



The 10 Most Common Fair Housing Mistakes and How to Prevent Them

Minimize your liability by understanding and applying the law

As a landlord, it is your duty to understand and practice fair housing. Remember that legal action is costly and time consuming.

#1 Failure to Keep Records

Even landlords who are committed to fair housing can find themselves facing a fair housing complaint filed with the U.S. Department of Housing and Urban Development (HUD) or a state or local agency, or even a lawsuit. If you practice fair housing in all aspects of your interactions with tenants and prospective tenants, then complete, accurate records are your best defense against any allegations of unfair housing practices.

#2 Inconsistency in the Application of Rules

Rules should be equally and consistently applied. It may be difficult to defend against complaints of discrimination if the property manager, owner, or landlord's representative has, in fact, applied rules more stringently to some tenants than to others.

#3 Retaliation

Suppose you give a warning notice to a minority tenant for continuous violations of the rules of the complex. The tenant files a fair housing complaint, alleging that the non-minority tenants in the same complex are not issued warning notices by property management for similar rule violations. You decide enough is enough and the filing of the fair housing complaint is the final straw. You then issue the minority tenant a rental termination notice. At this point, you have broken the law and the action to terminate the tenancy of the minority tenant may be considered retaliation. Never allow the filing of a fair housing complaint to influence your decision to take any adverse action against a tenant. Consult an attorney or the Arizona Landlord Tenant Act before taking action to terminate a tenancy.

#4 Having an All-Adult Complex

In 1989, Congress made discrimination against families with children illegal. It is illegal to exclude children as tenants unless the housing is specifically marketed as housing for older persons. Retirement housing and housing for seniors is still allowed, but must adhere to the guidelines imposed by the Fair Housing Act.

#5 Violation of Familial Status Laws Out of Concerns for Safety

Safety rules must be carefully developed to avoid conflict with laws prohibiting discrimination against families with children. A landlord may unknowingly violate the law while attempting to implement safety rules. Illegal practices include, but are not limited to, refusing to rent to families with small children out of concern for swimming pool safety, prohibiting use of recreational areas by children and refusing to rent upstairs units with balconies to families with children.

#6 Failure to Reasonably Accommodate a Tenant with a Disability

It is a violation of fair housing law to:

- Refuse to rent because of a disability
- Refuse reasonable structural modifications to improve access
- Refuse to make reasonable policy exceptions

Requests for accommodation from tenants with disabilities must be reasonable, but you should not refuse an accommodation request merely because it is inconvenient. For example, a landlord would be required to assign a parking space to a mobility impaired tenant if the tenant requests such a reasonable accommodation, even if parking spaces are not typically assigned to tenants.

#7 Failure to Clearly Convey your Commitment to Fair Housing to your Managers, Rental Agents and Tenants

Many fair housing complaints arise out of a single, questionable rental decision made by a property manager who then terminates employment and leaves you holding the bag. Remind your property managers and tenants of your commitment to fair housing. Display fair housing posters in prominent locations. Periodically distribute a statement of your commitment to fair housing to your tenants in community newsletters, bulletins, etc.

#8 Failure to Train your Property Managers

Laws change. Congress passes new laws and amendments. Court decisions add new meaning to existing laws. A property manager may inadvertently break the law, not realizing the law had changed. Have your rental staff attend a training class or seminar in fair housing at least once per year.

#9 Unreasonable Occupancy Standards

Arizona law states that a two person per bedroom occupancy limit is presumed to be reasonable. Depending upon the circumstances, however, such a limit may be challenged, and anything less than two persons per bedroom may violate fair housing laws by having an adverse impact against families with children. Also, whatever occupancy standards do exist must be applied consistently.

#10 Failure to Communicate with your Tenants

"Effective communication skills" may be an overused phrase these days, but they are invaluable in landlord/tenant relations. Clearly convey, and patiently explain to your tenants any decision or action you take that may have a negative impact on their housing situation. For example, the strong language in an intent to terminate notice often signals to tenants that they are being evicted. Explain to the tenant that the purpose of the warning is to correct the identified violation. This may prevent a call to a fair housing agency.

Covered Housing

Regardless of whether you are the property owner, a manager, broker, realtor or landlord representative, you are responsible for fair housing practices under the law.

The dwellings covered are:

- Apartments
- Houses
- Mobile home parks
- Condominiums

Discrimination

The Fair Housing Law prohibits discrimination on the basis of:

- Race
- Religion
- National origin
- Sex
- Color
- Familial status
- Disability

Housing Discrimination Can Be Expensive

Under fair housing laws, actual and punitive damages may be awarded to victims, as well as the recovery of court costs and legal fees. In addition, civil penalties may be imposed.

Protect Yourself

- Take any complaint seriously
- Don't be afraid to ask questions or request an explanation from HUD or the agency investigating the complaint
- Establish written policies, procedures and guidelines in writing and follow them in every case
- Make sure that all of your actions, policies, and procedures are based upon legitimate, nondiscriminatory business factors

Have accurate, complete, and available records to demonstrate that these policies, procedures and guidelines were followed in similar cases.

Additional Information

If you have any questions on Fair Housing, please contact the City of Chandler Housing and Redevelopment Division at 480-782-3200 or the Fair Housing Hot Line at 480-782-3208.

