

Response to concerns about housing security following September 11, 2001

Rights and Responsibilities of Landlords and Residents in Preventing Housing Discrimination Based on Race, Religion, or National Origin in the Wake of the Events of September 11, 2001

In response to the widespread concern of future terrorist attacks, landlords and property managers throughout the country have been developing new security procedures to protect their buildings and residents. Many have educated their residents on the signs of possible terrorist activity and how to communicate security concerns to management or law enforcement. Landlords and property managers are working to keep their buildings safe, but at the same time they are responsible for making sure their efforts do not infringe on the fair housing rights of current or potential residents. Since the attacks of September 11, 2001, persons who are, or are perceived to be, Muslim or of Middle Eastern or South Asian descent have reported increased discrimination and harassment, sometimes in connection with their housing. To help address this growing concern, the following is a review of federal fair housing laws and answers to some questions regarding housing discrimination that have been raised since the events of September 11, 2001.

The Fair Housing Act

The Fair Housing Act (the Act) prohibits discrimination because of race, color, religion, sex, national origin, disability, and familial status in most housing related transactions. Further, the Act makes it unlawful to indicate any preference or limitation on these bases when advertising the sale or rental of a dwelling. The Act also prohibits harassment of anyone exercising a fair housing right and retaliation against an individual because s/he has assisted, or participated in any manner, in a fair housing investigation.

Screening and Rental Procedures

It is unlawful to screen housing applicants on the basis of race, color, religion, sex, national origin, disability, or familial status. In the wake of the attacks of September 11, 2001, landlords and property managers have inquired about the legality of screening housing applicants on the basis of their citizenship status. The Act does not prohibit discrimination based solely on a person's citizenship status. Accordingly, asking housing applicants to provide documentation of their citizenship or immigration status during the screening process would not violate the Fair Housing Act. In fact, such measures have been in place for a number of years in screening applicants for federally-assisted housing. For these properties, HUD regulations define what kind of documents are considered acceptable evidence of citizenship or eligible immigration status and outline the process for collecting and verifying such documents.* These procedures are uniformly applied to every applicant. Landlords who are considering implementing similar measures must make sure they are carried out in a nondiscriminatory fashion.

Example 1: *A person from the Middle East who is in the United States applies for an apartment. Because the person is from the Middle East, the landlord requires the person to provide additional information and forms of identification, and refuses to rent the apartment to him. Later, a person from Europe who is in the United States applies for an apartment at the same complex. Because the person is from Europe, the landlord does not have him complete additional paperwork, does not verify the information on the application, and rents the apartment. This is disparate treatment on the basis of national origin.*

Example 2: *A person who is applying for an apartment mentions in the interview that he left his native country to come study in the United States. The landlord, concerned that the student's visa may expire during tenancy, asks the student for documentation to determine how long he is legally allowed to be in the United States. If the landlord requests this information, regardless of the applicant's race or specific national origin, the landlord has not violated the Fair Housing Act.*

**See HUD Regulations at 24 CFR 5.506-5.512*

Rules and Privileges of Tenancy

A landlord must make sure s/he enforces the rules of tenancy in a nondiscriminatory manner. A landlord's response to a violation of the rules must not differ based on the person's race, religion, or national origin. A landlord may not impose more severe penalties because the person is Muslim, of Middle Eastern or South Asian descent.

While landlords must be responsive to complaints from tenants, they should be careful to take action against residents only on the basis of legitimate property management concerns. Landlords should consider whether a complaint may actually be motivated by race, religion, or national origin.

Example: *A landlord receives a complaint from a tenant who claims a Muslim tenant is "having a group of about five or six other Muslim men over to his apartment every Monday night." The tenant claims "the men appear unfriendly" and thinks they may be "up to something." However, the tenant's visitors do not disturb the other residents in their peaceful enjoyment of the premises. A landlord could be accused of religious discrimination if s/he asks the tenant to refrain from having Muslim guests when there is no evidence of any violation of established property management rules.*

Landlords must also give all tenants the same privileges. A landlord cannot limit the use of building amenities such as community rooms, gyms, etc. based on person's race, religion, or national origin.

Example: *A landlord typically allows building residents to reserve the community room for activities such as birthday parties. When a tenant who is Arab American asks to reserve the building's community room for a birthday party for his son, his request is denied even though the room was available. Later, the landlord grants the reservation to a tenant who is white, of European descent. By failing to give*

persons of different national origins the same privileges, this landlord could be accused of national origin discrimination.

Responding to Problem Tenants

The Fair Housing Act does not protect tenants who are unruly or who pose a danger to other residents. Landlords are allowed to take action against persons whose behavior is disruptive to the neighborhood, including evicting such persons from the property. Of course, landlords must have the same eviction procedures for all tenants. Any disciplinary action taken must be on the basis of a person's behavior or other violations of property management rules, and not on race, national origin, religion, sex, color, disability, or familial status.

Landlords also do not have to rent to persons who do not financially qualify for the housing and may evict tenants who are delinquent in their payments. As long as the landlord uses the same standards to determine if an applicant is financially suitable and takes the same action against all persons who fall behind in payments, the landlord's actions would not violate the Fair Housing Act.

Filing a Complaint

If you feel your rights have been violated, you may file a fair housing complaint with HUD by doing any of the following:

- Completing our online complaint form
- Calling our toll free number 1-800-669-9777
- Writing a letter that includes
 - Your name and address
 - The name and address of the person your complaint is about
 - The address of the house or apartment you were trying to rent or buy
 - The date when this incident occurred
 - A short description of what happened

Then mail it to:

Office of Fair Housing and Equal Opportunity
Department of Housing and Urban Development Rm. 5204
451 Seventh Street SW
Washington, DC 20410-2000

HUD will investigate the complaint at no charge to you. You have one year after an alleged violation to file a complaint with HUD, but you should file as soon as possible. For more fair housing information, visit the web site for HUD's Office of Fair Housing and Equal Opportunity at www.hud.gov/fairhousing.