



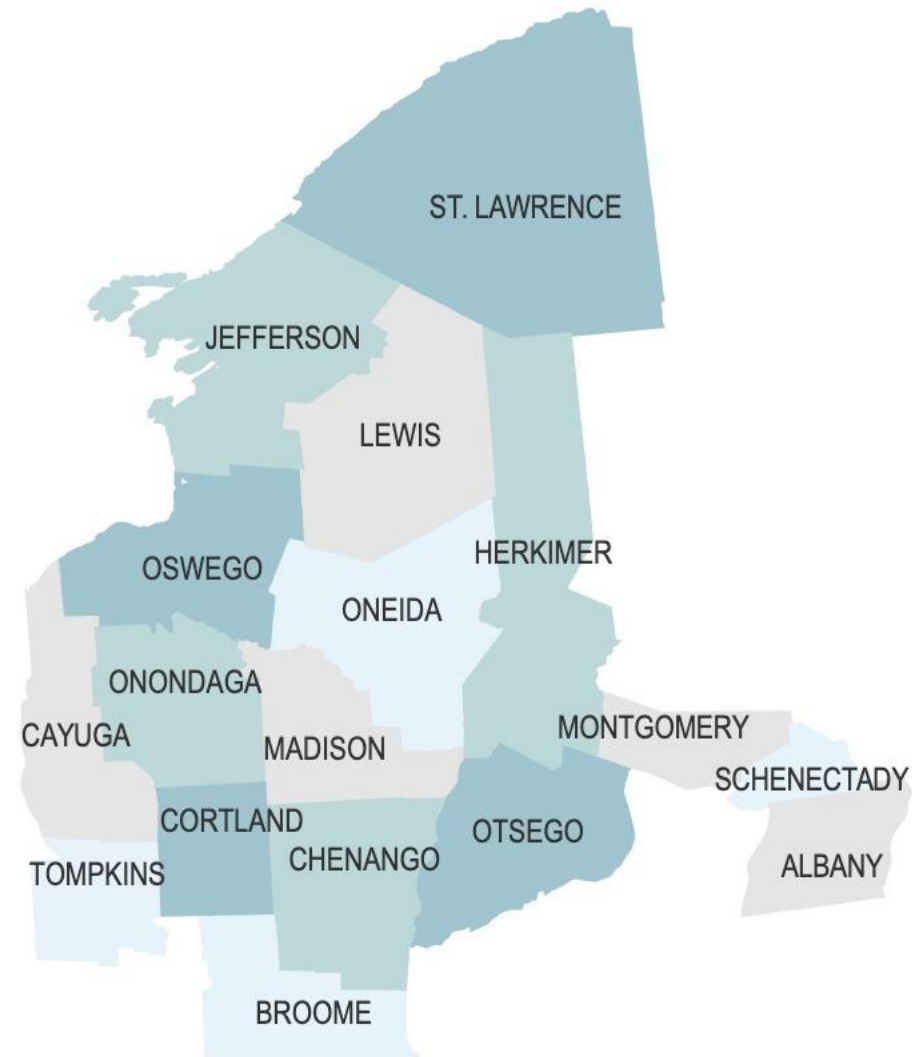
---

FAIR HOUSING & TENANTS' RIGHTS

JUNE 21, 2022

## About CNY Fair Housing

- Private, non-profit organization founded in 1991
- Investigate housing discrimination and provide legal representation to victims of discrimination



# CNY Fair Housing Services

---

- Investigate complaints of discrimination
- Conduct undercover testing
- Provide counseling and advocacy to individuals whose housing rights are being violated
- Provide legal representation to victims
- Conduct education and outreach on fair housing rights and responsibilities
- Conduct research and engage in advocacy to increase housing opportunity



# Who (and what) is covered by fair housing laws?

---

## • Fair Housing laws apply to:

- Landlords
- Housing staff
- Leasing agents
- Management companies
- Real estate brokers
- Owners
- Homeowner's insurers
- Mortgage lenders
- Municipalities

## What housing is covered?

- In New York State, any housing except owner-occupied buildings with two or less units are covered by fair housing laws
- Race and color protections apply to every housing unit
- However, under certain circumstances, age-restricted senior housing is permitted



# Protected Classes Under Fair Housing Laws

---

## Federal Law:

- Race
- Color
- National Origin
- Religion
- Sex/Gender
- Disability
- Familial Status

