

# **FUNDAMENTALS OF FAIR HOUSING**

City of San Diego

## **SENIOR AFFAIRS ADVISORY BOARD**

The Fair Housing Council of San Diego  
CELEBRATES NATIONAL FAIR HOUSING MONTH

April 16, 2025

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## DEFINITION OF FAIR HOUSING CHOICE

The ability of persons of similar income levels who are seeking housing in the same housing market, to have available to them the same range of housing CHOICES regardless of **race, color, national origin, religion, sex, familial status or disability**. Seven “protected” classes (Federal Law)



## IS LANDLORD -TENANT LAW THE SAME AS “FAIR HOUSING”

- NO.
- Tenant-Landlord laws and rights are based upon **the contract** between the tenant and the property owner or manager
- Tenant-landlord rights and responsibilities are spelled out in landlord-tenant laws for the State of California and the tenant's lease.

## Is Fair Housing the Same as Tenant-Landlord Law?

- The Landlord agrees to:
- Rent a property that is “habitable” (safe for human occupation; no gas leaks; no faulty electricity or dangerous wires; no rodents, roaches; doors /windows that lock/no broken windows);
- Make repairs as requested and needed.



# IS “FAIR HOUSING” THE SAME AS TENANT-LANDLORD LAW?



- **The Tenant agrees to-**
- Pay the rent in the amount/time, according to the lease;
- Refrain from disturbing the quiet enjoyment of your neighbors;
- Refrain from causing damages to the property;
- Tenants have the right to receive written notice.



# SOURCES OF LAW

## CIVIL RIGHTS ACT OF 1866

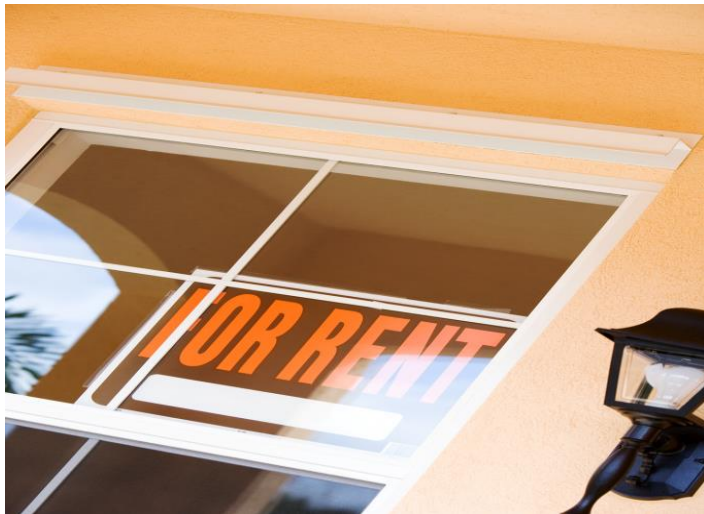
- Created the first “protected class” on the basis of **Race**



# FAIR HOUSING ACT OF 1968

(Title VIII of the Civil Rights Act of 1968)

- Prohibits discrimination in housing (rentals, home sales, mortgage lending/property insurance) on the basis of **race, color, national Origin and religion.**



# FEDERAL LAW

- **Sex**

- — added in 1974.
- — does not explicitly include sexual identity, but the Supreme Court's interpretation of the word "sex" in Title VII of the Civil Rights Act of 1964 (employment discrimination) should be applicable to the FHA.
- — includes sexual harassment — both quid pro quo and hostile environment
- — also covers domestic violence

# FAIR HOUSING AMENDMENTS ACT OF 1988

- Expanded coverage of Fair Housing Act to prohibit discrimination in housing practices based on disability and familial status (families with children).

