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Housing Discrimination: What Is It, and What Can You Do About It?

How to recognize bias and fight back against it

By MP MCQUEEN Updated April 26, 2022

Reviewed by MICHELLE P. SCOTT

Laws prohibit racial and other discrimination in housing. Yet housing experts and civil rights attorneys say bias remains stubbornly difficult to prove, let alone eradicate.

Here's how to recognize housing discrimination, the laws that are meant to protect you from it, and how to fight it.

KEY TAKEAWAYS

- Federal, state, and local laws prohibit racial and other discrimination in housing.
- Nonetheless, discrimination persists and can be difficult to prove.
- Winning a case may require good documentation and patience.
- Fair housing groups can render assistance.

What Is Housing Discrimination?

Housing discrimination is anyone involved in the process of renting, selling, or buying a property treating the person doing the buying, renting, or selling differently because they meet certain characteristics of a protected class. Examples of housing discrimination include [charging higher fees](#) to potential renters with children, refusing to show immigrant applicants homes in certain

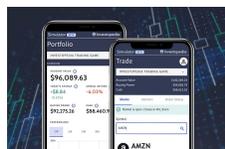
Federal housing discrimination is discrimination on renting or buying a property based on race, color, religion, national origin, sex (including gender, gender identity, sexual orientation, and sexual harassment), familial status, and disability.

Housing Discrimination Laws

Discrimination against home renters and buyers by landlords, sellers, and lenders on account of race, color, religion, and nationality was outlawed in the United States by the [Fair Housing Act](#) of 1968. The federal government expanded the Fair Housing Act in 1974 to include protections for gender and in 1988 to protect families with children and people with disabilities. ^[1]

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Various state and local jurisdictions have added specific protections for sexual orientation and other categories. In New York, for instance, a bank or landlord can't inquire about a person's criminal record, says [Damon P. Howard](#), a real estate attorney in New York City who handles residential and commercial litigation. New York City also prohibits discrimination on the basis of

such as dreadlocks, as well as other attributes.

But even if it's illegal, racial segregation remains common in many communities, despite progress from the [Civil Rights Act](#) era. “The laws are well suited to protect people; the insidious problem is those things that are not instantly recognizable,” Howard says.

Recent Regulatory Changes

Trump Administration Regulatory Changes

Regulatory changes made by the U.S. [Department of Housing and Urban Development \(HUD\)](#) during the Trump administration make it even harder to prove discrimination in many instances, civil rights and housing rights attorneys say. In early September 2020, HUD issued final rule changes proposed in 2019 that make it more difficult for individuals to file a complaint about housing discrimination citing [disparate impact](#)—that is, a practice or policy that on the surface seems neutral but that adversely affects members of a protected group. The new rule also shifts the burden of proof to the claimant, attorneys said. The final rule became effective 30 days after publication in the Federal Register, which was Sept. 4, 2020. ^[2] ^[3]

In early August 2020, HUD also terminated the former Obama administration's 2015 Affirmatively Furthering Fair Housing (AFFH) regulation, which intended to increase fair housing protections in communities. In an August 2019 statement, HUD said the rule changes were meant to “provide more appropriate guidance on what constitutes unlawful disparate impact to better reflect the Supreme Court's 2015 ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*” ^[4]

“The Trump administration rewrote the 2013 rules so that now not only do you have to prove that there is a harm caused by the policy or practice, but that it is significant—that there is a robust causal link and a direct relationship,” says [Ajmel Quereshi](#), senior counsel at the NAACP Legal Defense and Educational Fund Inc. (LDF). “These requirements are overlapping, confusing, and

Summing up the double impact of both regulatory changes, Howard says, “The disparate impact revisions make it more difficult to show a discriminatory impact if you are a person of color who was denied a tenancy in a predominately White neighborhood or building. But the change in the AFFH makes it less likely that an all-White neighborhood or building would be desegregated to begin with.”

Biden Administration Regulation Reversals

In January 2021, President Biden signed executive orders that could ultimately reverse the former Trump administration’s housing policies. One executive order asks that HUD review the changes by the then-Trump administration to AFFH and disparate impact regulations. ^[5] Another directed all departments to implement a U.S. Supreme Court ruling that civil rights laws barring sex discrimination must include gender identity and sexual orientation. ^[6] ^[7] In early February 2021, HUD announced that it would investigate cases of discrimination against [LGBTQ+ people](#) seeking housing. ^[8]

In the spring of 2021, HUD also reinstated rules removed by the former Trump administration to address systemic racism and housing discrimination. ^[9]

The Biden administration also created a task force on [property appraisals and valuation equity \(PAVE\)](#) to identify and address racial bias in home appraisals. ^[10] Researchers have shown that there exists a [value gap](#) between majority-Black and majority-White neighborhoods for otherwise comparable homes. Systematic undervaluation of properties by appraisers in such neighborhoods can have a significant negative effect on the wealth of minority homeowners and communities. PAVE seeks to address this.

