

Pot, Pit Bulls, Parking and Perps; Plus Latest Pitfalls in Fair Housing



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I am not an attorney

I do not work for HUD, any association or the vendors of this class

This information is based on my opinion and study of fair housing laws

It is not to be considered legal advice

**Effective the date of presentation this information is correct to the best of my knowledge. Fair Housing rulings/guidelines change occasionally
Stay educated!**

Rules/laws are often different in affordable housing and conventional market rate housing



Rules/guidelines are often different in/for affordable/subsidized housing, and conventional market rate housing i.e. smoking

It is important that you know local, city and state laws



Seven HUD Protected Classes and Definitions

Race, Color, National Origin, Religion

Gender/Sex

Familial Status

Handicapped/Disabled



Today's Biggest Issues – Overview

April 4 2016 ruling on criminal background checks as part of criteria

September 2016 rulings on Limited English Proficiency and Harassment /Violence Against Women

Parking; availability and handicapped

Assist, service, companion animals

Accommodations / Modifications

Smoking / Marijuana

Hoarding



Ruling April 2016 on Use of Criminal Background Checks

Why? prison population

Disparate impact?

Arrests vs convictions

This is not yet an added protected class

As a reasonable basis to deny housing to an applicant, some in the industry are proposing the following (in order to be seen by HUD as fair housing compliant):

***felony convictions for illegal manufacture or distribution of a controlled substance within the past 7 years**

***felony convictions for crimes resulting in bodily harm within the past 7 years**

***felony convictions for crimes resulting in damage or destruction to property (such as arson) within the past 7 years**

***felony convictions for sexual offenses (ever)**

It is smart to alert your insurance carrier to this topic and advise them of any changes you are making operationally. You want to stay under the umbrella of coverage and not be inadvertently exposed to any risk of having claims denied.

Vendors who provide background checks for your company should have knowledge of this ruling and applying it to your information search.



September 2016 Two More Rulings

Limited English Proficiency –

Be prepared to be responsible for translating

Do not discriminate because prospects and

Residents do not speak English.

Amazon \$20–\$400



Harassment and Hostile Environment –

subjecting a person to an unwelcome request or demand;
nuisance ordinances that penalize residents for small
number of 911 calls, evicting victims of domestic abuse.

Latest Info Regarding Race, Color

Latest Study (2013) HUD study results: More money will be spent on enforcement and testing

If it sounds dumb, ask! ink color example

Documents in Spanish or any prevalent second language



National Origin, Religion

If you are born in America, you are an American; if you came from another country you have protected status

Documents in Spanish or any prevalent second language

Fear of terrorists; attire / swim wear

Religion:

You have the right to practice your faith, or the lack thereof



Discrimination against LGBTQ

Late June 2015 Supreme Court ruled in favor of same sex marriage. It is legal nationwide.

Judge ruled protected under sex/gender

Be sure '*no harassment*' policy, train maintenance staff and vendors

Term '*partner*' may now be replaced with husband/wife

“Master” bedroom

How we handle application fees has changed!



Family Status

Steering / playground

Older resident's complaints

Some prospects ask to live near children, want to know location and number of kids. How to reply!

Occupancy Standards; 2 per bedroom
HUD did not dictate a LAW
Most states have added one additional person

When the particular dwelling has an unusually large amount of living and bedroom space, some state offices agree that it would be unlawful discrimination for an owner to refuse to allow a family of 5 to rent a 2 bedroom with "2 large bedrooms and spacious living areas." And just what is "unusually large and spacious? The memo doesn't say nor are there floor plan examples given!

SO if the dwelling has unusually spacious configuration or layout, the number of bedrooms is not always a reliable predictor of capacity!

Handicapped / Disabled

Includes both physical and mental impairments which substantially limit one or more major life activities, such as; walking, talking, seeing, hearing, breathing and caring for one self.

Also protected are those with a record of or being regarded as having such an impairment and protection includes persons residing with the renter, a family member or caregiver.

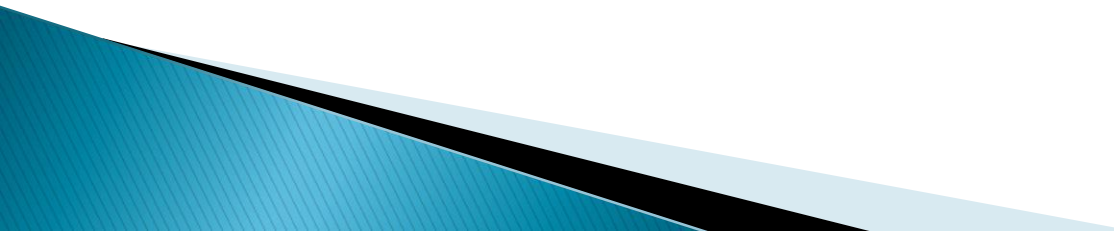
Watch for in near future demands for accessibility on our websites



These are not protected class under handicapped laws: current illegal drug users, people who deliberately set fires.