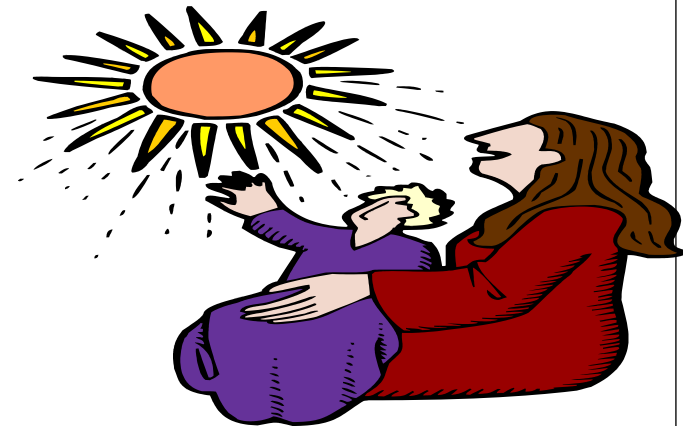


# Federal Law

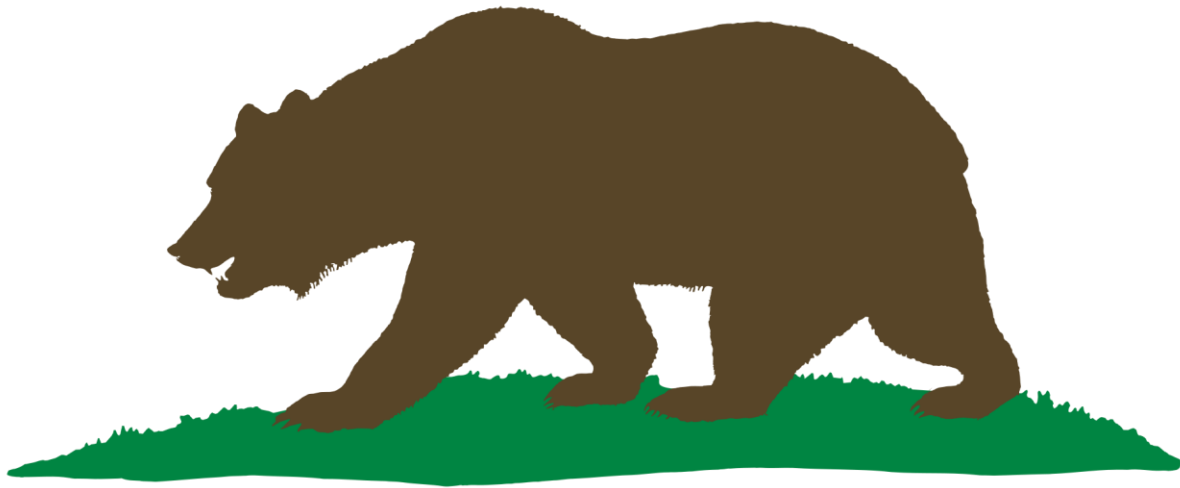
- **Handicap (Disability)** – defined by FHAA of 1988
  - a. a physical or mental impairment that substantially limits a major life activity
  - b. a record of such an impairment
  - c. regarded as having such an impairment

## PROTECTED CLASSES UNDER FEDERAL LAW

- **FAMILIAL STATUS** –Discrimination because you are a family with children eighteen years or younger, pregnant, have foster children or other scenarios involving children in the home.



# California State Law



**CALIFORNIA REPUBLIC**

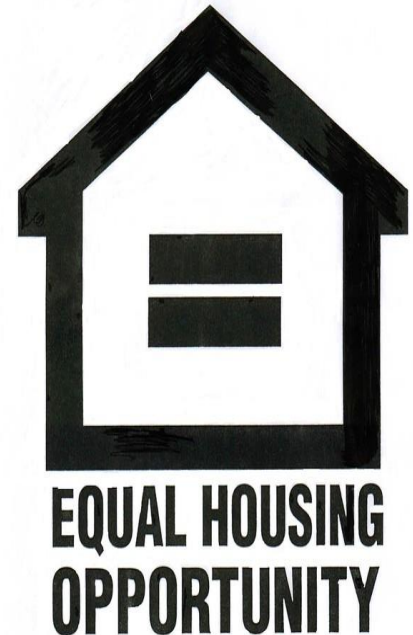
# California State Law

- A. California law includes all seven classes enumerated under the Fair Housing Act and, in addition, protects:
  - 1. ancestry
  - 2. marital status
  - 3. sexual orientation
  - 4. gender
  - 5. gender identity
  - 6. gender expression