## State Law:

- Age
- Marital Status
- Military Status
- Sexual Orientation
- Gender Identity
- Source of Income



# Prohibited Conduct

---

- A landlord cannot, on the basis of a protected class:
  - Refuse to rent or sell an apartment or house
  - Lie about availability of housing
  - Set less favorable terms and conditions
    - Charge higher rents
    - Insist on month-to-month instead of one-year lease
    - Require more invasive background checks
  - Steer applicants into or away from certain areas of a building or to different buildings or neighborhoods to segregate populations



TABLE OF CONTENTS **Newsday**

# LONG ISLAND DIVIDED

By Ann Choi, Keith Herbert, Olivia Winslow  
and project editor Arthur Browne

*This project was reported by Ann Choi, Bill Dedman, Keith Herbert and Olivia Winslow and edited by Arthur Browne. Data analysis by Choi. Strategic planning and methodology by Dedman.  
Published: Nov. 17, 2019*

PRINT SHARE

Newsday has removed its paywall to allow everyone access to this groundbreaking and essential investigative project.

In one of the most concentrated investigations of discrimination by real estate agents in the half century since enactment of America's landmark fair housing law, Newsday

# Race & Homeownership

The Current 30% Point Gap Between Black and White Homeownership is Greater Than It Was in 1968 Prior to the Passage of the Federal Fair Housing Act

Today, the Homeownership Rate for Black College Graduates (56.4%) is Lower Than for White High School Drop-Outs (60.1%)

Business  
‘We haven’t made any progress’: Black homeownership is stuck near 30-year lows



# Real Estate-Related Transactions

---



## Discrimination in Residential Real Estate-Related Transactions

- Discrimination in making available or in the terms or conditions of the transaction
- Includes:
  - Making or purchasing of loans or providing other financial assistance for a dwelling or secured by residential real estate
  - The selling, brokering, or appraising of residential real property





# Prohibited Conduct - Lending

---

## Discrimination in lending

- Historically, African-American and Latinx borrowers have been steered to riskier and more expensive mortgage products despite their qualifications

## Issues to watch for:

- Maternity leave
- Language access
- Customer service differences
- VAWA compliance



# Prohibited Conduct – Insurance

## Examples:

- Homeowner's insurance
  - Redlining of neighborhoods
  - Differences in coverage levels
  - Differences in discounts offered
- Discrimination in liability insurance for landlords due to Section 8



# Discriminatory Advertising

---

It is illegal to post, or cause to be posted, any advertising or statement that indicates a preference, limitation, or discrimination

- This includes posted signs, newspapers, Craigslist, Facebook, and others



# Familial Status

---



Familial Status: families with children under the age of 18, pregnant women, anyone who has or is trying to obtain custody of minor children (adoption, foster care, grandparents)



Landlords can limit the number of people that live in an apartment, but it has to be based on the size of the apartment.

Very small bedrooms can be limited to one person  
Large bedrooms may be able to have three people  
Children under 2 do not count when determining the number of people per bedroom.



# Source of Income

---



NEW LAW THAT TOOK  
EFFECT IN 2019 IN NEW  
YORK STATE



CANNOT BE DENIED  
HOUSING OR TREATED  
DIFFERENTLY BECAUSE  
YOU RECEIVE SECTION 8  
OR PUBLIC ASSISTANCE



REFUSING TO TAKE ERAP  
FUNDS IS SOURCE OF  
INCOME  
DISCRIMINATION



LANDLORDS MUST BASE  
INCOME  
REQUIREMENTS ON THE  
TENANT'S SHARE OF  
THE RENT



# Disability

---

Disability under the Fair Housing Act is defined as, “Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.”

Examples include mobility impairments, mental illness, developmental disabilities and others.

Housing providers:

- Cannot refuse to rent or sell to prospective residents based upon their disability;
- Are obligated to provide equal access and opportunity for persons with disabilities to use and enjoy the housing.



# Reasonable Accommodations

Accommodation: a change, exception, or adjustment in normal rules, policies, practices, or services offered by a housing provider to allow persons with disabilities the full use and enjoyment of their dwelling and related facilities.



