

# MINIMIZE YOUR LIABILITY

## How To Prevent The 10 Most Common Fair Housing Mistakes



**City of Phoenix**  
EQUAL OPPORTUNITY DEPARTMENT

### MINIMIZE YOUR LIABILITY BY UNDERSTANDING AND APPLYING THE LAW

As a landlord, it is your duty to understand and practice fair housing. Remember that legal action is costly and time consuming.

#### THE 10 MOST COMMON FAIR HOUSING MISTAKES AND HOW TO PREVENT THEM

##### 1. Failure to Keep Records

Even landlords who are committed to fair housing can find themselves facing a fair housing complaint filed with HUD or a state or local agency, or even a lawsuit. If you practice fair housing in all aspects of your interactions with tenants and prospective tenants, complete and accurate records are your best defense against allegations of unfair housing practices.

##### 2. Inconsistency in the Application of Rules

Rules should be equally and consistently applied. It may be difficult to defend against complaints of discrimination if the manager or landlord has, in fact, applied rules more stringently to some tenants than to others. It is important that all employees be trained to equally apply the rules in all instances.

##### 3. Retaliation

Suppose you are considering evicting a minority tenant for continuous violations of the rules of the complex.

The tenant files a fair housing complaint, alleging that the non-minority tenants are not issued warnings by management for similar rule violations. You decide enough is enough; the filing of the fair housing complaint is the final straw. You issue a rental termination notice. You also have broken the law. Never allow the filing of a fair housing complaint to influence your decision to take an adverse action against a tenant.

##### 4. Having an All-Adult Complex

In 1989, Congress made discrimination against families with children illegal. It is illegal to exclude children as tenants unless the housing is specifically marketed as housing for older persons. Retirement housing and housing for seniors is allowed, but must adhere to the guidelines imposed by the Fair Housing Act.

##### 5. Violation of Familial Status Laws out of Concerns for Safety

Safety rules must be carefully developed to avoid conflict with laws prohibiting discrimination against families with children. A manager or landlord may unknowingly violate the law while attempting to implement safety rules. Illegal practices include refusing to rent to families with small children out of concern for swimming pool safety, prohibiting use of recreational areas by children and refusing to rent upper level units with balconies to families with children.

##### 6. Failure to Reasonably Accommodate a Tenant with a Disability

It is a violation of fair housing law to:

- Refuse to rent because of a disability
- Refuse reasonable structural modifications to improve access
- Refuse to make reasonable policy exceptions

Requests for accommodation from tenants with disabilities must be reasonable. You should not refuse such a request merely because it is inconvenient. For example, a landlord would be required to assign a parking space to a mobility impaired tenant if the tenant requests such a reasonable accommodation, even if parking spaces are not typically assigned to tenants.

##### 7. Failure to Clearly Convey your Commitment to Fair Housing to your Managers, Rental Agents and Tenants

Many fair housing complaints arise out of a single, questionable rental decision made by a leasing agent or manager who then terminates employment and leaves you holding the bag. Remind your manager and tenants of your commitment to fair housing. Display fair housing posters in prominent locations. Periodically distribute a statement of your commitment to fair housing to your tenants in community newsletters, bulletins, etc.

## 8. Failure to Train your Managers

Laws change as Congress constantly passes new laws and amendments. Court decisions add new meaning to existing laws. A manager or leasing agent may inadvertently break the law, not realizing the law had changed. Have your rental staff attend a training class or seminar in fair housing at least once each year.

## 9. Unreasonable Occupancy Standards

Arizona law states that a “two person per bedroom” occupancy limit is presumed to be reasonable. Depending upon the circumstances, such a limit may be challenged if it has an adverse impact against families with children. Also, the occupancy standards that do exist must be applied consistently.

## 10. Failure to Communicate with your Tenants

“Effective communication skills” may be an overused phrase these days, but good communication is invaluable in landlord/tenant relations. Clearly convey and patiently explain to your tenants any decision or action you take that may have a negative impact on their housing situation. For example, explain to the tenant that the purpose of a warning is to correct the identified violation so that no further notices or eviction will be necessary. This may prevent a call to a fair housing agency.

## COVERED HOUSING

Regardless of whether you are the owner, a manager, broker, realtor or company representative, you are responsible for fair housing practices under the law.

### The dwellings covered are:

- Apartments rented or leased
- Houses sold or rented
- Boarding and rooming house rentals
- Mobile home parks
- Condominiums

## DISCRIMINATION

The Fair Housing Law prohibits discrimination on the basis of:

- Race
- Religion
- National origin
- Sex
- Color
- Familial status
- Disability



## HOUSING DISCRIMINATION CAN BE EXPENSIVE

Under fair housing laws, actual and punitive damages may be awarded to victims along with court costs and legal fees. In addition, civil penalties may be imposed.

## PROTECT YOURSELF

- Take any complaint seriously.
- Don't be afraid to ask questions or get an explanation from HUD or the agency investigating a complaint.
- Establish policies, procedures and guidelines in writing ahead of time and follow them in every case.
- Make sure that all of your actions, policies and procedures are based upon legitimate, non-discriminatory business factors.
- Have accurate and complete records available to demonstrate that policies, procedures and guidelines were followed in similar cases.



## ADDITIONAL INFORMATION

If you have questions about fair housing, contact the City of Phoenix Equal Opportunity Department at **602-262-7486**.

**Housing Discrimination**  
Phoenix Equal Opportunity Department  
251 W. Washington St., 7th Floor  
Phoenix, AZ 85003-2295  
602-262-7486  
602-534-1557/TTY  
602-495-0517/Fax

**Housing Counseling and Referral**  
Phoenix Neighborhood Services  
Department  
200 W. Washington St., 4th Floor  
Phoenix, AZ 85003-2295  
602-262-7210  
602-495-0685/TTY  
602-534-1555/Fax

**Assistance to Landlords and Owners**  
Crime Free Multi-housing Program  
602-495-6897

This publication is available in alternate format upon request. Contact the Phoenix Equal Opportunity Department.



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