



# **Update on Fair Housing and Sexual Orientation, Gender Identity Feb. 2, 2022**

**Dario Hunter (he/him),  
Central Oregon Education & Outreach Specialist**

**(800) 424 - 3247 x 2 or [information@fhco.org](mailto:information@fhco.org)  
[www.fhco.org](http://www.fhco.org) ©2022**



# Fair Housing Council of Oregon

- **Statewide Civil Rights organization**
- **Proactively promote housing justice equity and inclusion**
- **Education and enforcement of Fair Housing Law**





# Fair Housing Laws

- **Fair Housing is the right of all people to be free from illegal discrimination in the rental, sale, or financing of housing.**
- **Fair Housing Laws = Civil rights laws promoting “equal access” to housing that make **discrimination** against certain groups illegal**
- **Different than landlord-tenant law**



# Federal Protected Classes

- Race
- Color
- National Origin
- Religion
- Sex
  - Includes DV survivors
  - Sexual Orientation /Gender Identity\*
- Familial Status (families with children)
- Disability





# Oregon Protected Classes

- **Marital Status**
- **Source of Income**
  - Section 8
  - Agency rent payments
  - TANF, SSI, SSDI\*
- **Sexual Orientation/Gender Identity**
- **Local protected classes**



# Who Must Comply?



- **Owners/Landlords**
- **Housing authorities**
- **Property managers**
- **Maintenance Staff**
- **Homeowners' Assns.**
- **Real Estate Agents**
- **Mortgage Lenders & Financial Institutions**
- **Insurers**
- **Neighbors**
- **Jurisdictions**
- **Advertising media**



# Fair Housing Laws Apply to Dwellings

- **Houses**
- **Apartments (regardless of the # of units)**
- **Condos and floating homes**
- **Mobile homes**
- **Retirement housing, assisted living, etc.**
- **Nonprofit housing and shelters**
- **Possibly motel rooms**





# It is legal for a landlord to treat some applicants/tenants differently...

## Applicants with problem histories:

- e.g. Criminal backgrounds
- Credit histories

Residents who violate their rental agreement.

Should have **consistent criteria and procedures. *If exceptions made, have clear policy outlining why.***



## RED FLAGS:

# Possible Housing Discrimination

- **Application/Advertising**
  - Refusing to rent, sell or finance
  - Giving false or inconsistent info
  - Steering
  - Discriminatory advertising
- **Tenancy**
  - Discriminatory statements
  - Different policies, rules, and procedures
  - Discriminating for having protected class guests
- **Moveout – Retaliation, termination notices / eviction**





FAIR  
HOUSING  
COUNCIL  
OF OREGON



# Brief History of LGBTQIA+ Housing Discrimination

- **Housing was one of the earliest forms of discrimination against LGBTQIA+**
- **1957: OR passes 1<sup>st</sup> fair housing law. LGBTQIA+ not protected.**
- **1968: Fed. Fair Housing Act passed. Not interpreted to cover LGBTQIA+ community.**
- **1970s: Developing gay rights movement fights housing discrimination – e.g. effort to repeal Miami anti-discrimination ordinance.**





# Brief History of LGBTQIA+ Housing Discrimination

- 1988: Measure 8 reversed OR Gov.'s executive order that banned discrimination from state agencies.
- ***Fast Forward...***
  - 2008: Oregon Equality Act banned discrimination in employment, housing, and public accommodations based on sexual orientation or gender identity
  - 2017: Fed. Court rules lesbian couple in CO could not be denied housing.





# Biden Admin. Update

- **Feb. 11, 2021 *HUD Directive***
  - Interprets FHA to bar discrimination on the basis of sexual orientation and gender identity.
  - FHA sex discrimination provisions are comparable to Title VII of the Civil Rights Act, barring sex discrimination in the workplace.
  - Bostock v Clayton County: US Sup. Ct. held that workplace prohibitions on sex discrimination include sexual orientation and gender identity discrimination



# Biden Admin. Update

- **HUD will accept and investigate all jurisdictional complaints of sex discrimination, including discrimination because of gender identity or sexual orientation.**
- **Will enforce FHA against instances of such discrimination.**



# Biden Admin. Update

- **State and local jurisdictions funded by HUD's Fair Housing Assistance Program (FHAP) that enforce the Fair Housing Act through their HUD-certified substantially equivalent laws will be required to administer those laws to prohibit discrimination because of gender identity and sexual orientation.**



# Biden Admin. Update

- **Organizations and agencies that receive grants through the Department's Fair Housing Initiative Program (FHIP) must carry out their funded activities to also prevent and combat discrimination because of sexual orientation and gender identity.**

# Beware of Neutral Sounding Policies with “Disparate Impact”

- **E.g. No applicants/residents can work at ‘IT Squad Data Center’**
  - **Where that business happens to have a predominantly LGBTQIA+ workforce.**





# How to be an Advocate for Fair Housing for LGBTQIA+

- **Learn**
  - Consult written materials on fair housing, attend seminars/trainings. Update yourself on fair housing law changes.
  - Learn more about the LGBTQIA+ community.
- **Educate**
  - Share written materials, info on seminars/trainings, and other resources with housing consumers and colleagues.



# How to be an Advocate for Fair Housing for LGBTQIA+

- **Speak Out**
  - Don't tolerate LGBTQIA+ discrimination and motivate others to fight discrimination.





# How Fair Housing Laws are Enforced

- **Most commonly, FHCO is contacted first**
  - **2,000 contacts a year**
  - **Resolve 70% of fair housing issues through advocacy**
  - **Speak English, Spanish, use Language Bank**
  - **No income requirements**
  - **We can help file a complaint with HUD or the Oregon Civil Rights Division (BOLI)**





# How Fair Housing Laws are Enforced

- **Investigation**
  - **Did discrimination occur? Is it a dwelling?**
- **Enforcers: e.g. BOLI, HUD, State Atty. Gen., US Dept. of Justice and/or an attorney (LASO, civil rights, etc.)**
- **Outcomes**





# Contact the Fair Housing Council of Oregon for More Information

Fair Housing Hotline

*Fri 9:00 a.m. to noon*

**(800) 424 - 3247 x 2 or (503) 223 - 8197 x 2**

Housing Provider Hotline

**(800) 424 - 3247 x 5 or (503) 223 - 8197 x 5**

**[information@fhco.org](mailto:information@fhco.org)**

**[www.fhco.org](http://www.fhco.org)**

**(look for the “Advocate Contact” or “Contact” tab)**



FAIR  
HOUSING  
COUNCIL  
OF OREGON

