

THE VIRGINIA FAIR HOUSING LAW

**Understanding The Virginia Fair
Housing Law & Reasonable
Accommodations**

To All Participants!!!

As respect for others in the class, place phones on
“Silence”, “Vibrate” or “Off”.



If you **MUST** answer, thank you for exiting the
room before answering.

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Disclaimer

The information shared in this seminar is an overview of the Virginia Fair Housing Law and should not be used as legal advice. For legal advice, contact the company attorney, or seek an attorney who is familiar with the Fair Housing Law.

The Virginia Fair Housing Law – Pt. 1



THE VIRGINIA FAIR HOUSING OFFICE

1-888-551-FAIR (3247) OR (804) 367-8530

A Little History



Video Presentation

- https://www.youtube.com/watch?v=YrHIQIO_bdQ

LAWS THAT AFFECTED HOMEOWNERSHIP

- Land Grant Act (1862)
- Homestead Act (1862)
- Indian Removal Act (1830)
- Jim Crow Laws (19th & 20th Century)
- Home Owner's Loan Corporation (1933)
- National Housing Act (1934)
- Chinese Exclusion Act (1882)
- Social Security Act (1935)
- Japanese Internment (1942-1946)
- Urban Renewal Act (1954)
- Model Cities (1966)
- National Highway Act (1956)

President Johnson referring to the Fair Housing Bill...

“It proclaims that fair housing for all--all human beings who live in this country--is now a part of the American way of life.”



The Actual Signing of ...

THE FEDERAL FAIR HOUSING ACT TITLE VIII OF THE CIVIL RIGHTS ACT



The Federal Fair Housing Act

Protection is now 51 years old!



The Federal Fair Housing Act

- The Fair Housing Act of 1968 (FHA) (42U.S.C.A. §§ 3601-3631) is also known as Title VIII of the CIVIL RIGHTS ACT of 1968. Congress passed the act in an effort to impose a comprehensive solution to the problem of unlawful discrimination in housing based on
 - Race **(1968)**
 - Color **(1968)**
 - Sex **(1974)**
 - National Origin **(1968)**
 - Religion **(1968)**
 - Familial Status **(1988)**
 - Disability **(1988)**



The Commonwealth of Virginia

**The Virginia Fair Housing Law was enacted
on April 7, 1972.**



The Virginia Fair Housing Law (§ 36.96.1)

It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens, regardless of

- race,
- color,
- religion,
- national origin,
- sex,
- elderliness,
- familial status,
- or disability (handicap),

and to that end to prohibit discriminatory practices with respect to residential housing by **any person or group of persons**, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the Commonwealth may be protected and insured. This law shall be deemed an exercise of the police power of the Commonwealth of Virginia for the protection of the people of the Commonwealth.

THE VIRGINIA FAIR HOUSING LAW

**DETAILS ABOUT THE VIRGINIA FAIR
HOUSING LAW**



Virginia Fair Housing Law Exemptions (§ 36-96.2)

- An owner with three (3) or less single family homes.
- An owner residing in an “owner occupied” building consisting of 4 units or less (Mrs. Murphy).
- An owner of a single family home rented or sold without the use of a real estate agent or broker.
- Religious organizations (non-public) housing, without discriminating based on race, color, national origin, sex, familial status, handicap & elderliness.
- Educational institutions (housing) exempt from sex/gender discrimination.

Breaking News as of 2016

- **HUD to landlords:
Rent to ex-convicts
or else face the
consequences**
- April 4, 2016
- Disproportionately
affected are African
American and
Hispanic Men



Criminal Record Discriminatory Complaint & Settlement

**Communities Accused of Applying
Discriminatory Blanket Bans on Renters
with Criminal Histories**

<https://www.fairhousingcoach.com/article/communities-accused-applying-discriminatory-blanket-bans-renters-criminal-histories>

A Woman's Choice – Sexual Favors or Lose their Homes -BBC

<http://www.bbc.com/news/world-us-canada-42404270>



HUD's Final Rule on Harassment

Harassment in housing threatens a resident's safety and privacy in her own home. In HUD's experience enforcing the Fair Housing Act, low-income women—often racial and ethnic minorities and persons with disabilities—may be particularly vulnerable to sexual harassment in housing. HUD's final rule on harassment in housing includes: Formal uniform standards for evaluating claims of hostile environment and quid pro quo harassment in the housing context.

