



2021 East 4th Street Suit 122

Santa Ana, CA 92705

(714) 569-0823

(714) 835-0281 *fax*

www.fairhousingoc.org

Mission Statement

“Our mission is to protect the quality of life in Orange County by ensuring equal access to housing opportunities, fostering diversity and preserving dignity and human rights.”

Fair Housing Council of
Orange County
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▶ ***FHCOC Background***

- ▶ ***Founded in 1965***
 - ▶ ***Incorporated 1968***
 - ▶ ***Primary Mission is Combating Housing Discrimination***
 - ▶ ***- Also LL/T Counseling***
 - ▶ ***- HUD Approved Housing Counseling***
 - ▶ ***Private Enforcement of Fair Housing Laws Throughout Orange Co***
- Serve Much of Orange County for LL/T***

Federal Fair Housing Act

- Passed in 1968 after the assassination of the Rev. Dr. Martin Luther King, Jr.
- Significantly strengthened in 1988
- Provides private right of action



What is Housing Discrimination?

WHAT IS HOUSING DISCRIMINATION?

Treating someone differently because of a prohibited basis –
Differential Treatment

- ▶ Refusal to Rent or Sell After a Bona Fide Offer
- ▶ Refusal to Negotiate For Sale or Rental
- ▶ Otherwise Make Unavailable or Deny Housing
- ▶ Falsely Denying Housing is Available
- ▶ Steering
- ▶ Retaliation, Intimidation, Coercion, Interference with Rights

WHAT IS HOUSING DISCRIMINATION ? (cont'd)

Differences in:

- Terms , Conditions or Privileges
- Services or Facilities
- Advertising or Statements Expressing a Preference or Limitation
- Blockbusting
- **Disability Specific Provisions**

Protected Bases



- ▶ Title VIII of the Civil Rights Act of 1968, as amended, includes the following
 - ▶ Race
 - ▶ Color
 - ▶ Religion
 - ▶ National Origin
 - ▶ Sex (gender/added in 1974)
 - ▶ Orientation & Gender Identity
 - ▶ Familial Status/Families with Children (1988)
 - ▶ Disability (Handicap) (1988 Amendments)



State of California Protected Bases

- ▶ Marital Status
- ▶ Source of Income
(Use of a Housing Voucher)
- ▶ Ancestry
- ▶ Sexual Orientation
- ▶ Genetic Information
- ▶ Gender Identity or Expression
- ▶ Veteran & Military Status* (use of a VASH Voucher)
- ▶ Age
- ▶ Medical Condition
- ▶ Citizenship
- ▶ Primary Language
- ▶ Immigration Status
- ▶ Arbitrary



Disability Definition

- ▶ A Physical or mental impairment which *“substantially limits one or more major life activities.”* *“Major life activities”* are functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- ▶ California amended the definition in 2000 *“limitation”* upon a major activity

Persons who are covered by the Disability Definition

- ▶ A person who currently has a disability
- ▶ A person who has a record of having a disability
- ▶ A person who is regarded as having a disability
- ▶ A person who is associated with someone who has a disability

Accessibility in Housing

FHA NOT ADA

- ▶ With Limited Exceptions ADA does not apply to Housing
- ▶ ADA- Title III Applies to Areas considered place of “public accommodations”
 - ▷ Leasing and Sales Office
 - ▷ Facilities and Amenities Available to Public At-Large

FHA Covers More Than Just Person Seeking Or Occupying Housing

- ▶ Includes
- ▶ Disabled person who will reside or intends to reside in the dwelling after it is sold, rented or made available
- ▶ Disabled person associated with the housing seeker or occupant

Reasonable Accommodation

- **Change to rules, policies, practices, procedures or services**
- Necessary for occupant or program participant to have equal opportunity to use and enjoy a dwelling or program.
 - Must be a nexus between requested accommodation and disability
 - Disability and Need Possibly Verified by Medical or Care Provider
- Must be reasonable
 - Housing provider or program can deny if the request presents unreasonable financial and administrative burden or represents a fundamental alteration of their program
- Not Required If It Creates a Direct* Threat to Health or Safety of Others

Accommodation Examples

- Date of Rent Payment
- Allowance of Assistance Animal
- Assignment of Parking
- Notification of Third Party
- “Second Chance” for Rule Violation
- Change In Application Process
- Allowance of Live-In Aide – Voucher Size
- Exception to Payment Standard or Certain HUD Regulations

