

Protecting the Civil Rights of American Indians



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Summary of Presentation

Laws enforced by the Housing and Civil Enforcement Section (HCE)

Focus on the Fair Housing Act (FHA)

- Prohibitions

- Enforcement

- DOJ's Enforcement Activities

Fair Lending Enforcement under the Equal Credit Opportunity Act (ECOA/FHA)

Remedying Discrimination in Public Accommodations (Title II of the Civil Rights Act of 1964)

Sources of Additional Information

Laws Enforced by HCE

Fair Housing Act (FHA)

Equal Credit Opportunity Act (ECOA)

Title II of Civil Rights Act of 1964

Religious Land Use and Institutionalized
Persons Act (RLUIPA)

Servicemembers Civil Relief Act (SCRA)

Fair Housing Act (FHA)

Prohibits housing discrimination on the basis of:

race

color

religion

national origin

sex

familial status

disability

Equal Credit Opportunity Act (ECOA)

Prohibits creditors from discriminating against credit applicants on the basis of:

race

color

religion

national origin

sex

marital status

age

receipt of public assistance

exercise of rights under

Consumer Credit Protection Act

Title II of Civil Rights Act of 1964

Prohibits discrimination in certain places of public accommodation (hotels, restaurants, and places of entertainment) because of:

race

color

religion

national origin

Religious Land Use and Institutionalized Persons Act (RLUIPA)

Protects individuals, houses of worship, and other religious institutions from discriminatory or unduly burdensome zoning and landmarking laws

Servicemembers Civil Relief Act (SCRA)

Protects military members as they enter active duty, covering such issues as:

rental agreements, pre-paid rent, security deposits

eviction

installment contracts

credit card and mortgage interest rates

mortgage foreclosure, civil judicial proceedings

automobile leases

life and health insurance

income tax payments

Overview: Fair Housing Act (FHA)

Coverage and prohibitions

Complaints

Roles of DOJ, HUD, others

DOJ's enforcement activities

- Overview

- Examples

Pop Quiz: Your Knowledge of the FHA

True or False?

Landlords may charge people of some ethnic groups a higher security deposit.

Under certain conditions, an apartment complex may exclude families with children.

All dwellings are covered by the FHA's physical accessibility requirements.

True or False?

A landlord may not request sexual favors in exchange for rent.

A landlord may run an advertisement stating that he prefers to rent to someone of a particular religion.

A landlord may be held responsible for the discriminatory acts committed by the landlord's rental manager.

FHA Coverage: “Dwellings”

“any building, structure, or portion thereof” occupied or intended to be occupied as a residence by one or more families

Dwellings:

Houses and townhouses

Apartments and condominiums

Student housing

Homeless Shelters (in certain circumstances)

Vacation time shares

Not dwellings:

Hotels and other places of “temporary sojourn”

FHA Prohibits

Refusing to sell or rent after making bona fide offer

Refusing to negotiate for sale or rental of dwelling

Making unavailable or denying a dwelling

Discriminating in “terms, conditions, or privileges” or “in the provision of services or facilities”

Making, printing, or publishing a statement or advertisement indicating a preference or limitation

FHA Prohibits

Representing that a dwelling is not available when in fact it is

Discriminating in residential real estate-related transactions or in the terms or conditions of such transactions

Intimidating, threatening, or interfering with any person for exercising her/his housing rights

Criminal threats, use of force, intimidation or interference

What to do if you believe you or someone you know is a victim of discrimination

File a lawsuit *within 2 years* after the occurrence or termination of the alleged discriminatory act

File a complaint *within 1 year* with HUD or equivalent state agency

If possible criminal conduct, call local law enforcement

If you're not sure whether there is a violation, ask

If you have information that suggests a "pattern or practice" of discrimination in housing, call or email DOJ

FHA Enforcement: HUD

Issues regulations implementing the FHA

Provides technical assistance

Investigates individual complaints of housing discrimination and attempts conciliation

Refers pattern or practice cases and land use or zoning cases to DOJ

May issue a “charge” of discrimination if “reasonable cause” to believe discrimination occurred

Represents complainants in administrative hearings unless either party elects to proceed in federal court

FHAP and FHIP

Fair Housing Assistance Program

Fair Housing Initiatives Program

FHA Enforcement: DOJ

Files “election” cases from HUD; acts on behalf of complainant (who may intervene in suit)

Investigates other HUD referrals for possible enforcement action

Independent authority to initiate lawsuits

“Pattern or practice” of discrimination

Denial of rights to group of persons

Fair Housing Testing Program

FHA Enforcement: DOJ Remedies

Injunctive relief
 correction
 prevention

Monetary damages for victims

Civil penalties (\$75K/\$150K)

Spotlight: Accessible Housing

Accessible Housing

The FHA covers residential multi-family dwellings (four or more units) built for first occupancy after March 13, 1991

all units in buildings with one or more elevator

all ground floor units in buildings without an elevator

Projects must comply with certain modest requirements for accessible design in new construction

