

FACT SHEET: FAIR HOUSING & HOMELESSNESS

What is fair housing?

Fair housing is the right to choose housing free from illegal housing discrimination. Federal, state and local fair housing laws protect people from discrimination in housing transactions such as rentals, sales, lending, appraisals, and insurance. Specifically, the federal Fair Housing Act (FHA) and Michigan's Civil Rights Acts protect against housing discrimination based on the following "protected classes":

- Race
- Color
- Religion
- Sex, including Gender Identity & Sexual Orientation
- National origin
- Familial status
- Disability
- Marital status
- Age

*Some cities have an ordinance making source of income a locally protected class



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What are the fair housing rights of people who experience homelessness?

Fair housing choice is key to all people having the roof they want over their heads. Unfortunately, people who experience, or are at risk of, homelessness must often contend with many barriers to find and maintain decent, safe and affordable housing, including housing discrimination. Sometimes housing providers violate fair housing laws with what they believe to be their good intent about what may be best for someone; however, fair housing rights guarantee that regardless of age, race, religion, family situation, level of ability or any other protected class, people have the **right to choose** the housing that's best for them—without outside preferences or stereotypes illegally limiting that choice. Any type of housing for people who experience homelessness, including those that offer programs, should be made available to all regardless of protected class.

SIGNS OF POSSIBLE HOUSING DISCRIMINATION

- Asking about medical diagnoses, medications or medical assessments during admission (some exceptions for licensed care facilities and programs for people with disabilities)
- Requiring that someone be able to live independently, without daily care assistance
- Only providing housing to single adults, without options for couples or people with kids
- Separating people into different buildings by age, gender or whether or not they have kids
- Refusing to allow an assistance animal in a "no pets" property
- Refusing to permit reasonable modifications, such as a wheelchair ramp or grab bars
- Requiring residents to have a job or work a certain number of hours
- Enforcing a strict "no felonies" policy without considering individual circumstances
- Making or enforcing rules or restrictions that only apply to families with children
- Requiring participation in outside religious services in order to rent a house/apartment

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What types of housing and shelter are covered by the Fair Housing Act?

The Fair Housing Act's non-discrimination requirements extend to all dwellings except those covered by a specific exemption. For purposes of the FHAct, a "dwelling" is defined as "any building, structure, or any portion thereof which is occupied as, or designed or intended for occupancy as, a residence" by any individual or family and "any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof."¹ While the most important factor in determining whether a particular place is a "dwelling" subject to the FHA is the length of time one expects to stay there, this is not the only consideration. The U.S. Department of Housing and Urban Development (HUD) has endorsed the following multiple factor analysis for determining whether a shelter is a covered dwelling for purposes of the FHAct:

1. length of stay;
2. whether the rental rate for the unit will be calculated based on a daily, weekly, monthly, or yearly basis;
3. whether the terms and length of occupancy will be established through a lease or other written agreement;
4. what amenities will be included inside the unit, including kitchen facilities;
5. how the purpose of the property will be marketed to the public;
6. whether the resident possesses the right to return to the property; and whether the resident has anywhere else to which to return.

As one court noted in holding the FHAct applicable to a homeless shelter:

*Although the Shelter is not designed to be a place of permanent residence, it cannot be said that the people who live there do not intend to return—they have nowhere else to go . . . Because the people who live in the Shelter have nowhere else to 'return to,' the Shelter is their residence in the sense that they live there and not in any other place.*²

Examples of Dwellings Generally Covered by Fair Housing Laws

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|-----------------------------------|------------------------------------------------------|
| • Apartment complexes | • Group homes and adult foster care homes |
| • Multi-family rental homes | • Nursing home, assisted living and rehab facilities |
| • Extended stay hotels | • Independent living communities and programs |
| • Condominiums/cooperatives | • Homeless shelters and transitional housing |
| • Dormitories and residence halls | • Homes rented/sold by property managers/realtors |

Where can I find more information?

If you have additional questions, would like resource materials, want to report housing discrimination, or need help with any other fair housing issue, please contact the Fair Housing Center of West Michigan (FHCWM) office at 616-451-2980 or through the website www.fhcwm.org. Discrimination can be reported anonymously.

¹ 42 U.S.C. § 3602(b)

² *Woods*, 884 F. Supp. at 1173–74.