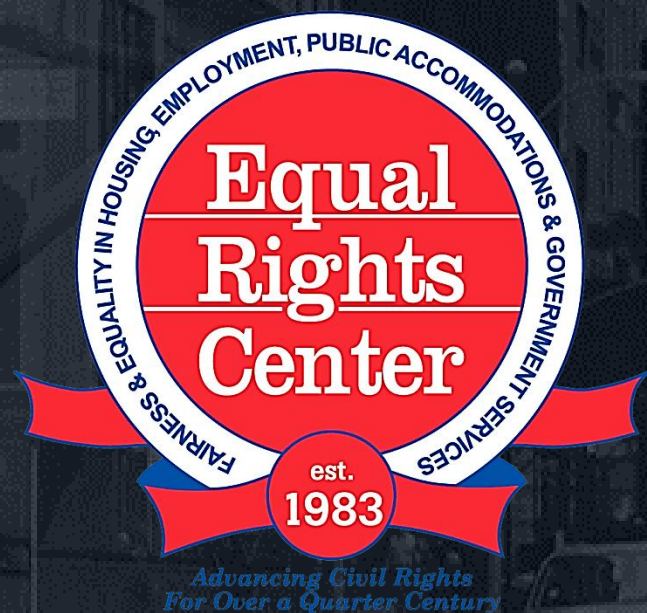
THANK YOU FOR YOUR ATTENTION

REGINA CHANEY

804-354-0641

WWW.HOME OF VA.ORG





Fair Housing Concepts

Susie McClannahan
Fair Housing Rights Program Manager
Equal Rights Center

Mission of the ERC



The Equal Rights Center is a civil rights organization that identifies and seeks to eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of Greater Washington, D.C. and nationwide.

ERC Services



- Advocacy with a housing provider to address possible discrimination
- Assist people with disabilities with submitting reasonable accommodation or reasonable modification requests to housing providers

ERC Services



- Assist individuals with submitting a housing discrimination complaint with HUD or the local government agency and serve as their non-legal representative
- Civil rights testing
- Accessibility site surveys





New Protected Classes in Virginia

Source of Funds



- Housing choice vouchers (Section 8)
- Other rental assistance payment programs
- Social Security
- Unemployment insurance
- Veteran benefits
- Disability benefits
- Alimony
- Any other legal income

Source of Funds



- ERC conducted a testing investigation of 14 Greystar properties in northern Virginia (Alexandria, Arlington, Fairfax County, Loudoun County, & Prince William County).
- 1 property refused to rent to voucher holders.
- 8 properties had minimum income requirements that were likely discriminatory towards voucher holders.

Minimum Income Requirements



- Should only consider the portion of rent that the voucher holder pays



DISCRIMINATION AGAINST PEOPLE WITH HOUSING VOUCHERS IS ILLEGAL IN VIRGINIA!



IS IT ILLEGAL TO DISCRIMINATE AGAINST SOMEONE BECAUSE THEY USE A VOUCHER TO PAY THEIR RENT IN VIRGINIA?

Yes! It is illegal for a landlord to discriminate against you based on how you pay your rent. This is because "source of funds" is one of the protected identities included in Virginia's fair housing law.

It is generally illegal for a housing provider to discriminate against you because you use a housing voucher, but there are some exceptions to protections for housing voucher holders under Virginia's fair housing law. For more information, you can check out [this helpful guidance](#) issued by Virginia's Real Estate and Fair Housing Boards in April 2021.

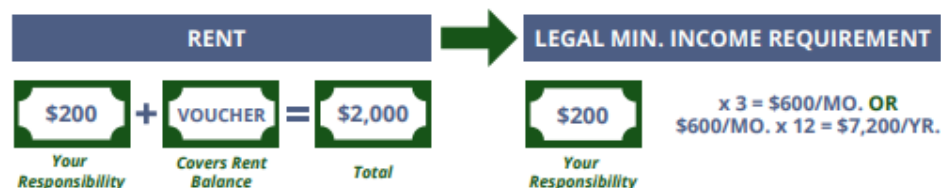
WHAT DOES ILLEGAL DISCRIMINATION TOWARDS PEOPLE WITH HOUSING VOUCHERS LOOK LIKE?