Processing Reasonable Accommodation Requests

- Landlord should be responsive no matter how request. This should be an overall interactive process

- use of forms may be suggested, but not required

- oral requests should get a response

- Response should be in writing and well documented

Verification may be needed in cases when disability or need for accommodation is not readily apparent

- Given an existing documented disability, focus will be on the nexus and necessity

- It can be acceptable to question the adequacy, reliability or credibility of verification

Landlord may not make inquiries into the nature or severity of a person's disability

Service & Companion Animals

(Assistance Animals)

- ▶ Landlords must allow as a necessary accommodation even in “no pets dwelling”
- ▶ Necessity can be verified by medical care provider unless need is apparent (nexus to disability)
- ▶ Animal need not be specifically trained or “certified”
- ▶ Statutes or HUD regulations provide for right to **pets** in condo developments, mobile homes and certain federally subsidized housing

Reasonable Modification

Physical change to the premises

- Dwelling unit or common areas
- Usually at the expense of the renter or buyer
- Applies to any dwelling no matter what type or when built
- Renters may have to post restoration bond for certain interior modifications
- Owner maintains common area modifications unless for the exclusive use of the requester

Reasonable Modification (cont'd)

- Federally subsidized housing provider usually has to bear cost (Sec. 504 of the Rehabilitation Act of 1973)
- Necessary for renter or buyer to have equal opportunity to use and enjoy the dwelling
 - Must be a nexus between requested modification and disability
- Must be reasonable
- Housing provider can deny if request presents unreasonable financial and administrative burden
- Must be performed in “workmanlike manner”

Modification Examples

- Ramp at entrance to dwelling or common area facility
- Widening of doorways
- Door openers
- Accessible controls and fixtures
- Lowered countertops
- Stairway or pool lift
- Curb cuts
- Sound insulation

Modification Examples (cont'd)

- ▶ Flashing Smoke Detector
- ▶ Flashing Door Bell
- ▶ Strobe Light Emergency Alert System
- ▶ TTY/Relay Communication
- ▶ Door Knock Sensor
- ▶ Telephone Handset Amplifier
- ▶ Visual/Audio Smoke Detector

AB 1482

Just Cause Termination

Civil Code § 1946.2 effective Jan 1, 2020

Requires 'good cause' to terminate tenancies **at covered properties** (including for HCV tenancies).

- Older than 15 years
- Not deed restricted affordable housing
- SFR house or Condo owned by corporate interests
- Other 'special' situations
- Covered tenants resident 12 months or more
- *Notice of property exemptions must be part of any SFR or Condo rental agreement entered into or renewed on or after July 1, 2020*

SB 267 Source of Income

1/1/2024

- ▶ SB 267 amended Government Code Section 12955(o) to require housing providers, when taking an application from a person using housing assistance, including an HCV or VASH voucher to offer the applicant an alternate means of establishing their 'creditworthiness'.

The specific language is:

It is unlawful to

(i) Use a person's credit history as part of the application process for a rental accommodation without offering the applicant the option, at the applicant's discretion, of providing lawful, verifiable alternative evidence of the applicant's reasonable ability to pay the portion of the rent to be paid by the tenant, including, but not limited to, government benefit payments, pay records, and bank statements.

(ii) If the applicant elects to provide lawful, verifiable alternative evidence of the applicant's reasonable ability to pay pursuant to clause (i), the housing provider shall do both of the following:

(I) Provide the applicant reasonable time to respond with that alternative evidence.

(II) Reasonably consider that alternative evidence in lieu of the person's credit history in determining whether to offer the rental accommodation to the applicant.

Good Cause Termination (cont'd)

- ▶ Two types of 'good cause'
 - ▷ Tenant at fault
 - ▷ No fault (specified business or personal reasons of the owner)
- ▶ Tenant at fault reasons are essentially the same as have existed
 - ▷ Non-Payment, Lease Violations, etc.
- ▶ No fault requires tenant relocation benefit or rent relief (*equal to one month's rent*)

New/Update *

Effective April, 1, 2024, pursuant to SB 567, provisions for 'no fault' reasons for substantial remodeling and close family member move in have been strengthened.

- Remodeling notice requires:
- (III) A description of the substantial remodel to be completed, the approximate expected duration of the substantial remodel, or if the property is to be demolished, the expected date by which the property will be demolished, together with one of the following:
 - (ia) A copy of the permit or permits required to undertake the substantial remodel or demolition.