- **Quid Pro Quo Harassment** involves subjecting a person to an unwelcome request or demand and making submission to the request or demand a condition related to the person's housing.
- **Hostile Environment Harassment** involves subjecting a person to unwelcome conduct that is sufficiently severe or pervasive such that it interferes with or deprives the person of the right to use and enjoy the housing.

Clarification as to when housing providers and other covered entities or individuals may be held directly or vicariously liable under the Fair Housing Act for illegal harassment or other discriminatory housing practices.

HUD September 2016

Additionally the law addresses...

- Interference with enjoyment of rights of others (§ 36-96.5)
- Restrictive Covenants § 36-96.1:1



What is a “Protected Class”

The term “**protected class**” is an anti-discrimination term that is used in state and federal law. It refers to a group of people who share a common characteristic and need protection from discrimination and harassment.

Protected Classes in Virginia

- Race
- Color
- Sex
- Religion
- National Origin
- Familial Status
- Disability (Handicap), &
- Elderliness (added to broaden the law)

Facts About Each Protected Class



RACE

- Race is a social constructed designed to place people into social boxes where they can be held down social and economically with privilege going to one group above.



Color

- Color refers mainly to the pigmentation or the amounts of melanin in each person, from the darkest brown to the pinkish white shades.



Sex (Gender)



The VFH law makes it unlawful for housing providers to discriminate against individuals by favoring one gender over another.

Familial Status

- Families that include children under the age of 18.



Familial Status § 36-96.1:1

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with:

- Single parents
- Adoptive parents
- Foster parents
- Grandparents
- Pregnant women, or
- Anyone seeking legal custody of a minor.

DISCRIMINATORY RULE

"All children must be supervised by an adult at all times while playing outside. No sports activities, skateboarding, roller-blading, or general extracurricular activities are to take place in our community. If we see anyone violating any of the above activities or see any unsupervised children they will be sent home immediately."

NATIONAL ORIGIN

The Virginia Fair Housing Law prohibits discrimination that is directed towards any person because of their country of birth or in broader terms where his or her ancestors originated from.



Religion



The VFH law prohibits housing providers from using religion as a basis for qualifying for housing. This prohibition covers instances of:

- Overt discrimination against members of a particular religion.
- Zoning ordinances designed to limit the use of private homes as places of worship.

Elderliness



Exemption

- A senior community is exempt from renting to families with children in their “Senior” or “Elderly” Communities:
 - 62 and Older Housing
 - 55 and Older Housing



End of Part One! Questions?



Pt. 2 - Welcome Back to...

Disability and Understanding Reasonable Accommodations



Disability





THE VIRGINIA FAIR HOUSING LAW

DISABILITY – (HANDICAP)

The Fair Housing Act

“The Act prohibits housing providers from discriminating against applicants or residents because of their disability or the disability of anyone associated with them and from treating persons with disabilities less favorably than others because of their disability.”

Joint Statement on Reasonable
Accommodations

The definition of disability

- (i) a physical or mental impairment that substantially limits one or more of such person's major life activities;
- (ii) a record of having such an impairment;
- Or, (iii) being regarded as having such an impairment.



What makes the difference for People with Disabilities?

- In order to equalize housing opportunities for people with disabilities the FHA and the VFHL **demand** that housing providers make:
- **REASONABLE ACCOMMODATIONS, &**
- **REASONABLE MODIFICATIONS**

Reasonable Accommodations

Disability laws state the following in reference to reasonable accommodations:

- **The Virginia Fair Housing Law**: Changes in rules, policies, practices, or services that are necessary for a person with a disability to have an equal opportunity to “use and enjoy” housing
- **Section 504**: *(applies to federally funded property)* Changes to rules or policies AND structural changes that are necessary for a person with a disability to “use and enjoy” housing.

Depending on the Type of Property

- Private Properties
 - Accommodations are limited to paper changes - rules, policies, services & practices, while
- Federally Funded Properties
 - ALL changes, both structural and paper changes are all considered Reasonable Accommodations.

Who pays for Reasonable Accommodations?

The housing provider is expected to bear the responsibility of providing the reasonable accommodation at **NO COST** to the resident.



An Applicant or Resident...

- Asking for a reasonable accommodation must:
 - First have a disability according to the American with Disabilities Act definition shown and discussed previously.

DISABILITY



When can a resident request a Reasonable Accommodation? Does it have to be written?

- A resident can request a “Reasonable Accommodation” at any time of tenancy.
- According to the Joint Statement, there is no particular manner in which the Reasonable Accommodation has to be requested. (Writing it, does give the resident supportive documentation of their request)

Is a housing provider required to make an accommodation without a request?