Some common examples include:

- A landlord telling you that they won't accept vouchers;
- Advertisements that state "no Section 8 accepted" or "we do not accept vouchers";
- A landlord charges a higher rent or security deposit because you pay with a voucher or subsidy;
- A property manager refuses to fill out and submit the Request for Tenancy Approval (RFTA) packet to your local Housing Authority; or
- A housing provider has a minimum income requirement that would disqualify any voucher holder's application. For example, requiring applicants to make \$100,000 per year would likely automatically disqualify any applications from voucher holders.

HOW DO MINIMUM INCOME REQUIREMENTS APPLY TO PEOPLE WITH HOUSING VOUCHERS?

Many landlords require applicants to meet a minimum income requirement. Often an applicant must make 3 times the amount of monthly rent. If you are using a voucher to pay part of or all of your rent, a landlord can only require that you meet the income requirement for your portion of rent:



DISCRIMINATION AGAINST PEOPLE WITH HOUSING VOUCHERS IS ILLEGAL IN VIRGINIA!



WHAT OTHER TYPES OF HOUSING DISCRIMINATION ARE ILLEGAL IN VIRGINIA?

The federal Fair Housing Act makes it illegal nationwide to discriminate against someone in housing based on their race, color, national origin, religion, sex (including sexual orientation and gender identity), disability, and familial status (the presence of children in the household under the age of 18). Virginia's fair housing law includes those seven identities and additionally makes it illegal to discriminate based on a person's source of funds, elderliness (55+), sexual orientation, gender identity, and military status. Some cities and counties within Virginia may make it illegal to discriminate in housing based on additional identities.

WHO SHOULD I CONTACT IF I BELIEVE I'VE BEEN DISCRIMINATED AGAINST IN HOUSING?

If you live in northern Virginia, you can make a housing discrimination complaint with the Equal Rights Center by calling 202-234-3062 or emailing info@equalrightscenter.org. Anyone who experiences housing discrimination in Virginia can also file a complaint with the [Virginia Fair Housing Office](#) or, if you live in Fairfax County, with the [Fairfax County Office of Human Rights and Equity Programs](#).

HOW CAN THE ERC HELP?



Civil rights testing

Trained civil rights testers pose as potential buyers or borrowers to find out if and how discrimination is occurring.



Advocacy

Advocating on your behalf with a housing provider to address possible discrimination.



Fair housing complaint

Assisting you with filing a housing discrimination complaint with the [Virginia Fair Housing Office](#) or, if you live in Fairfax County, with the [Fairfax County Office of Human Rights and Equity Programs](#).

CONTACT US:



202-234-3062



info@equalrightscenter.org



equalrightscenter.org

The information contained in this publication is not legal advice and should not be construed as such. For legal advice, please contact an attorney.



In accordance with § 2.2-4002.1 of the Code of Virginia, this guidance document conforms to the definition of a guidance document in § 2.2-4101.

Guidance Document

HOUSING DISCRIMINATION ON THE BASIS OF SOURCE OF FUNDS

ISSUED BY:	Virginia Real Estate Board
EFFECTIVE DATE:	April 16, 2021

As a means of providing information or guidance of general applicability to staff and the public, the Real Estate Board and Fair Housing Board issue this guidance document to interpret the requirements of 18 VAC 135-50 (Fair Housing Regulations).

The purpose of this guidance document is to address issues regarding housing discrimination based on lawful “source of funds,” particularly what actions or inactions by housing providers may or may not constitute unlawful discrimination under the Virginia Fair Housing Law.

Introduction

The Virginia Real Estate and Fair Housing Boards (“Boards”), through the Virginia Fair Housing Office (“VFHO”), are jointly responsible for enforcing the Virginia Fair Housing Law (the “VFHL”), which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, elderliness, familial status, national origin, source of funds, sexual orientation, gender identity, or status as a veteran.¹

As of July 1, 2020, VFHO is responsible for investigating allegations of discrimination on the basis of the source of funds of a buyer or renter of housing. Because the “source of funds” protected class is new to Virginia, many questions have been raised regarding what may constitute this type of discrimination.