7 FHA Design and Construction Requirements

1. Accessible building entrance on an accessible route
2. Accessible public and common use areas
3. Usable doors
4. Accessible routes into and through the covered unit
5. Accessible light switches, electrical outlets, thermostats and other environmental controls
6. Reinforced walls in bathrooms for installation of grab bars
7. Usable kitchens and bathrooms

Spotlight: Sexual Harassment

Sexual Harassment in Housing

Common allegations:

Inappropriate touching/groping

Exposing body

Making sexual comments/jokes

Requesting sexual acts in exchange for reduced rents, delayed evictions, repairs or other housing benefits (including housing vouchers)

Taking adverse actions when tenants resisted those sexual overtures

All of the Following Could Support a Claim of Sexual Harassment in Housing

“The security guard at my building constantly makes comments about my body”

“My Section 8 caseworker asked me for sexual favors in exchange for a unit transfer”

“When I went to look at a unit available for rent, the landlord asked if I had any nude pictures on my phone”

“I went to visit my friend at her apartment, and her landlord groped me”

Spotlight:
Fair Housing Testing Program

What is testing?

“‘[T]esters’ are individuals who, without an intent to rent or purchase a home or apartment, pose as renters or purchasers for the purpose of collecting evidence” of unlawful discriminatory housing practices.

Havens Realty Corp. v. Coleman, 455 U.S. 363 (1982)

DOJ Fair Housing Testing Program

Established in 1991 – began testing in 1992

Unit within Housing Section of the Civil Rights Division

Designs and coordinates testing all across U.S.

Testing cases involving American Indians

To date: Over 108 cases developed, resulting in over \$14 million in total relief

DOJ FHA Enforcement

Since January 1, 2010, DOJ has:

Filed 221 cases to enforce the FHA

Achieved 281 FHA settlements

DOJ Enforcement: Examples of Recent FHA Cases

U.S. v. Brinson (D. Nev.): familial status

U.S. v. Southwind Village et al. (M.D. Fla.): race

U.S. v. SE. Cmty. and Family Servs., Inc.
(M.D.N.C.): sexual harassment

U.S. v. City of Beaumont (E.D. Tex.): disability –
land use/zoning

DOJ Enforcement: Examples of FHA Cases Involving Discrimination Against American Indians

*U.S. v. Board of County Commissioners of the
County of Montezuma* (D. Colo.)

U.S. v. JPW Ventures (D.N.D.)

U.S. v. City of Milwaukee (E.D. Wis.)

FHA Enforcement: You

“Private Attorneys General”

DOJ Fair Lending Basics

Statutes: Fair Housing Act

Equal Credit Opportunity Act

Servicemembers Civil Relief Act

Types of Lending Issues Covered

FHA

Discrimination in “the terms and conditions, or services in connection with, sale of housing”

Applies to mortgage and other housing-related loans

ECOA

Discrimination in any aspect of a credit transaction

Applies to:

- Mortgage and other housing-related loans
- Other consumer loans
- Small business loans

Protected Classes

FHA

- race, color or national origin
- sex
- religion
- *disability*
- *familial status*

ECOA

- race, color or national origin
- sex
- religion
- *age*
- *marital status*
- *receipt of public assistance*
- *exercise of rights under CCPA*

Sources of Fair Lending Cases

Mandatory referrals from regulatory agencies

Permissive referrals from regulatory agencies

HUD charges/pattern or practice referrals

Independent investigations under DOJ pattern or practice authority

Citizen and other-sourced complaints

Types of Cases under FHA and ECOA

- Steering
- Redlining
- Underwriting
- Servicing
- Reverse Redlining/Predatory Lending
(if targeted at a protected class)

DOJ ECOA Enforcement

38 cases filed since 2010

38 cases settled since 2010

ECOA Enforcement: Example of Recent Lending Case

U.S. v. BancorpSouth Bank
(N.D. Miss.)

Examples of DOJ Lending Cases Involving Discrimination Against American Indians

*United States v. First National Bank of Gordon,
Nebraska* (D.S.D.)

United States v. Blackpipe State Bank (D.S.D.)

Title II of the Civil Rights Act of 1964

Prohibits discrimination based on race, color, religion, and national origin in places of Public Accommodation, including restaurants, hotels, and places of exhibition or entertainment (for example, a bar with live music, a sports stadium, a movie theater)

DOJ Enforcement: Title II

DOJ can file lawsuit challenging discrimination by a place of public accommodation and seek a court order to stop the discriminatory practices or policies

No monetary damages

Sources of Additional Information

Department of Justice, Civil Rights Division

www.justice.gov/crt

800-896-7743

Department of Housing and Urban Development

www.hud.gov

800-669-9777

Federal Government Accessibility Resources

www.ada.gov

800-514-0301

Consumer Financial Protection Bureau

www.consumerfinance.gov

855-411-2372

Servicemembers and Veterans Initiative

www.servicemembers.gov

202-307-SCRA (7272)

U.S. Department of Justice

Civil Rights Division

Housing and Civil Enforcement Section

www.justice.gov/crt/about/hce

fairhousing@usdoj.gov

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