# Reasonable Accommodations - Examples

---

ASSISTANCE  
ANIMALS

ASSIGNED  
PARKING SPACES

TRANSFERRING  
UNITS

COMMUNICATION  
METHODS

TRASH PICKUP

SNOW REMOVAL

LENIENCY FOR  
BEHAVIOR THAT  
VIOLATES A LEASE





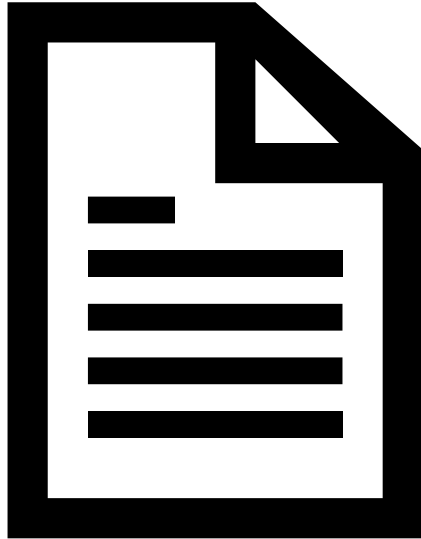
# Reasonable Modifications

Modification: a structural modification that is made to allow persons with disabilities the full use and enjoyment of their dwelling and related facilities.



# What is required to request a reasonable accommodation or modification?

---



Request does not need to be made in a particular way

- Tenant just needs to make their needs known to housing provider
- Recommend that requests be made in writing and ask that the housing provider responds in writing

A housing provider may have a particular form or process for requesting an accommodation or modification, but they cannot *require* that the tenant use that form or process.

# What is Reasonable?

---

- Changes that do not impose an undue financial and administrative burden or that would fundamentally alter the provider's operations
- Takes into account:
  - the financial resources of the provider
  - the costs of the accommodation or modification
  - the benefits to the requester
  - the availability or other, less expensive alternative options

Housing provider must approve the request unless they can prove that the request causes an undue financial and administrative burden.



# Reasonable Modifications – Who Pays?

---

Federally subsidized housing (public housing & other HUD subsidized housing): the housing provider is responsible for costs of all modifications.

---

Private housing: the tenant is responsible for paying for modifications within their units while the landlord is responsible for paying for some modifications to common areas.

---

However, if modifications are necessary due to failure to comply with design and construction standards, the housing provider is responsible for paying for the modification



# Harassment

---

- Sexual Harassment
  - Quid Pro Quo: requests for sex in exchange for housing or housing services
  - Hostile Living Environment: conduct that is severe or pervasive
- Harassment can be written, verbal, or other conduct, and does not require physical contact
- Sexual Orientation Harassment
- Racial/Ethnic Harassment
- Protections for Clients and for Persons Assisting Others to Exercise Fair Housing Rights



# Retaliation

---

- A landlord cannot retaliate against you because you asserted your fair housing rights, or because you helped someone else assert their fair housing rights
- Effective June 12, 2019: a landlord also cannot retaliate against you for calling code enforcement
  - If a landlord attempts to evict you within a year of calling code enforcement, it will be presumed that it is retaliation



# Tenants' Rights – Finding an Apartment

In addition to other protections, a landlord cannot:

- Refuse to rent to a tenant because a prior arrest that did not result in a conviction
- Refuse to rent to a tenant simply because of a prior eviction
- Similarly, a landlord cannot refuse to rent to a tenant simply because of a conviction

In both the case of a prior eviction and a prior conviction, the landlord must do an individualized assessment before making a decision

Effective June 12, 2019: A landlord also may not charge an application fee of more than \$20 and cannot charge more than a month's security deposit



# Tenants' Rights - Rent

- Landlord can not raise the rent during a lease term.
- Landlord can raise rent on month-to-month tenant with at least one month notice.
  - However, effective October 12, 2019, to raise the rents or non-renew requires:
    - 30 days notice if you've lived there less than a year
    - 60 days notice if you've lived there between 1 and 2 years
    - 90 days notice if you've lived there 2 years or more





# Tenants' Rights - Eviction

---

- Landlord must go to court to evict a tenant.
- Landlord does not need a reason to terminate tenancy for month-to-month tenant but must give proper notice – one month from date rent is normally paid.
- Landlord must have a sufficient reason to evict a tenant with a lease such as failure to pay rent, illegal activity, or repeated violation of the rental agreement.
- Also, no longer can a landlord refuse to rent to a tenant simply because of a prior eviction.



# Fair Housing Questions/Inquiries?

---

CNY Fair Housing, Inc.

731 James Street, Suite 200

Syracuse, NY 13203

Phone: (315) 471-0420

[info@cnyfairhousing.org](mailto:info@cnyfairhousing.org)