# California State Law

- 7. source of income
- 8. genetic information
- 9. medical condition
- 10. age
- 11. citizenship
- 12. primary language
- 13. immigration status
- 14. veteran or military status



# California State Law

- B. Disability is more broadly defined as a physical or mental impairment that limits (not substantially limits) a major life activity (CA Gov Code section 12926(k)(1)(B))



- C. Civil Code §51 (Unruh Civil Rights Act) includes any arbitrary discrimination
- D The Ralph Civil Rights Act, codified as California Civil Code Section 51.7, protects individuals and their property from violence and intimidation

# Covered Property

## Definition of a Dwelling

- What is a Dwelling?
- -- occupied or designed as a residence, examples
- -- includes vacant land
- -- different from a hotel or motel except where being used as a residence
- -- nursing homes
- -- homeless shelter

# EXEMPTIONS

- Senior Housing
  - Age restricted to 55+; May be 80% of occupants
  - Age restricted to 62+; Must be 100% of occupants
- Ms. Murphy (Single Family Homeowners Of 3 Or Less Housing Units)
- Note: This exemption does not apply to discriminatory advertising. (Print) An Oral Statement---"We don't rent to
- \_\_\_\_\_ "is still considered Discriminatory
- Fraternal/Religion-Based Housing
- Roommates of Same Sex
- Owner Occupied Units With Four Units or Less

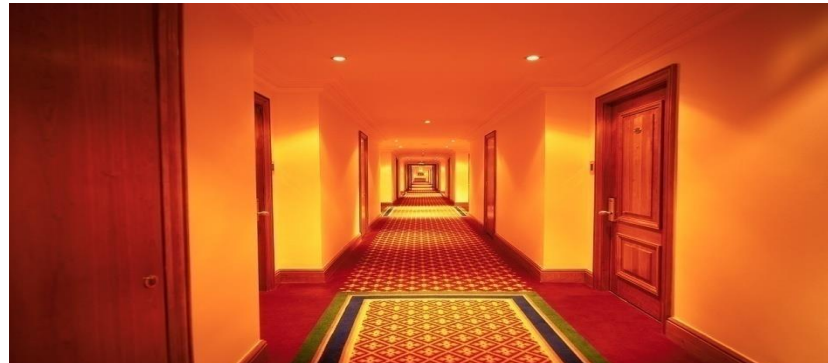
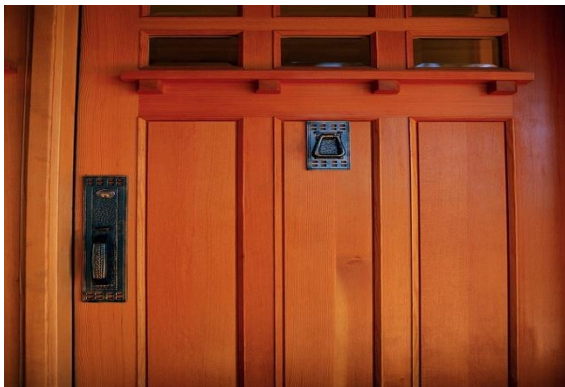
## FAIR HOUSING AMENDMENTS ACT OF 1988

- The act established design and construction requirements for multi-family housing (consisting of four or more dwelling units) built for first occupancy after March 13, 1991.



# The Accessibility “Seven”

- All newly constructed (March 1991) multi-family housing units must have “seven” accessibility features—
  - Accessible building entrance on an accessible route
  - Accessible and usable public and common use areas
  - Usable doors



# The Accessibility “Seven”

- An accessible route into and through the dwelling
- Accessible light switches and outlets
- Reinforced walls in bathroom walls to allow later installation of grab bars around toilet tub, shower stall and shower seat, where such facilities are provided
- Usable kitchen and bathrooms allowing an individual who uses a wheelchair to maneuver about the space



# Fair Lending



- The Fair Housing Act prohibits refusal to lend based upon neighborhood characteristics (red-lining) and appraisals that are based upon neighborhood trends or changes in race or color
- Predatory Lending is prohibited.



# Discriminatory Property Insurance Practices

- Redlining and refusing property insurance based upon non-risk factors such as neighborhood composition.
- Discriminatory appraisals.