Even if the person is on medication for the addiction/illness, they are still protected.

Fair Housing laws apply to all areas of residential real estate including multi-family, single family, condominiums, lenders, title companies, land zoned for residential, advertising, and service providers.





Help, We're Running Out of Parking Spaces

What if another handicapped person parks in a space belonging to a handicapped resident?

There is no such thing as a 'reserved handicapped space.'

Can we tow a car with handicapped plates or a hang tag? Yes, if the car is blocking a fire lane, entrance to buildings, major entrance and exit.

What is the best way to reserve a requested 'handicapped' parking space? Reserve the space!

Hoarding



Accommodations and Modifications – the Difference?



Modification, for example, means making changes to existing apartment, such as widening doors, lowering cabinets, adding pull up bars, etc.

Who pays? That depends!

We are required without question to accommodate in all public areas.

Reasonable accommodation means a change to standard policies and procedures to allow the handicapped resident to fully use and enjoy the dwelling, for example:

Allowing a service/assist/support animal at a ‘no pets’ property, assigning a reserved parking place when there is no reserved parking.

Public areas must be accessible regardless of the age of the property.

Parking is the biggest issue based on complaints filed by handicapped persons in the last few years. Providing a reserved parking place is considered an accommodation.

If the disability is not readily apparent, you may consistently require documentation that the assist animal owner is indeed handicapped/disabled and requires the animal.

Do Not request the nature or severity of the disability.

2004 ruling changed in 2013; you can request a document from a ‘knowledgeable 3rd party, medical/health related care professional.’



Challenges.....it seems that almost everyone over 65 wants a handicapped permit. In the past doctors were very accommodating. However, with the number of aging baby boomers, physicians seem

much more cautious and selective as to true need. Fair housing agencies treat assigned parking spaces as an accommodation rather than a modification; and striping, signage for the space could /should be at the owner's/housing providers expense.

Check these websites for accessibility information:

www.fairhousingfirst.org, NMHC.org,

*portal.hud.gov/hudportal/HUD/program.../fair_housing.../FH
Laws*

Smoke is Smoke is Smoke!!!

Complaints; cigarettes, pipes, cigars

The future? Smoke free housing

E-cigarettes

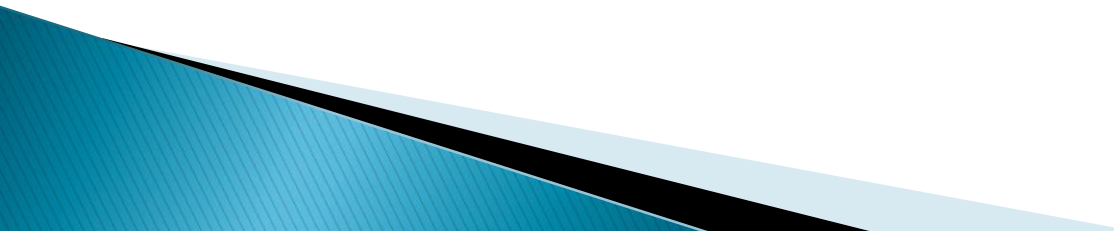
Marijuana

What are your rights as a housing provider?

That depends. Remedies? Challenges



Marijuana, although not found to be damaging to properties, can cause legal troubles for landlords if it is allowed. An owner who knowingly allows the possession or distribution of marijuana on his or her property could be classified as a conspirator and face up to 20 years in jail and up to \$500,000 in fines. The best course for landlords is to prohibit it in the lease.

