

# Fair Housing It's Your Right!

## When You Know Your Rights You Can Combat Illegal Discrimination.

**Fair housing laws** are designed to protect people from discrimination in the buying, selling, leasing, and renting of housing. Fair housing laws prohibit many different types of discrimination, including discrimination based on race, religion, national origin, sex, or disability. This pamphlet focuses on discrimination based on disability, specifically protections for people with HIV/AIDS.

## Fair Housing Laws and Types of Housing Covered:

### ● **Fair Housing Amendments Act (FHAA)**

This federal law applies to all dwellings except:

- An owner-occupied building with four or fewer units
- The sale of a single-family house without the use of agents.

### ● **§ 504 of the Rehabilitation Act**

Federal law prohibiting illegal discrimination in all federally funded housing (including residential treatment programs and supportive housing if they receive federal funds).

### ● **Americans with Disabilities Act (ADA)**

Federal law prohibiting illegal discrimination in governmental services (such as the Housing Authority) and public accommodations (such as hotels and motels).

### ● **Fair Employment and Housing Act (FEHA)**

California law prohibiting illegal discrimination in all dwellings except an owner-occupied house in which only one room is rented out.

### ● **Unruh Civil Rights Act**

California law prohibiting illegal discrimination in all business transactions, including those of landlords.

## Fair Housing Laws May Protect Those Persons Who:

- Have a physical or mental impairment that substantially limits one or more major life activities, including:  
*walking, seeing, hearing, working, learning, or caring for oneself.*
- Have a record of such an impairment.  
*For example, if a person was once treated for cancer and now the cancer is in remission and that person is no longer receiving treatment, that person has a record of such impairment and may be protected from discrimination.*
- Are regarded as having such an impairment.  
*Even if a person does not have a disability but is regarded as having one, fair housing laws may protect that individual from discrimination. An example of this would be a landlord's denial of housing to a gay man on the assumption that because the prospective tenant is gay he must have AIDS. The prospective tenant would be protected under fair housing laws because he is being regarded by the landlord as having a disability.*

## Examples of Disabilities May Include:

- HIV/AIDS
- Physical health conditions
- Mental health diagnoses
- Alcoholism
- Past drug addiction, if not currently using drugs illegally.

## As a Disabled Individual, Am I Always Covered Under Fair Housing Laws?

- No, you may be excluded from protection under fair housing laws and denied tenancy if:
  - You pose a direct threat to others (physical or emotional harm)
  - Your tenancy would result in substantial property damage
  - You are not otherwise qualified for housing (such as inability to pay rent, current illegal drug use, etc.).

## What is Considered Discrimination Under Fair Housing Laws?

- Discrimination can take many forms, including:
  - Refusal to rent or sell based on disability status
  - Differential treatment
  - Eviction based on disability status
  - Steering towards different types or locations of housing
  - Refusal to make a reasonable accommodation or modification
  - Intimidation and retaliation
  - Inaccessible buildings
  - A seemingly neutral rule that disproportionately affects people with disabilities.



## What Questions May a Housing Provider Ask About My Disability?

- Generally, a housing provider (landlord, building manager, etc.) may not ask you any questions about your disability, nor may a housing provider ask questions that would force you to reveal your disability, unless the question asked is used to determine:
  - your eligibility for disability-specific housing
  - priority for housing based on your disability
  - eligibility for a reduction in rent based on your disability
  - the necessity for your reasonable accommodation request.

## Examples of Illegal Questions That a Landlord Cannot Ask:

- Remember, you do not have to answer these questions:
  - Do you have a disability?
  - Do you have AIDS or HIV?
  - Can I see your medical records?
  - Can you live independently?
  - Do you receive disability benefits?

## Examples of Legal Questions a Landlord May Ask (as long as they ask all applicants):

- A landlord may ask questions to determine if you will be a good tenant:
  - Can and will you pay rent on time?
  - Will your tenancy be a threat to the health and safety of other people?
  - Will you obey house rules?
  - Can you provide references about your rental history?
  - Are you currently using illegal drugs?

## You May Be Eligible For a Reasonable Accommodation:

- A reasonable accommodation is a change in the landlord's rules, policies, practices, or services that is necessary for your full and equal enjoyment of the unit. The accommodation must be a reasonable request and the landlord cannot suffer undue financial or administrative cost. In some cases, it may be necessary to disclose your disability in order to receive your reasonable accommodation.

## Some Examples of Reasonable Accommodations:

- Request for a support animal in a unit with a strict no-pets policy
- Request for a monthly written or oral reminder to pay rent
- Request for a change in guest policies in order to accommodate a full-time caregiver.

## If You are Facing Illegal Discrimination, These Organizations Can Help:

AIDS Legal Referral Panel  
1663 Mission Street, Suite 500  
San Francisco, CA 94103  
415.701.1100 or 510.451.5353  
415.701.1400 (FAX)

San Francisco Human Rights Commission  
25 Van Ness, Ste. 800, San Francisco, CA 94102  
415.252.2500

California Department of Fair Employment and Housing (FEHA)  
1.800.233.3212 or 510.622.2945

U.S Department of Housing and Urban Development (HUD)  
450 Golden Gate Avenue, San Francisco, CA 94102  
1.800.347.3739 or 415.436.8400

Published 1/2003

# FAIR HOUSING

## A GUIDE FOR PERSONS LIVING WITH HIV/AIDS



**Legal Services for People with HIV/AIDS  
in the San Francisco Bay Area**  
(415) 701-1100 (SF)  
(510) 451-5353 (Oakland)

**California Relay Service**  
(800) 735-2929, dial (415) 701-1100  
info@alrp.org  
www.alrp.org  
Se habla español