# More information For Seniors Raising Children Discriminatory Practices targeted toward Families with Children and Seniors/Others with Disabilities



# EXAMPLES -DISCRIMINATION ON THE BASIS OF FAMILIAL STATUS ?



- Refusal to rent
  - Overly restrictive rules as to what children can do on the property
  - Eviction of pregnant female; increase presence of children
- ... is unlawful and may result in civil penalties



# EXAMPLES- DISCRIMINATION ON THE BASIS OF FAMILIAL STATUS



- Requiring families with children to live in specific areas
  - Limiting children's access to common areas like pools or playgrounds
  - Evicting a family once a child is added
  - Charging extra fees or deposits for having children in a property
  - Denying reasonable modifications to a residence based on the presence of children with disabilities
- ... is unlawful and may result in civil penalties



# What is the Definition of Disability?



- Under federal & state fair housing laws, disability (handicap) means, with respect to a person
- A physical or mental impairment which substantially limits 1 or more major life activities
- A record of such an impairment;
- Or being regarded as having such an impairment
- The term Physical impairment also includes:
  - Drug addiction (other than addiction caused by current, illegal use of a controlled substance) and:
  - Alcoholism



**Psychiatry**



# HOW DOES THE LAW PROVIDE PROTECTIONS FOR PERSONS WITH DISABILITIES?



- “Reasonable” Accommodations and Modifications Must Be allowed For Persons With Disabilities
- Adjustments in Rules, Policies, Practices of Services
- Permission Not Withheld by Housing Provider



## EXCEPTION TO PROVISIONS OF THE LAW



- No Requirement to Accommodate where “May Constitute a Direct Threat to Health and Safety of Others or Significant Risk of Same”
- In private, non-government housing setting, modifications made at expense of resident

# What is a Reasonable Accommodation?



- A reasonable accommodation is a **change** in a rule, policy, practice, or service that may be necessary to allow a person with a disability the equal opportunity to use and enjoy a dwelling.



# WHAT IS A REASONABLE MODIFICATION?



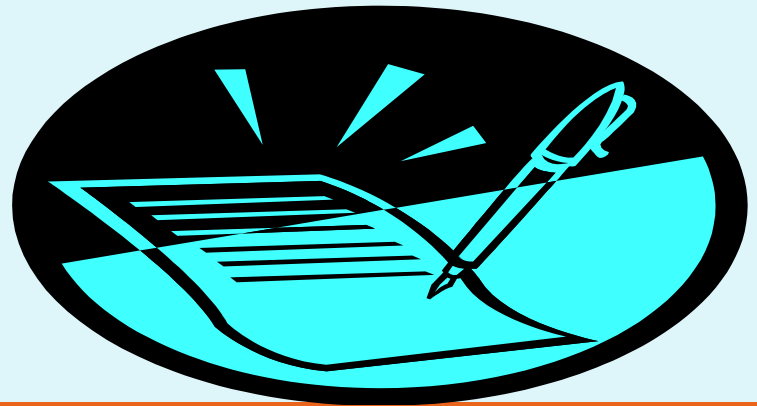
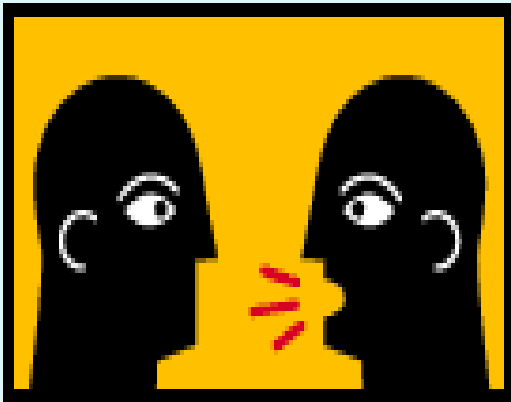
- A reasonable modification is a **change** in a living environment/unit that may be necessary to allow a person with a disability the equal opportunity to use and enjoy a dwelling.