This guidance provides technical assistance regarding what actions, behaviors, policies, and procedures likely do and do not violate the Virginia Fair Housing Law’s prohibition on discrimination on the basis of one’s lawful source of funds.

Background

House Bill 6, sponsored by Delegate Jeffrey Bourne, passed the 2020 Session of the General Assembly and was signed into law by Governor Ralph Northam on March 27, 2020.² The law defines “source of funds” as:

any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.³

¹ Va. Code §§ 36-96.1, *et seq.*

² 2020 Acts Ch. 477.

³ Va. Code § 36-96.1:1.

Sexual Orientation



- Discriminating against a person for their actual or perceived sexual orientation. Includes discrimination due to someone's appearance, mannerisms, their partner, or any self-identifying symbols.
- Example: Refusing to rent to a same-gender couple

Gender Identity



- Discriminating against someone for their gender-related identity, appearance, or other gender-related characteristics of an individual, with or without regard to the individual's sex assigned at birth.
- Example: Harassing a tenant by not using their correct pronouns or name on purpose



Other Fair Housing Concepts

What's the difference?



- Fair Housing
- Affordable Housing
- Public Housing



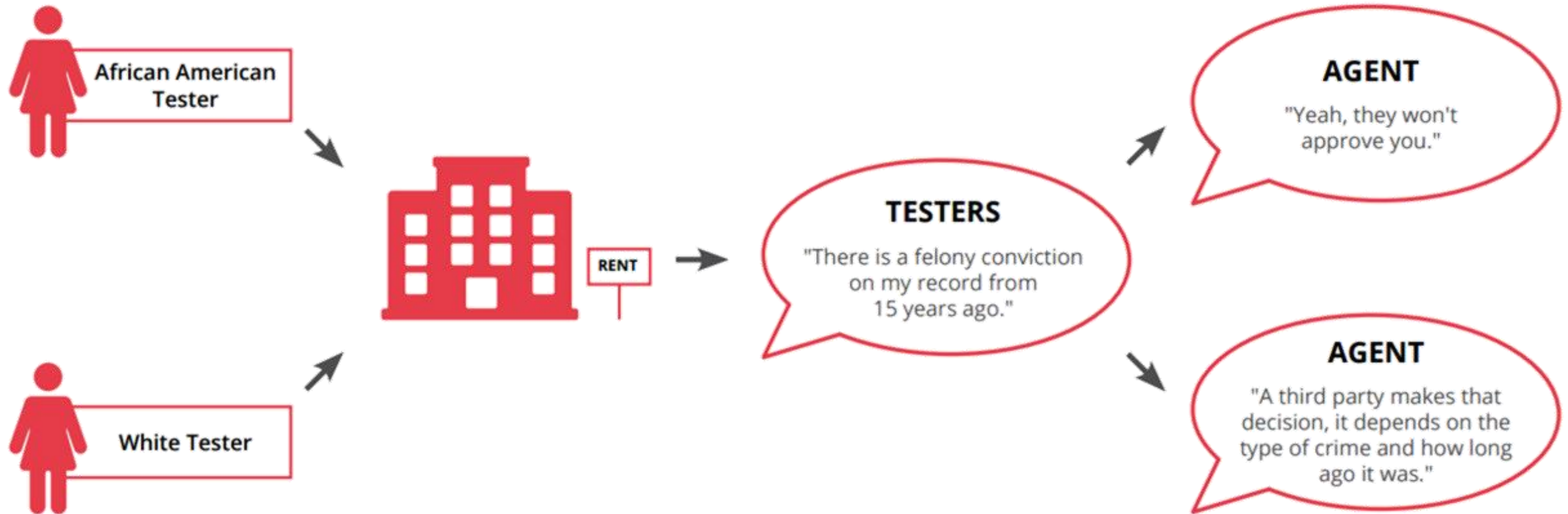
Disparate Impact

Types of Housing Discrimination



- **Different Treatment:** Treating people differently based on a protected class (i.e. race, national origin, sex, etc.)
- **Disparate Impact:** a policy or practice that seems neutral on its face, but disproportionately harms people of a certain protected class

ERC's *Unlocking Discrimination* Investigation



ERC's *Unlocking Discrimination* Investigation



reslising.securecafe.com says:

X

We are unable to reserve an apartment for you at this time due to your answer regarding Felony convictions. Should you have any questions, please contact the leasing office for this community.