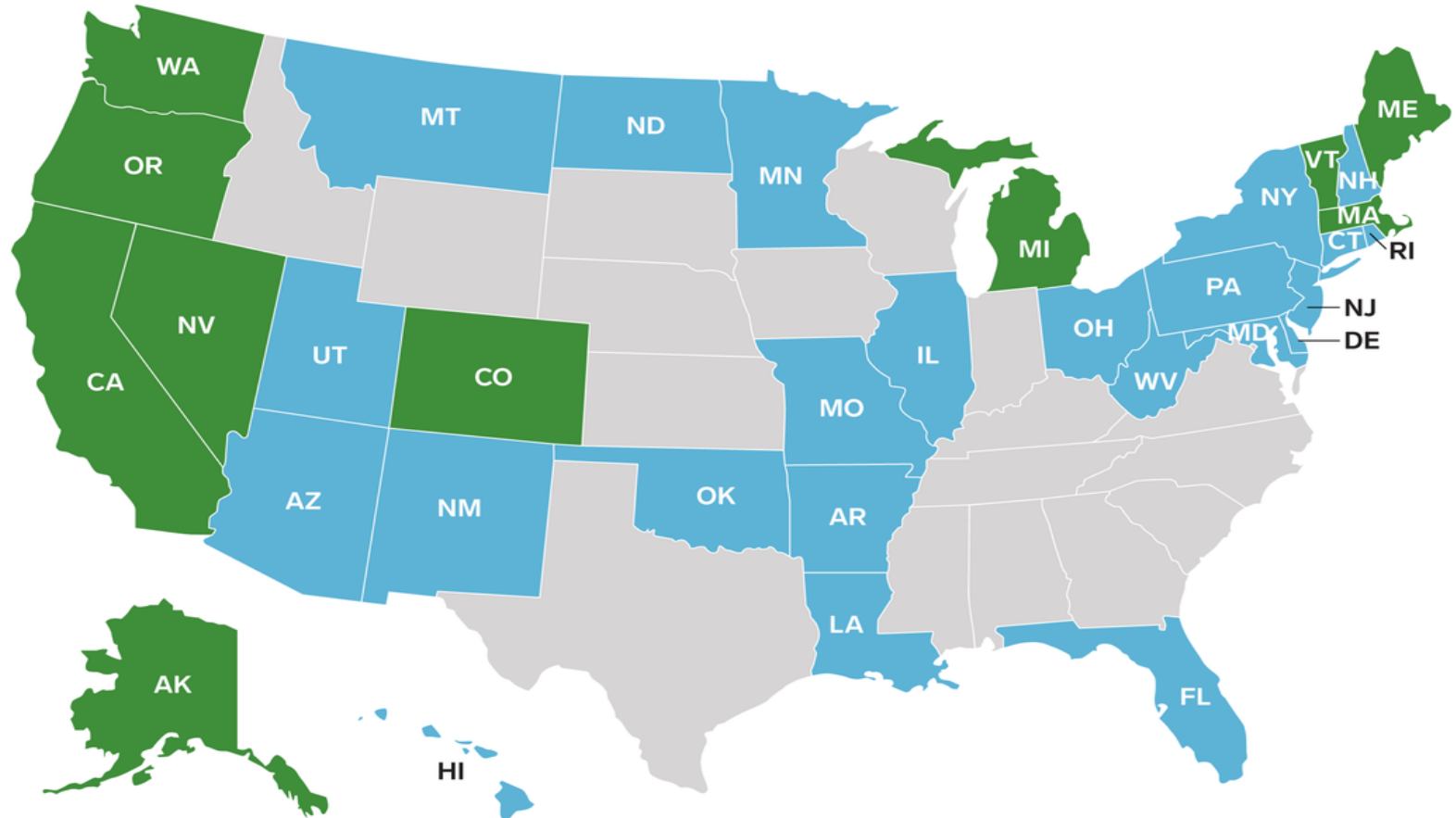


U.S. Government clearly states
that marijuana is
ILLEGAL, yet....



States where marijuana is legal

■ Legalized recreational and medical marijuana ■ Legalized medical marijuana



Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
Florida
Hawaii
Illinois
Maine
Maryland
Massachusetts
Michigan
Minnesota
Montana
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Dakota
Oklahoma
Ohio
Oregon
Pennsylvania
Rhode Island
Vermont
Washington
Washington DC
West Virginia
Vermont



Reminder:

Fair Housing training should be provided regularly for all employees including service technicians, porters and housekeepers.

This information is not meant to take the place of legal counsel.

Fines have increased through the years to as much as millions of dollars. Accessibility for the handicapped is the largest concern and number of complaints.

On a personal note, treat others as you would like to be treated and forego judging others based on discriminatory factors. The application for residency is truly the only legal tool available for choosing apartment renters.

Keeping these facts in mind, continuing your education in fair housing and being consistent in policies and the treatment of others should help prevent fair housing complaints



Fair Housing is a complex issue, constantly changing and being defined. It is your responsibility to know the laws, stay updated and to comply with them. It is helpful to treat others as you would like to be treated!