Housing Discrimination Persists

Though the laws of the land now prohibit housing bias, the fact is that for renters and buyers, housing discrimination—especially racial discrimination—remains a serious problem in many places in the U.S. It’s true that home sellers

Supreme Court outlawed this in the landmark 1948 *Shelley v. Kraemer* decision).^[11] Banks cannot overtly deny borrowers a mortgage solely because of their race—as was once common in the U.S. and, in fact, was perpetuated by federal housing policy through [redlining](#).^[12]

But sellers, landlords, and bankers can discriminate in more subtle ways. These include refusing to show applicants listings in a specific neighborhood or steering applicants who are members of minority groups to communities where they are already prevalent, thereby promoting segregation.

Also, according to HUD, housing discrimination studies indicate that “same-sex couples and transgender persons in communities across the country experience demonstrably less favorable treatment than their straight and cisgender counterparts when seeking rental housing.”^[8]

“Housing discrimination is one of the most insidious forms of discrimination,” says New York civil rights attorney [Alanna Kaufman](#), who represents clients in housing and employment discrimination cases. “It is particularly hard to tell if you have been discriminated [against] in housing as opposed to employment. You often don’t know who else as a buyer or renter is looking at the same apartments or homes or units.”

For instance, a three-year *Newsday* investigation published in 2019 found “widespread separate and unequal treatment of minority potential homebuyers and minority communities” in Long Island’s Suffolk and Nassau counties in New York—one of the nation’s most liberal states. Employing minority and White undercover homebuyers as testers, the evidence indicated that in 40% of the tests, brokers exposed minority testers to disparate treatment compared with White testers; for Black testers, that incidence rose to nearly half: Black testers experienced disparate treatment 49% of the time, Latinx testers 39% of the time, and Asian testers 19% of the time.^[13]

The disparate impact legal theory of liability was meant to address practices that have the effect of discriminating against a protected group whether or not

residents of a co-operative apartment development, where the co-op board previously had engaged in [racially discriminatory](#) practices against a protected group, Kaufman says. Such a practice “would have a disproportionate impact on members of a different race, even though it appears on its face to be neutral. That is the type of claim affected by the rulemaking, and it makes it harder to succeed on those types of claims,” she adds.

In communities or residential buildings with a history of segregation or discrimination against specific groups, disparate impact theory is often relevant.

Discrimination in Mortgage Lending

With respect to [discrimination in mortgage lending](#), a January 2020 study of racial and ethnic discrimination in housing from 1976 to 2016 found that in the mortgage market, “racial gaps in loan denial have declined only slightly, and [racial gaps](#) in mortgage cost have not declined at all, suggesting persistent racial discrimination.”^[14] The Biden administration has recently taken steps to combat the discriminatory practice of redlining and help reduce [racial bias in lending](#).^[15]

Aside from outright denials, mortgage discrimination also includes making loans on less favorable terms than those for which minority applicants should qualify: An analysis of almost 7 million 30-year mortgages by researchers at the University of California, Berkeley found that Black and Latinx applicants paid nearly 0.08% more in mortgage interest and paid more in refinancing fees compared with White borrowers in face-to-face transactions. They fared only slightly better when using online or smartphone applications.^[16]

Antidiscrimination laws in mortgage lending are included in the Fair Housing Act and the [Equal Credit Opportunity Act](#), passed in 1974, and are enforced by the [Consumer Financial Protection Bureau \(CFPB\)](#) and state regulators.^[17]

Discrimination Stunts Wealth Building for Black Americans

to build and transmit generational wealth. A 2019 analysis by the Urban Institute, a Washington, D.C., think tank, found that average housing wealth at age 60 or 61 for those who had purchased a home at age 45 or older was \$26,668 for Blacks and \$104,866 for Whites. ^[18]

The [wealth gap](#) is largely attributable to the fact that a smaller percentage of Blacks are able to buy first homes before the age of 35, and their first homes are of lower value and purchased with more debt and less equity than Whites. In addition, Blacks often don't maintain homeownership beyond their first home, more often reverting to renting after the first purchase. ^{[16] [18]}

The median White family in the U.S. has 12 times the wealth of African American families, according to studies by the Economic Policy Institute, a nonpartisan, nonprofit think tank, that cite federal government data. What's more, that gap has worsened rather than improved in the past couple of decades. ^[19]

FAST FACT

Trends of lower homeownership by Black Americans are likely to exacerbate future [wealth inequality](#), according to the Urban Institute, and addressing the homeownership gap is key to addressing the racial wealth gap. ^[18]

How to Fight Back Against Housing Discrimination

What can a prospective homebuyer or renter do if they believe they're experiencing discrimination?