OK

Have you are any other applicant or occupant ever been convicted of a felony?



Yes ▼

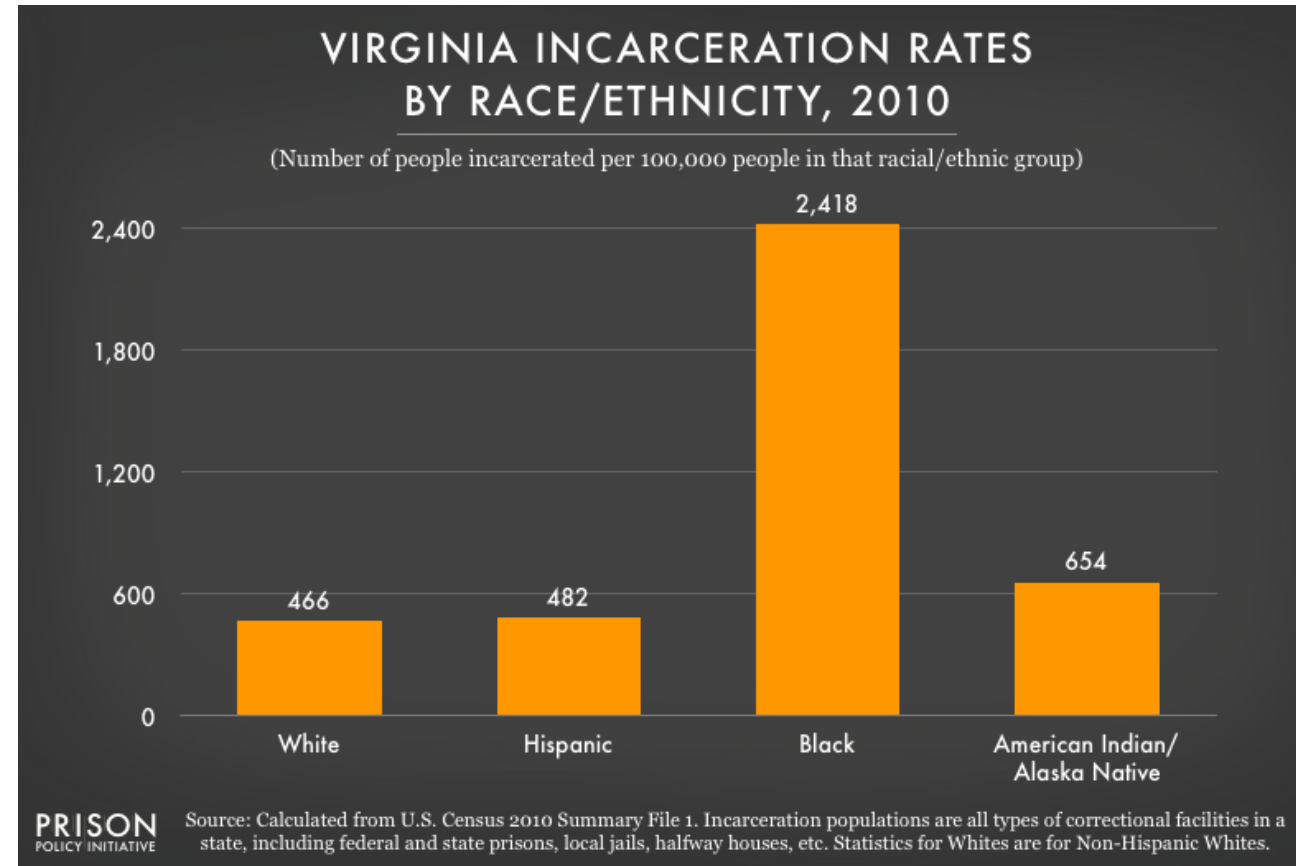
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Save & Continue

Race and Criminal Record



People of color are arrested, convicted, and incarcerated at much higher rates than white people.



