



ROYALE MANAGEMENT
SERVICES

Housing Discrimination and Your Association

A Guide to Making Sure You Follow the Law

DISCLAIMER***

This is not legal advice, nor should it be construed as legal advice. The contents of this video are for informational purposes only.

No Lawyer-Client relationship is created by viewing this video.

If you have any questions you should consult a qualified and licensed attorney.

THE FAIR HOUSING ACT

- ▶ On **April 11, 1968**, President Lyndon Johnson signed the Civil Rights Act of 1968, which was meant as a follow-up to the Civil Rights Act of 1964.
- ▶ When originally passed in 1968, the Fair Housing Act only covered four protective classes: **race, color, religion, and national origin.**
- ▶ **Sex** was added as a protective class in 1974.
- ▶ In 1988, **disability** and **familial status** were included as protective classes as well.

WHAT IS FAIR HOUSING?

- ▶ Fair housing is the right to choose housing free from unlawful discrimination. Federal, state and local fair housing laws protect people from discrimination in housing transactions such as rentals, sales, lending, and insurance.
- ▶ Specifically, the federal Fair Housing Act and Florida Stat. §§ 760.20-760.60 prohibit discrimination based on race, color, religion, sex, national origin, familial status, disability, marital status, or age.

WHAT DO EACH OF THOSE CATAGORIES MEAN?

- ▶ Race: A tribe, people, or nation, belonging or supposed to belong to the same stock or lineage.
- ▶ Color: Visible color of one's skin.
- ▶ Religion: A person's affiliation with any religion or **lack of affiliation with any religion.**
- ▶ National Origin: The place where a person is from or their ancestry.
- ▶ Sex: Whether a person is male or female. (*Broward county has expanded this to cover LGBTQ individuals*)
- ▶ Disability: A disability is a physical or mental impairment that can substantially limit one or more major life activities. This can include things such as chronic illness, mental illness, HIV or AIDS, alcoholism or a physical handicap, among others.
- ▶ Familial Status: This class covers children under 18 living with parents or others with legal custody, or with a designee of the parent with written permission, a person who is pregnant or a person who is seeking custody of a person under 18. Not only can properties not refuse to sell or rent to families with children, but they may not deem a property "adults only."***

HOW DO FAIR HOUSING LAWS APPLY TO CONDOMINIUM, HOMEOWNERS, AND COOPERATIVE ASSOCIATIONS?

- ▶ Condominium associations, their bylaws, officers and management companies, are subject to fair housing laws.
- ▶ A condominium association cannot take race, color, religion, gender, disability, national origin, or marital status 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. Age and 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" exempt from age and familial status provisions of fair housing law.
- ▶ Condominium associations must make reasonable accommodations (i.e. changes in rules or policies) and allow reasonable modifications (i.e. installation of grab bars, ramps, handrails, etc.) for individuals with disabilities. **This includes making a reasonable accommodation to allow a service or companion animal where there may be a policy prohibiting certain or all animals.** Also, an individual with a service or companion animal should not be required to pay any "pet fees" or any other fees or deposits as a condition of having the assistance animal.
- ▶ Condominium associations must ensure that their bylaws are written and enforced in a manner compliant with fair housing laws. The "Use and Occupancy" restrictions within the bylaws cannot contain an unlawful preference, limitation or restriction on the basis of any protected class, including marital status and familial status. This includes any definition of family or single family use, and also covers occupancy limits. Further, families with children and other protected groups should not be specifically targeted with rules or restrictions.

OCCUPANCY STANDARDS

- ▶ The Fair Housing Act's protections against discrimination on the basis of familial status prohibit occupancy standards that are used to exclude families with children or that unreasonably limit the ability of families with children to obtain housing.
 - ▶ In most circumstances, **occupancy should never be limited to less than the average of 2 persons per bedroom**, and in many circumstances allowable occupancy may exceed that ratio.
- ▶ Many housing providers may employ the "general rule" occupancy standard of "two persons per bedroom", but there is no existing law or guidance that guarantees that such a standard complies with fair housing laws in all circumstances.

EXAMPLES OF DISCRIMINATORY USE AND OCCUPANCY POLICIES

A family shall mean one (1) person or a group of two (2) or more persons related by bonds of consanguinity, marriage, or legal adoption.

