UIC LAW SCHOOL

FAIR HOUSING LEGAL CLINIC

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History of Fair Housing Act

Legal landscape prior to passage

      - numerous government and private policies foster segregation
      - created separate, unequal communties & health care systems
      - exposed vulnerable populations to health and saftey risks

The Fair Housing Act (FHA) establishes fair housing as a **national policy** with two purposes:

1. Eliminate segregated communities
2. Promote integrated communities

State of Fair Housing Today

- Housing discrimination is alive and well /:

  - 2021- approx. 29K reported instances nationally

  - Pandemic impacts

UIC JMLS Fair Housing Clinic

- Established in 1993, funded in part by HUD to:

  - Enforce the fair housing laws in Chicago area through litigation, testing and legislative initiatives

  - Educate the future lawyers and "change agents" – You!

  - Promote integrated communities

UIC is the only school in the country with a law legal school clinic. devoted exclusively to fair housing training and enforcement

Fair Housing Quiz Question 1

Which of the following categories of people do you think are protected by the federal fair housing laws:

A.   Recovering addicts
B. Abuse survivors
C. Formerly incarcerated persons
D. Persons receiving government benefits
E. None of the above
F. All of the above

Classes of Persons Protected by FHA

1. *Race*
2. *Color*
3. *National Origin*
4. *Religion*
5. *Sex*
6. *Familial Status*
7. *Disability*

NOTE: This is the floor. The disparate impact theory may broaden categories and state/local fair housing laws include other classes of persons.

Fair Housing Quiz Question 2

- Which of the following properties do you think are covered by the federal fair housing laws?

    - A. Vacation Homes

    - B. Nursing Homes

    - C. Dormitories

    - D. Shelters

    - E. Vacant land

    - F. None of the above

    - G. All of the above

- Note: Local laws may cover more

What is considered discrimination?

Refusals to rent or sell - includes flat out denials and discouaging conduct

Imposing different terms and conditions - includes conduct in the application process such as "steering" as well as what happens while living there. -

Advertisements, notices or statements - *"We prefer US citizens!"*

Retaliation – adverse action following assertion of fair housing rights

"Or to otherwise make housing unavailable…" – catchall provision, interpreted broadly so that anything that limits your housing choice based on protected category is illegal

Persons with Disabilities (PWD) and the FHA

- someone with a physical or mental impairment

  - that substantially limits a major life activity
- someone with a **record of** impairment or
- someone who is **regarded as** having impairment.
- includes those associated with a PWD
- does not include current drug users, but does include those in recovery

Accommodations and Modifications

- Reasonable Accommodations - RA

  - Waivers or exceptions to rules, policies, practices, or services

  - LL pays

- Reasonable Modifications - RM

  - Changes to existing premises including common and public use areas

  - T pays

Requirements for RA

- Must be requested – how is this done?
- Standard for evaluating – is it reasonable and necessary?
- Supported by medical evidence –
- Nexus btw the RA and PWD
- Interactive Process – What is this? How do you satisfy?
- Defenses - Undue admn/financial burden

Enforcement Options

- Contact the UIC Fair Housing Legal Clinic

  - Fair Housing Testing – Antonio Gomez

  - Other advocacy agencies serving your areal

- File a claim with HUD – within one year

- File a claim in Court – within two years

What are tenants' rights under the law?

Landlord refuses to renew your lease

- Talk to your landlord
- If possible, determine the reason for non-rewal
- Illegal Reason
- Landlord must evict/no self help
- Tender rent

Terminates your lease

- Talk to landlord
- Seek assistance
- Behind on rent?
  Reason for being behind?
  - Withholding rent?
- 5 day notice
  - for past due rent only. Do not include other charges.
  - Five days after such notice is served, the landlord may commence eviction proceedings against the tenant.
  - If, however, the tenant pays the rent within those five days, the landlord may not proceed with an eviction
  - The landlord is not required, however, to accept rent that is less than the exact amount due.

Landlord claiming you violated your lease?

- Ten Day Notice
    - Acceptance of rent after such notice is a waiver by the landlord of the right to terminate the lease unless the breach complained of is a continuing breach.

- Defense: Breach never occurred, minor violation, Breach was cured and not a continuing violation.

- Month to Month tenancy
    - 30 days notice any reason or no reason at all

Other Defenses

- claims denying the breach of the agreement vesting possession in the plaintiff;
- claims questioning a plaintiff's motivation for bringing the forcible action.
- Plaintiff is not a proper party or lacks the capacity to sue. (A building cannot sue a tenant but a management company can bring suit).

Defenses Continued

- The Notice was improperly served.
- The Notice did not comply with the statutory provisions. For example, it did not allow the tenant to cure a non-payment of rent breach, or it failed to state how the tenant violated the terms of her lease.
- The landlord filed the lawsuit prematurely.

Rent withholding under RLTO

- There is material noncompliance by the landlord with the rental agreement or the landlord breaches his responsibility to maintain the premises.
- The tenant notifies the landlord in writing of the tenant's intention to withhold from rent an amount which reasonably reflects the reduced value of the premises due to the material noncompliance. The tenant should be conservative in making this "reduced value" calculation.
- The landlord fails to correct the condition within 14 days after receiving the notice.
- During the time the failure continues, the tenant may deduct from the rent the amount stated

Retaliatory Eviction-RLTO

- Complaining of code violations to a governmental agency, elected representative, or public official charged with enforcement of a building or health code.
- Complaining of a building or similar code violation or illegal landlord practice to a community organization or the news media.
- Seeking the assistance of a community organization or the news media to remedy a code violation or illegal landlord practice.
- Requesting that the landlord make repairs to the premises required by a building code or other regulation.
- Becoming a member of a tenant's union.
- Testifying in court or administrative proceeding concerning the condition of the premises.
- Exercising any right or remedy provided by law.

Eviction Sealing

- 735 ILCS 5/9-121.5 provides that a court shall order sealing of eviction if:
- (1) the interests of justice in sealing the court file outweigh the public interest in maintaining a public record;
- (2) the parties to the eviction action agree to seal the court file;
- (3) there was no material violation of the terms of the tenancy by the tenant; or
- (4) the case was dismissed with or without prejudice.
- This law will expire on August 1st, 2022.
- For an eviction that occurred between March 2020 and March 2022, then the court will seal the eviction automatically after a motion is filed

What is Fair Housing Testing?

- Investigative tool

- Rooted in Civil Rights Movement

- Additional State, Municipal, and city Protected Classes

- What can you do to fight housing inequity?

Resources

- Fair Housing Legal Support Center and Clinic

- Fair Housing Brochures and Booklets

- U.S. Department of Housing and Urban Development

- Coordinated Advice and Referral Program for Legal Services

Q&A

Clinic Location and Contact Information

If you have any questions, please feel to reach out to us:

Phone: 312.427.2737 | Fax: 312.427.9438
Email: law-fairhousingclinic@uic.edu
Website: law.uic.edu/fairhousing

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