

Fair Housing Discrimination in the Home Buying and Selling Process

What is the Fair Housing Act?

The Fair Housing Act is a part of the Civil Rights Act of 1968. The Fair Housing Act protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.

Additional protections may be found in federally-assisted housing.

Federal laws prohibit discrimination in housing and community development programs and activities. The FHA also requires that all federal programs relating to housing and urban development be administered in a manner that affirmatively furthers fair housing.

What Is Discrimination under the Fair Housing Act?

The federal Fair Housing Act prohibits discrimination in housing because of:

- Race
- Color
- National Origin
- Religion
- Sex
 - Including gender identity, sexual orientation, and sex discrimination
- Familial Status
 - Discrimination against a family with one or more individuals who are under 18 years of age.

- Exception: housing for older persons – certain senior housing facilities and communities
- Disability
 - Includes both physical and mental impairments
 - Includes reasonable accommodation and modification requests
 - Including support animal requests

What Types of Acts are Discriminatory under the Fair Housing Act in the Home Buying and Selling Process?

The Fair Housing Act makes it illegal to discriminate against someone because of race, color, religion, sex (including gender, gender identity, sexual orientation, and sexual harassment), familial status, national origin or disability at any stage of the home buying and selling process, including:

- Mortgage approvals and denials
- Mortgage Terms, e.g. interest rates, points, fees and other costs
- Advertising
- Mortgage broker services
- Property appraisals
- Servicing
- Home loan modification assistance
- Homeowners insurance

The Fair Housing Act prohibits discrimination in loans that are secured by residential real estate or that are for the purchasing, constructing, improving, repairing or maintaining a dwelling. This includes mortgages, refinancing, home equity loans and home improvement loans.

Some examples of discriminatory acts in the home buying and selling process may include:

- Refusal to make a mortgage loan or provide other financial assistance for a dwelling
- Example: refusing to provide a mortgage to a person on parental leave
- Example: refusing to consider an applicant's disability-related income, such as SSI or SSDI
- Refusal to provide information regarding loans
- Imposing different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminating in appraising a dwelling
- Conditioning the availability of a loan on a person's response to harassment
- Refusing to purchase a loan

Under the Fair Housing Act, these acts are discriminatory if they are based on someone's race, color, national origin, disability, sex, religion, or familial status.

What Is an Appraisal?

An appraisal is a point-in-time *opinion of value*.

In order to issue a home loan, the lender (typically a bank) must conduct an appraisal to determine the value of the home they will finance under a home mortgage loan (for a purchase or refinance transaction).

The appraiser's scope of work typically includes:

- the type of property inspection (interior, exterior only, or no inspection);
- what approaches to value are required (sales comparison, cost, or income);
- and
- any lender-specific requirements.

What Are Examples of Appraisal Bias?

Language in an appraisal that indicates bias

Examples:

- Noting that a nearby shopping plaza featured “storefronts supplying Jewish Households.”
- Referring to an area with a growing immigrant population as “one spicy neighborhood.”
- Including that an area was “originally founded as a whites-only city or sundown town” but had become “fairly diverse” with a “diverse school system.”

Appraisal estimates that are significantly different in value

Example: An African-American family received an appraisal of their home that they believed was low and then removed all evidence of their African-American culture, including pictures and art, and had their white friend greet the appraiser and received a much higher appraisal value.

Fair Housing Act Video on the Home Buying and Selling Process

Idaho Legal Aid Services, Inc. has created a video on fair housing discrimination in the home buying and selling process under the federal Fair Housing Act. Check out our video on our Youtube page here:

English: <https://youtu.be/BrFWkPIDzOQ>

Spanish/Espanol: <https://www.youtube.com/watch?v=tjpNI96Z55k>

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