# REQUEST FOR AN ACCOMMODATION OR MODIFICATION



- ❑ REQUEST--
- ❑ May be **oral** OR written
- ❑ May be preferable to have written request to maintain a record
- ❑ No magic words
- ❑ Can be made at **ANY TIME**



# REQUEST FOR AN ACCOMMODATION OR MODIFICATION



- May involve a social worker, caregiver, family member or others

In federally assisted housing, a housing authority must provide a participant with the opportunity to list a third party as a contact

An **interactive process** involves a dialogue between the person requesting the accommodation and the housing provider to understand the need and determine potential solutions. Under Fair Housing laws, owners are not obligated to make accommodations that would impose an undue financial or administrative burden on them.



# REQUEST FOR AN ACCOMMODATION OR MODIFICATION



- Caregivers are often necessary to ensure that people with disabilities can access housing
- 
- Common requests include – extra bedroom for caregiver, access to units, etc.
- Caregivers might be family members
- If a voucher tenant, PHA must approve an extra bedroom if needed as a reasonable accommodation

# VERIFICATION



- 1. If a person's disability is obvious or known, and the need for the requested accommodation is known, then the housing provider should not ask for any more information.
- 2. If the disability is known or obvious, but the need is not, then the housing provider should ask only for information necessary to verify the need for the accommodation.
- 3. If neither the disability nor the need for the accommodation is readily apparent, the housing provider should ask for verification of both the disability and the need for the accommodation.
- **Usually not necessary:**
  - ❑ To Provide Medical Records or Detailed Information About the Nature of the Disability.

# PROHIBITED ACTIONS

- Discriminatory terms, conditions or privileges
- Refusal To Negotiate For The Sale or Rental of Unit
- Refusal To Sell or Rent After a Bona-Fide Offer is Made
- Refusal to make a loan for a bona-fide home purchaser
- Discriminatory Property Insurance Practices
- Otherwise Making Unavailable Or Denying

# PROHIBITED ACTIONS

- Insurance Redlining
- Coercion, Intimidation, Threatening Or Interfering With Rights
- Steering and Blockbusting -
- Discriminatory Advertising- Ads should depict individuals from a variety of races, ethnicities, ages, and other protected characteristics to avoid giving the impression that the property is only for certain types of people.

# Who May Complain or File a Complaint?



- ANY aggrieved person
- Includes “any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur.”

*[42 U.S.C. § 3610(a)]*

# Who Can Be Held Liable?



- Property Owners
- Property Managers and Assistants
- Maintenance Personnel
- Lenders
- Property Insurers
- Public Housing Authorities
- Subsidized Housing Programs

# Who Can Be Held Liable?



- Affordable Housing Providers
- Special Needs Housing
- Assisted Care Homes
- Low Income Housing Programs
- Condo and Homeowner Associations
- Time Shares
- Others in Chain of Command

# Types of Enforcement Activities



- Conciliation-Out of Court Resolution
- Administrative Hearing-U.S. Department of Housing and Urban Development (HUD) or California Civil Rights Department
- Complaints filed in federal or state court

# ENFORCEMENT AGENCY

- US Department of Housing And Urban Development (HUD), a federal enforcement agency
- Department of Justice (DOJ), a federal enforcement agency
- California Civil Rights Department, a state enforcement agency

# REMEDIES

- Injunctive Relief-Discriminating Parties will be prohibited from continuing discriminatory policies or procedures.
- Compensatory Damages-Monetary Awards to the Successful Plaintiff
- Punitive Relief-Settlement Award Increased as Warranted
- Attorney' Fees And Court Costs
- Criminal Prosecution (for Violence/Hate Crimes)
- Affirmative Relief (i.e. future training of violator's staff, affirmative marketing plans, etc.)
  - For more Information see HUD.gov [http://](http://calcivilrights.ca.gov/)
  - [calcivilrights.ca.gov/](http://calcivilrights.ca.gov/)
  - Your Local Fair Housing Agency...Contact Your City for a Phone Number
  - See Also Fair Housing Council Conference Series @ [www/fhconference.com](http://www/fhconference.com)

## Civil Rights Heros-Heroines

Yuri Kochiyama---- President Lyndon Johnson----Eleanor Roosevelt-Marian Anderson  
Cesar Chavez----Dr. Martin Luther King Junior----Dolores Huerta