Under antidiscrimination and harassment laws, owners of private property can legally refuse to rent or sell to anyone, and for any reason, as long as there is not a discriminatory basis against a "protected class," Howard says. This means that proving discrimination is not always easy.

Important: One way to combat pricing people out of affordable housing, a form of housing discrimination, is a [community land trust](#)

sustainable development, and mitigating historical inequities in homeownership and wealth building.

Attorneys say that documenting the experience by actively listening to brokers, agents, and lenders and taking notes is the best way to gather the evidence needed to make a case with state or local fair housing officials or with HUD, the federal agency that enforces fair housing laws. They advise looking for the following:

Red-flag Language

Take note of statements or recommendations that may be a tip-off to discrimination.

“In dealing with a real estate agent, you can be attuned to the type of language the agent is using—for instance, if they say, ‘This is a really good fit,’ or ‘I don’t feel you would be at home in this neighborhood,’ or ‘I don’t feel this would be a good fit for you,’ or ‘I feel you would be happier in this neighborhood.’ If you feel the person is trying to direct you to certain neighborhoods with certain races or religions, that could often be a flag,” Kaufman says.

Unexpected Roadblocks

Sudden obstacles that appear even after applicants are financially qualified for a home or apartment are another sign. “You try to rent or buy an apartment [and are denied] and then you see it is still on the market,” Kaufman says.

“What we see most commonly in race discrimination is someone being told that apartments are not available when they are. A sign outside [says] that apartments are available and you go in and they are not. That is very common,” Kaufman says.

In instances like these, it is helpful to reach out to organizations such as the [Fair Housing Justice Center](#) or similar nonprofit groups or to local human rights commissions, which can send out testers of different races to test for disparate

evidence,” Kaufman says.

A homebuyer can also perform their own search to learn whether a broker failed to show all of the houses that are on the market or, in the case of mortgages, to check the bank’s posted rates to confirm what rates are available, Howard says.

Negative Credit Information

Renters have recourse if they believe they have been discriminated against for one of the following reasons: [\[20\]](#)

- They have been denied a home because of negative or insufficient information obtained from a consumer reporting agency.
- They are being charged a higher rent.
- The terms of the rental are affected by adverse credit information.

In these cases, federal and state fair credit laws require that the applicant be informed of the reason why they were rejected or charged a higher rent; provided with the name and address of the agency that reported the negative information; and told of the applicant’s right to obtain a free copy of the report by requesting it from that credit agency within 60 days. Renters can dispute the report’s accuracy and add their own “consumer statement” to the report. [\[21\]](#)
[\[20\]](#)

Similarly, suspected mortgage discrimination applicants also have the right to see any negative credit information and dispute it. They can report suspected mortgage discrimination or fraud to the CFPB for alleged violations of the Equal Credit Opportunity Act, and with HUD for alleged violations of the Fair Housing Act. [\[20\]](#) [\[22\]](#)

Steps to Get Help

The following are steps to take if you feel you have been discriminated against for housing on the basis of race, sex, national origin, religion, disability, or for

Get State and/or Local Assistance

Contact your state or local fair housing commission or fair housing center. For help finding a local fair housing center, try contacting the [National Fair Housing Alliance](#) in Washington, D.C. Fair housing centers can send out testers to find evidence of discrimination in renting and home selling and in mortgage lending.

In some states, such as New York, individuals also can file a complaint with the state Division of Human Rights or state attorney general's civil rights bureau, or locally with a city commission on human rights. These government agencies can investigate complaints and, if there's probable cause, hold hearings to determine the facts, Howard says. But the alacrity with which local agents pursue a complaint sometimes depends on the politics of the area.

Tip: You also might consider hiring a civil rights or housing attorney to advocate for you.

File a Federal Complaint

Fill out and file an administrative [complaint](#) with HUD's Fair Housing Equal Opportunity (FHEO) Office, which by law is supposed to investigate within 100 days of a filing.^[1] You can call the Housing Discrimination Hotline at (800) 669-9777, [print out a form](#) and mail it to the nearest regional office, or [file a complaint online](#). The complaint form is available in English, Spanish, and seven other languages. Retaliation for filing a complaint is illegal. FHEO also enforces antidiscrimination laws with respect to mortgage lending and [appraisals](#).^[23]

Sometimes, the U.S. Department of Justice will file lawsuits against people or companies that have violated the law, especially if there has been violence or a violation of criminal law, Howard says.