- ▶ *This definition contains a direct limitation on the basis of marital status, and also restricts on the basis of familial status by excluding families who have legal custody or are obtaining legal custody of a minor.*

No more than three (3) persons shall permanently occupy or reside in any Unit. (*Assuming association includes units with more than one bedroom*)

- ▶ *Most two bedroom condominium units are large enough to accommodate at least 4 people, thereby making this provision potentially overly restrictive and discriminatory on the basis of familial status.*

Use of any recreational facilities in the Condominium by children may be limited to such times and in such manner as the Association shall determine by duly adopted regulations.

- ▶ *This provision specifically targets families with children, and may constitute unlawful restrictions.*

Units shall be used exclusively for the residence of adult single persons or married couples without children below the age of thirteen (13) years.

- ▶ *This places direct, discriminatory restrictions on the bases of marital status, familial status and age.*

FAIR HOUSING BEST PRACTICES FOR CONDOMINIUM ASSOCIATIONS

- ▶ Regularly review the bylaws, as well as any other rules, policies or procedures, to ensure compliance with all applicable fair housing laws.
 - ▶ Amend bylaws as necessary and record amendments with Register of Deeds.
 - ▶ Arrange for fair housing training for association Board members and decision makers.
 - ▶ Use and occupancy restrictions should not contain any unlawful preference or limitation.
 - ▶ 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 and ELCRA's protections for marital status
 - ▶ Limits on the number of allowable occupants should be implemented with caution.
 - ▶ Understand reasonable accommodations and modifications, and develop appropriate procedures to allow reasonable accommodations and modifications for persons with disabilities
- ▶ The bylaws, policies and procedures should be applied equally to all persons regardless of race, religion, sex, disability status, etc., 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.

WHAT YOU CAN AND WHAT YOU CAN NOT ASK?

- ▶ CAN
 - ▶ How are you doing today?
 - ▶ Why do you want to move into our community?
 - ▶ Have you had a chance to review the rules and governing documents?
 - ▶ Do you have any questions about the association?
 - ▶ Are you aware of the maintenance fees and how they are paid?

▶ CAN NOT

- ▶ What medical condition do you need your service animal for?
- ▶ Where is your family from?
- ▶ Do you have any diseases?
- ▶ What country are your parents from?
- ▶ How did you learn Creole?
- ▶ Are you trying to have a family?

INTERVIEW OR ORIENTATION?

INTERVIEW

- ▶ An interview is used to determine if someone is eligible, ask questions, and evaluate the person. An interview gives the impression they may be “denied” if they answer wrong.

YOU SHOULD NOT BE INTERVIEWING AFTER AN APPLICATION HAS BEEN APPROVED.

ORIENTATION

- ▶ An orientation is used to make sure the new resident knows the rules, procedures and policies of the association. This meeting is designed to help the new resident become familiar with the association.

A MEETING WITH A NEW RESIDENT WHO HAS BEEN APPROVED BASED ON THEIR APPLICATION SHOULD BE TREATED AS A ORIENTATION.

FAIR HOUSING TRAINING CERTIFICATION REQUEST

Please read the information provided and watch the video “Housing Discrimination and Your Association.” When you have read the information please fill out the short quiz and other requested information below and return this page to Royale Management Services, Inc. to receive your Fair Housing Training Certificate.

1. What classes of persons does the Fair Housing Act protect? Circle all that apply.

-Sex -Age -Race -Color -Sports Fans -Familial Status

2. Mark a check next to questions it would be appropriate to ask in an orientation.

___ Have you had a chance to visit the community?

___ Where did you learn to speak Chinese?

___ Do you believe in god or are you an atheist?

___ Do you know where the dumpsters are located on the property?

3. Fair Housing Laws apply to: Check all that apply.

___ Homeowners Associations ___ Condominium Associations ___ Co-Op’s

___ Apartment Complex’s

I _____ (name), have received and reviewed materials on Fair Housing from Royale Management Services, INC. including access to the video “*Housing Discrimination and Your Association*” and a handout detailing information about the fair housing rules. I understand that the Fair Housing Act is designed to protect persons against discrimination, and that if I fail to act in compliance with the law it could result in liability for both my association and myself.

X _____

NAME _____

TITLE _____

(Your certificate will be sent here) EMAIL _____

**This page can be emailed to TEAM1@RMSAccounting.com or Mailed to:
2319 N Andrews Ave, Wilton Manors, FL 33311.*