

General Guidance on Housing and Commercial Space

-OHR Enforcement Guidance 17-01-



Date: September 18, 2017

Subject

DC Human Rights Act -- Housing and Commercial Space

Purpose

This enforcement guidance provides a general overview of the District's anti-discrimination laws in housing and commercial space.

A. Does the District of Columbia have an anti-discrimination law on housing and commercial space?

Yes, the District of Columbia Human Rights Act of 1977 (DCHRA), D.C. Code §§ 2-1402.21 et seq., prohibits discriminatory practices in housing and commercial space based on one's actual or perceived protected trait.

B. What are the covered protected traits in Housing and Commercial Space?

1. Race
2. Color
3. Religion
4. National origin
5. Sex
6. Age
7. Marital status
8. Personal appearance
9. Sexual orientation
10. Gender identity or expression
11. Familial status
12. Family responsibilities
13. Disability
14. Matriculation
15. Political affiliation
16. Source of income
17. Status as a victim of an intrafamily offense
18. Place of residence or business of any individual

C. What would constitute a discriminatory practice?

If the following actions are taken based on one's protected trait(s), OHR may find the action discriminatory.

Failure to rent or sell	Offering different housing options or not offering all available housing options
Appraisal, lending, guarantee, mortgages, or other financing	"Redlining" by refusing or limiting transactions in certain areas
Written or verbal statements or advertisements	False representation of availability
"Blockbusting" or "Steering" renters or buyers to particular neighborhoods	Different terms or conditions in a contract of sale or lease

D. Are there examples of housing or commercial space discriminatory practice?

Yes, the following are examples of conduct that could be discriminatory:

- A landlord creates an advertisement stating that he seeks heterosexual couples as tenants. This may be discriminatory based on sexual orientation, familial status, and marital status.
- A landlord requires that students (over age 18) enter special financing terms not required of non-students. This may be discriminatory based on age, matriculation, and source of income.
- A landlord asks students to provide a larger than usual down payment where similar requirements are not imposed upon other applicants with similar credit-worthiness. This may be discriminatory based on age and matriculation status.
- A landlord refuses to repair the light fixtures in an Indian tenant's apartment but repairs the light fixtures in a New Zealand tenant's apartment. This may be discriminatory based on race, color, or national origin.
- A landlord tells an Asian applicant that there are no apartments left in the building, when in fact there are. This may be discriminatory based on race, color, or national origin.
- A broker does not inform prospective African-American buyers about all available listings in their price range and desired locations, instead steering them to racially segregated, predominantly African-American neighborhoods. This may be a violation of the DCHRA based on race, and the broker may have her license revoked.
- A broker attempts to persuade owners to sell because people of a particular race are moving into the neighborhood. This may be a violation of the DCHRA based on race, and the broker may have his license revoked.
- The rules and policies of a housing provider state, "Children may not ride bicycles." This may be discriminatory based on familial status.

E. Are there examples of conduct that is non-discriminatory?

- A landlord has reasonable behavioral rules in common areas of the building. This is likely not discriminatory, so long as they apply to everyone in the building and the rule does not have the effect of excluding any particular group in the protected traits above.
- The rules and policies of a particular housing provider state a parent must accompany children, including children ages 15 and 16, at a pool supervised by a lifeguard. This may be discriminatory based on familial status. A rule requiring supervision of children under the age of 15 at a pool supervised by a lifeguard would likely not be discriminatory.
- The prohibition on familial status discrimination does not apply to housing reserved for older persons 62 years of age or older.
- If a tenant requests disability accommodation which requires alteration to the property, landlords are not required to pay for the physical alteration; however, the landlord must allow the tenant to make and pay for the alteration if it is reasonable and does not constitute a threat to health or safety, and so long as the tenant is able to restore the unit to the original condition.¹

¹ Under the federal Fair Housing Act, a landlord that receives federal funding from HUD may be required to pay for the modifications.

F. Are there any exceptions in the law?

Yes, below are most frequently used exemptions.

1. **Small Landlord Exemption:** if the Landlord owns three (3) or fewer single family homes sold or rented, they are exempted from the DCHRA, unless: (1) Landlord uses a real estate agent, or (2) Landlord makes a written discriminatory statement.

EXAMPLE:

If a landlord owns three single family homes and does not use a real estate agent, and says verbally “I don’t allow Black people to rent my units,” he is nonetheless exempt under the DCHRA. However, both verbal and written discriminatory statements are prohibited under the federal Fair Housing Act, even for entities otherwise exempt.

2. **Mrs. Murphy Exemption:** If a Landlord/Owner or a member of his family occupies one of the living units and the Landlord/Owner intends the unit to accommodate two families living independently of each other (e.g. a duplex) or four families sharing one or more common elements (e.g., the kitchen or a bathroom), then the owner is exempt from the DCHRA.

EXAMPLE:

Landlord’s sister occupies one of the two units in a duplex. Landlord, with or without an agent, posts an advertisement indicating that she will only rent to straight couples. Landlord remains exempt under the DCHRA. However, the federal Fair Housing Act’s prohibition on discriminatory statements would still apply.

G. Is there anything else businesses should be aware of?

Yes, below is some additional information:

- OHR may seek to have a license revoked if it is found that the broker has engaged in discriminatory practices.
- Tenants or lessees experiencing or having experienced intrafamily offenses may be released from their lease without penalty.
- All aspects of housing transactions are covered under the DCHRA (e.g., appraisals, loans, construction, and rehabilitation), so long as the landlord or owner is covered by the statute.
- Properties constructed after March 13, 1991 must be accessible in the common elements to disabled persons, and all entryways must be sufficiently wide to accommodate a wheelchair.