But the housing and civil rights attorneys said filing an administrative complaint with HUD—especially on disparate impact grounds—now faces

“The ‘disparate impact’ standard recognized that it can be an insurmountable hurdle to prove that discrimination was intentional. The new rule would allow businesses to continue policies that have a demonstrably discriminatory effect if the claimant cannot establish that the policy was the direct cause of the discriminatory effect,” Howard says.

For that reason, Howard suggests, in states and cities with tough fair housing standards and agencies, it may be preferable to pursue legal action through state and local agencies and courts rather than through HUD and federal courts. Local housing and civil rights attorneys and fair housing groups should know how best to proceed.

“It is fortunate that states like New York and many others have broader protections than federal laws, and you can seek remedies under your local laws,” Kaufman points out.

File a Mortgage Lending Complaint

If you suspect [mortgage lending discrimination](#), you can also [file a complaint with the CFPB](#) alleging violations of the Equal Credit Opportunity Act. Contact your state attorney general’s office, too, to find out about state fair housing laws and the procedure for filing complaints at the state and local level.

If a complaint is upheld in federal district court, in general, victims can get actual damages or punitive damages for willful wrongdoing, depending on the circumstances, along with court costs and legal fees. In the case of [class action lawsuits](#) with others with the same claims, the government generally tries to win a settlement agreement with the defendant, Howard says.

Are there exceptions to housing discrimination laws?

Yes. The Fair Housing act exempts owner-occupied buildings. This exemption is often referred to as a “Mrs. Murphy Exemption” and is most often used in situations where renters are roommates with their landlords. An example of the

a protected class under the Fair Housing Act, but it is allowable under the exemption. Other exemptions include housing operated by religious organizations and private clubs that limit occupancy to members. For example, a halfway house run by a religious charity that only offers housing to recently incarcerated men is exempt from housing discrimination laws. ^[20]

What can I do if I experience housing discrimination?

First, document the discrimination as thoroughly as possible. Then, file a complaint with the U.S. Department of Housing and Urban Development's (HUD's) Fair Housing Equal Opportunity (FHEO) Office. ^[23]

How can I prove housing discrimination?

The easiest way to prove that you've been discriminated against is to have a friend who doesn't belong to the protected class that you are in attempt to do the same thing you've done and document the results. If, for example, you are an immigrant and you suspect that you've been denied a rental based on your national origin, have a nonimmigrant friend apply for the same rental and document the results of their effort.

The Bottom Line

In general, when it comes to suspected housing discrimination, fighting back requires patience, gathering evidence and documentation, and often, good legal advice. "Pay attention, ask questions, take notes, investigate, and seek legal counsel. That is always the best advice," Kaufman says.

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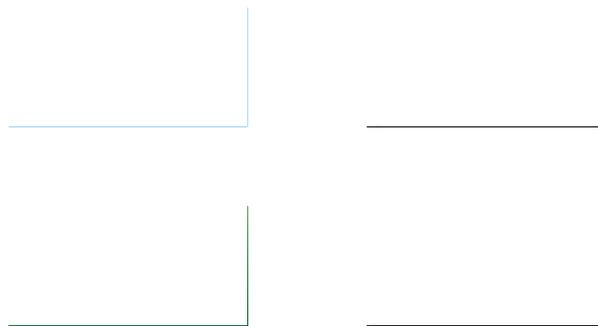
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Related Terms

What Is Redlining? Definition, Legality, and Effects

Redlining is the discriminatory practice of denying services (typically financial) to residents of certain areas based on their race or ethnicity. [more](#)

Fair Housing Act

The Fair Housing Act is the federal law forbidding discrimination in housing based on race, sex, religion, nationality, disability, and family status. [more](#)

What Is the Civil Rights Act of 1964? What's Included and History

The Civil Rights Act of 1964 prohibited discrimination based on race, color, religion, sex, and national origin. Later laws added more protections. [more](#)

What Is the Equal Credit Opportunity Act (ECOA)? Purpose

The Equal Credit Opportunity Act (ECOA) is a federal civil rights law that forbids lenders to deny credit to an applicant based on any factor unrelated to the person's ability to repay. [more](#)

Disparate Impact

Disparate impact means the effect or result of a rule or practice that selectively treats members of a legally protected group adversely. [more](#)

U.S. Department of Housing and Urban Development (HUD)

The Department of Housing and Urban Development (HUD) is a U.S. government agency created in 1965 to support community development and homeownership. [more](#)



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