SB567 Continued..

ib) Only if a notice is issued pursuant to subclause (II) of clause (ii) and the remodel does not require any permit, a copy of the signed contract with the contractor hired by the owner to complete the substantial remodel, that reasonably details the work that will be undertaken to abate the hazardous materials as described in subclause (II) of clause (ii).

(IV) A notification that if the tenant is interested in reoccupying the rental unit following the substantial remodel, the tenant shall inform the owner of the tenant's interest in reoccupying the rental unit following the substantial remodel and provide to the owner the tenant's address, telephone number, and email address.

Performance or ‘Cause’ Notice Requirements

- Code of Civil Procedure §1161
 - 3-Day Pay or Quit
 - 3-Day Perform or Quit
 - ‘Pay’ or ‘Perform’ Notices Only Count Non-Judicial Holiday Weekdays (effective 9/1/2019)
 - 3-Day Quit (Non-Curable Breach)
 - Calendar days only, but last day must be a court day
 - 4 Recognized Reasons
 - Subletting Contrary to Contract
 - Committing Waste Contrary to Contract
 - Using Premises for an Illegal Purpose
 - Maintaining or Committing a Nuisance

Notice Service Requirements

- Served Simultaneously To Housing Authority*
- Personal Service to Tenant Should be Attempted
- Service by Posting and Mailing Allowed
- Termination May Also be Served by Certified
- Substitute Service is Allowed if Copy Also Mailed
- Not Required to be Signed

Notice Content

- Termination Date Need Not be Explicitly Stated
- Days Are Counted From Service, Not Date The Notice Was Prepared
- Can be Stated as “90 Days or MM/DD/YY, Which Ever is Later.”
- Day ‘1’ is Day After Service
- Date for Compliance May be Extended by Legal Holidays – Saturday, Sunday, Other Holiday

Notice Content (cont'd)

- ▶ Unambiguous Demand for Possession
- ▶ Pay or Quit Requires Contact/Payment Information
- ▶ Notice Generally Must be in The Alternative
 - ▷ Pay or Quit
 - ▷ Perform or Quit
 - ▷ No Alternative Required in Non-Curable 'Quit Notice'

Notice Invalidation

- ▶ Demand for Other Than Tenant's Rent Share
- ▶ Acceptance of Rent Beyond Notice Period
- ▶ Including Non-Rent Charges in 3-Day Pay or Quit
 - ▶ Late Fees
 - ▶ Utility Charges
 - ▶ Other Fees
- ▶ Concept of Waiver for 3-Day Perform Notices

AB 1482 Rent Increase Limits

- ▶ Applies to covered properties
- ▶ Limits 12-month increase to a maximum of 5% plus defined C.O.L.A., but never more than 10% (8.9%)
- ▶ AB 3088 made some changes to how limits are calculated. (August 1st break point)
- ▶ Expires in 2030 unless extended

Landlord's Right of Entry

1. Covered by Civil Code §1954
2. Unless an emergency or with a court order, proper written notice required
 - a. Notice time must be reasonable
 - i) Presumed to be 24 hours, but could be longer depending on facts
 - b. Notice must state purpose, date and approximate time
 - c. Served personally, under or through the door, or by mail (add 6 days)
3. Tenant should be given a reasonable opportunity to be present, if requested
4. Only certain reasons allowable
 - a. Necessary repairs
 - b. To exhibit unit
 - c. Walk-through inspection before move-out
 - d. NOT to make general inspection

Court Eviction Process

1. Preceded by required notice
 - a. 3-day type
 - b. 30 or 60-day type (90 days for Voucher tenants)
2. Filing called Complaint for Unlawful Detainer
3. In terms of the law fast – just a 5 court days summons
 - a. Seek assistance immediately
 - b. Attorney assistance is best
4. Summons and Complaint must be served personally unless by Court order to post and mail
5. No Answer filed results in losing by Default Judgment
 - a. Very difficult to undo, even if there is a valid defense
 - b. Attorney essentially required
6. Trial in about 3 weeks following Answer

Security Deposit Limit

(Civil Code 1950.5)

- ▶ Effective July 1, 2024
- ▶ For new tenancies no more than one month's rent
- ▶ Small landlord exception allows up to two month's
- ▶ For existing tenancies no requirement to disgorge amount over one month's rent, but cannot be increased if at or above one month's rent