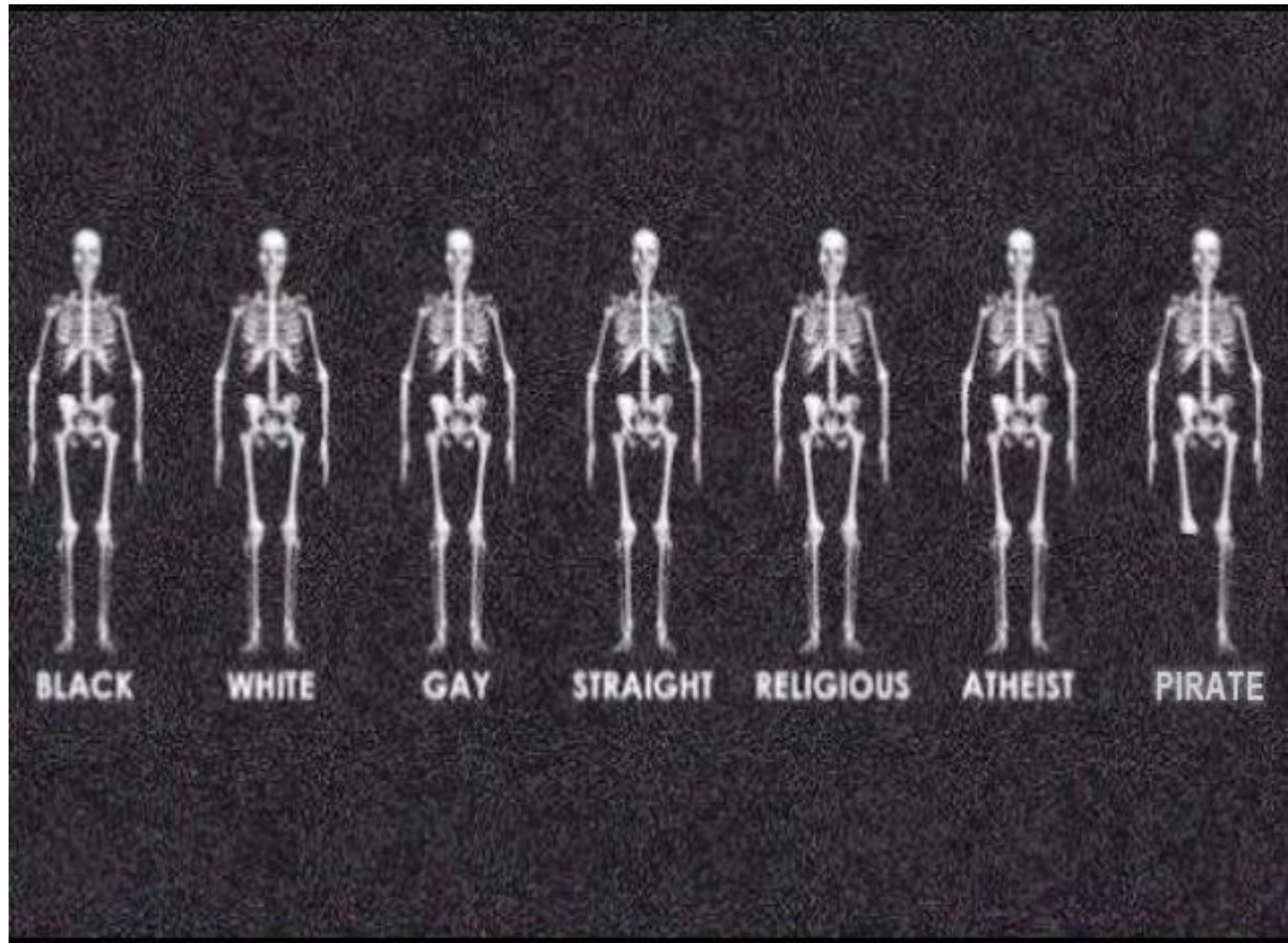
Please do not make judgment calls on your own. Seek counsel from your owner, supervisor, regional manager, and/or company Fair Housing Officer.



Remember that you can require that applicants meet your financial criteria as stated in property, company, HUD documents; regardless of protected status. In most states you may require proof of income.

Know what applies to your property, in your city and your state!





Fair Housing laws are constantly under scrutiny. There is little doubt that the future will bring additional changes. Stay updated at least twice annually....don't let a courtroom become your classroom!

Education is available and ignorance of the laws will not help you when complaints are filed. Be smart, stay updated!!!

Think of a box of crayons...many colors, many names...living together in the same box, making beautiful pictures together!



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