- According to the RA Joint Statement the answer to that question is... NO, however,
- *“Fair Housing Law trends suggest that if a landlord knows or should have known about the disability, then it is a duty by the property to accommodate.”* **According to Attorney Lynn Dover**

Under the fair housing law

- A resident must show that his/her disability requires the landlord to make a reasonable accommodation. (Remember that the threshold for showing causation is very low.)
- The request must be reasonable
- The landlord must enter into dialogue with the resident
- The landlord should explore the request in “good faith”
- If the request is reasonable and will alleviate the problem, the landlord should grant the request or run the risk of violating the fair housing law.

Unreasonable accommodations

A request for a reasonable accommodation may be rejected if it is unreasonable:

- The test under both the VFH law and Section 504 is whether the accommodation would pose an undue financial and administrative hardship *OR*;
- The accommodation would fundamentally alter the nature of the program.
 - “Fundamentally Alter the Nature of the Program” means the resident requests something outside the scope of the program’s mission or undermines the reason for the program’s existence.

EXAMPLES OF

REASONABLE ACCOMMODATION

Service, Assistance, Emotional Support and Companion Animals



Assistance, Emotional Support and Companion Animals

- **NO deposit or additional rent should be required because of a assistance or emotional support animal.**
- **No specialized training, certificate is required. (Only verification that animal provides a “necessary” service related to the resident’s disability.)**
- They can be any size, breed or weight.
- **Must not be a threat to other residents or property.**
- Requires residents to follow “pet rules” that may include: noise control, leash, license, shot records, clean up after.
- Resident must have control of and take care of the animal.
- Residents are responsible for damages to property.



Confirmed by the DSM-5 as a
disability...



HOARDING



The Researched Facts about Hoarding

HOARDERS

- Up to 6% of the world's population displays clinical hoarding
- Anyone can be a hoarder... men, women or children
- Elderly women are more likely to hoard
- They are not nasty lazy, nasty or defiant
- They have a disability and **MUST** be granted a reasonable accommodation even if they did not request one
- The accommodation may be in the form of more time to bring the dwelling up to code
- Early intervention is the best offense
- It takes a community...

Reasonable Modifications

- A modification is a physical change to the structure of a building, including a dwelling unit and common areas.
- The reasonable modification can be made at anytime of residency.
- As with reasonable accommodations, a reasonable modification should be granted if reasonable.
- Residents are financially responsible for reasonable accommodation requests on privately funded properties, unless part of the required accessibility features.





THE VIRGINIA FAIR HOUSING LAW

OTHER AREAS OF PROTECTION FOR PEOPLE WITH DISABILITIES



GROUP HOMES



Certain restrictive covenants void; instruments containing such covenants § 36-96.6.

- D. *A family care home, foster home, or group home in which physically handicapped, mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons*, shall be considered for all purposes **residential occupancy by a single family** when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single family or to residential use or structure.

DESIGN AND CONSTRUCTION



If your property is...

- A covered multifamily community of 4 units or more
- Built after **March 13, 1991** for first occupancy
- You have to be accessible to **ALL**
- Exceptions
 - Single family
 - Rooming Houses
 - Townhouses

ADVERTISING HOUSING

- **In Written Housing Ads:** Describe the property, not who it is most suitable for.
- **In Ads with photographs that include humans:** A definable representation of **ALL** (*race, color, national origin, religion, sex, familial status, handicap & elderliness*) - in equal setting - that sends a message to qualified applicants that all are welcomed.
- Always display the Equal Housing Opportunity Logo.
- Display HUD approved Fair Housing Posters in all public and common use areas.

Mortgage Banking & Insurance Companies





REDLINING



THE VIRGINIA FAIR HOUSING LAW

HOUSING PROVIDERS & THE FAIR HOUSING LAW

Remember that...

IGNORANCE
OF THE
LAW
IS **NO**
EXCUSE



Are there any questions?



**The Virginia Fair Housing Law
protects you – but you must report illegal
or unfair housing practices!**



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Please Note!

This presentation is a personal interpretation regarding the provisions of and protections in the Virginia Fair Housing Law and Federal Fair Housing Act. It is a working and ever-evolving product tailored for personal use by the presenter. The information contained in and presented during the presentation is not to be construed as legal advice or instruction issued by the Virginia Fair Housing Office, the Department of Professional and Occupational Regulation or the Commonwealth of Virginia. Therefore, use by other persons, groups or agencies is not advised.

(MIDM – MODIFIED – 4-2019)