Graphic from the Prison Policy Initiative

HUD Guidance on Criminal Record Screenings



- Illegal for housing providers to consider arrest records
- Felony and conviction bans are illegal
- Housing providers must make an individualized assessment of a person's criminal record

Criminal Record Screenings



Housing providers should consider the following information:

- What crime was committed
- When the crime occurred
- How long it's been since the crime occurred
- Your age when you committed the crime
- Any changes in your situation since the crime occurred

Model Policy for Tenant Screening

Overview

The property is committed to upholding fair housing principles and ensuring equal access to its property regardless of applicants' backgrounds. In determining whether to approve an applicant to live in the community, the property will conduct the following three-step process:

- 1) Income and Credit Screening;
- 2) Limited Criminal Background Screening; and
- 3) Individual Assessment.

Each step is described in detail below.

Step One: Income and Credit Screening

First, the property will review an applicant's income and conduct a credit screening. If an applicant meets the property's income and credit criteria, the property will provide an applicant with a conditional offer of tenancy.

Step Two: Limited Criminal Background Screening

Second, if the applicant has met the property's income and credit criteria and received a conditional offer, the property will conduct a limited criminal background screening for all individuals age 18 and older who will reside in the apartment.

The limited criminal background screening will only consider:

- Felony criminal convictions related to the following categories of offenses: (1) property offenses,¹ (2) major drug offenses,² (3) fraud offenses,³ (4) major violent offenses against persons,⁴ and (5) sex offenses.⁵ Any other category of offense will not be considered. These categories were identified because they involve conduct by a person whose

¹ **Property offenses** include theft, burglary, vandalism, arson and other criminal damage to property.

² **Major drug offenses** include drug trafficking and the sale, smuggling, manufacture, or distribution of any controlled substance. This includes unspecified controlled substances. It also includes all 1st or 2nd degree controlled substance offenses. Major drug offenses do not include simple possession of a controlled substance or drug paraphernalia, nor any past conduct that has since been decriminalized.

³ **Fraud offenses** include identify theft, use of stolen checks, writing bad checks, counterfeiting, and forgery.

⁴ **Major violent offenses** include assault, battery, and homicide.

⁵ **Sex offenses** include rape, registration as a sexual offender, taking indecent liberties with a minor, pandering, sex trafficking, and sexual battery. Not included are victimless crimes such as prostitution or solicitation.



Affirmatively Furthering Fair Housing (AFFH)

Affirmatively Furthering Fair Housing (AFFH)



- Fair Housing Act requires that federal agencies and recipients of federal funding affirmatively further fair housing.
- Funding recipients must:
 - strive to dismantle historic patterns of racial segregation;
 - preserve integrated housing that already exists; and
 - otherwise take meaningful steps to further the Fair Housing Act's purposes beyond merely refraining from taking discriminatory actions and banning others from such discrimination

2015 AFFH Rule



- HUD introduced the “Assessment of Fair Housing” (AFH) tool and required jurisdictions to certify compliance of AFFH.
- Created a standardized method for local jurisdictions to identify local fair housing barriers and goals.
- Jurisdictions created more precise fair housing goals, metrics, and timelines.
- Jurisdictions engaged more with the community in developing the goals.

Status of the AFFH Rule



- HUD instituted the AFFH rule in 2015.
- HUD suspended the AFFH rule in 2018.
- HUD reinstated part of the AFFH rule in 2021 – jurisdictions are required to certify compliance with AFFH, but they are not required to conduct assessments to identify local barriers or goals.
- HUD plans to undertake separate rulemaking to institute a new fair housing assessment process for jurisdictions.

Regional Analysis of Impediments (AI)



- The Metropolitan Washington Council of Governments (COG) is leading the regional AI process.
- Participating local governments include Alexandria, Arlington County, City of Gaithersburg, DC, Fairfax County, Loudoun County, Montgomery County, and Prince George's County.

Regional Analysis of Impediments (AI)



The regional AI should include:

- A robust community participation and comment process that allows for meaningful dialogue for key stakeholders;
- Assessment of past goals and actions;
- Analysis of data and issues that impact fair housing: and
- Establishment of measurable fair housing goals and priorities.

Questions?



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