

Long Island Housing Services, Inc.

The Fair Housing Agency of Nassau and Suffolk Counties

CELEBRATING 47 YEARS OF FAIR HOUSING ADVOCACY & ENFORCEMENT

GET ACQUAINTED

FAIR HOUSING RIGHTS GUIDE

FOR LONG ISLAND



© PHOTOGRAPH BY
BERNARD J. KLEINA

Our mission is the elimination of unlawful housing discrimination and promotion of decent and affordable housing through advocacy and education.



Long Island Housing Services, Inc.

Suffolk: 631-567-5111 / Nassau: 516-292-0400

**Fax: 631-567-0160 Website: www.LIFairHousing.org
640 Johnson Avenue, Suite 8, Bohemia, NY 11716-2624**

Michelle Santantonio, Executive Director, Editor • Linda R. Hassberg, Esq., President

CONTENTS

Office Location and Hours.....	3
Agency History	4
Fair Housing Rights	6
New York State/Local Laws	7
Rights for Tenants/Landlords.....	8
Discrimination Based on:	
Sexual Orientation.....	7, 14
Race/Color/National Origin	8
Families with Children.....	9
Persons with Disabilities.....	10
Reasonable Accommodations ...	11
Religion	13
Sex.....	14
Unlawful Interference, Coercion, and Intimidation	14
Fair Housing in Housing Search And Obtaining Mortgage Loan ..	15
What if Your Rights are Violated?	18
Commonly Asked Questions About Tenant's Rights.....	19
Evictions.....	19-20
Security Deposits	21
Warranty of Habitability	22

LONG ISLAND HOUSING SERVICES
is a charitable organization that provides
all of its services free of charge to clients.

*DONATIONS ARE ALWAYS
WELCOME, NEEDED AND
FULLY TAX DEDUCTIBLE!*

INTRODUCTION

This booklet is offered as a guide to highlight basic fair housing rights and resources for challenging unlawful housing discrimination. Unlawful bases for discriminating in housing and real estate related transactions as defined in state and federal law include: race, color, national origin, religion, sex, sexual orientation, handicap, familial, marital and military status, or age. Various tenancy rights are discussed as well.

This publication is intended to provide general information, and not to be construed as comprehensive instruction on fair housing or any of the laws referenced. Provisions are technical and some exceptions may apply. It is always advisable to consult with an attorney experienced in the area of specific concern.

This booklet is also available in Spanish. Visit our website—www.LIFairHousing.org—for a downloadable version of each. Facilities and services are accessible for all: we will accommodate to extent resources allow!

Housing Discrimination is Polite –

“I’m terribly sorry, but

- The apartment already has a deposit on it”*
- The owner has taken the house off the market”*
- Another broker already rented it and I was not told”*
- We don’t allow children on the second floor”*
- I don’t make the decisions. Just fill out the application and we’ll let you know if you are accepted”*

...But It’s Illegal!

Because it’s not always possible to detect discrimination, we encourage you to call and speak to us about your fair housing concerns.

Board of Directors

Linda R. Hassberg, Esq.
President
Glen R. Cherveney, AIA, *Vice Pres.*
Carol Germann, *Secretary*
Alex P. Ames, CPA, *Treasurer*
Georgette Grier-Key, ED.D.
Cathryn A. Harris-Marchesi, Esq.
Connie Lassandro
Lenora W. Long

Advisory Council

Frederick K. Brewington, Esq.
Mildred Lewis
Thomas Maligno, Esq.
Robert W. Ralph
Nina J. Stewart, Esq.
Berta Cevallos, CHI, NYS-CIT,
President Emeritus

Staff

Michelle Santantonio
Executive Director
Ian Wilder, Esq.
Deputy Director
Jill Pilger, Finance Manager
Marian D. Reid
Fair Housing Project Manager
Harriet Spiegelman,
Projects Facilitator
Jessica Huaman
Lending Investigator/Outreach
Ana Elena Poppe, *Outreach (FP)*
Alisa Drinkwater
Resource Specialist/L/T
Ira Lieberman, *Investigator*

Foreclosure Prevention (FP)

Lori Funaro, *Counselor*
Maritza Arriola Avila, *Counselor*
Lourdes Huaman, *Counselor*
Marisol Serrano, *Counselor*
Lisa Cutler, *Paralegal*

Staff Attorneys

John Batanchiev, Esq.,
FHOI Project Manager
Trina Kokalis, Esq. (FP)
Program Manager,
Foreclosure Prevention
Jennifer Simcovitch, Esq.,
Fair Housing
Patricia Sturm, Esq. (FP)
Daniele A. Wilson, Esq. (FP)

Special Volunteer

Alan J. Stevens

Consultant

Juana Cortes de Torres, Esq.(FP)

Long Island Housing Services, Inc.

640 Johnson Avenue, Suite 8

Bohemia, New York 11716-2624

Suffolk: 631-567-5111 • Nassau: 516-292-0400

Fax: 631-567-0160 • WEBSITE: www.LIFairHousing.org

OFFICE HOURS: MONDAY THRU FRIDAY 9:00 AM - 5:00 PM

“The healthiest society is one that is
racially, culturally, and economically inclusive.”

Long Island Housing Services Provides:

**LANDLORD/TENANT
COUNSELING**

**MORTGAGE
COUNSELING**

**FAIR HOUSING
ADVOCACY AND
ENFORCEMENT**

**Rights
Security
Eviction
Habitability**

**Mortgage
Pre/Post Purchase
Default ~Anti Scam
Prevent Foreclosure**

**Discrimination
Investigations
Counseling
Training**

Long Island Housing Services’ programs are made possible with support from the United States Department of Housing and Urban Development, NYS Attorney General’s Home Ownership Protection Program, NeighborWorks/SONYMA, NYS Homes & Community Renewal, Nassau County, Suffolk County, Town of Babylon, Town of Huntington, Town of Islip, United Way of Long Island, Lawyers’ Committee for Civil Rights under Law, CitiBank, Bank of America and contributions from corporate, foundation, private donors.

Donations to LIHS are 100% tax deductible!

LIHS does not charge clients for our services. However, as a not-for-profit, 501(c)(3), charitable organization, we seek to secure grants, private and corporate donations, in order to continue our fair housing work.

Our volunteer Board of Directors and professional staff serve as a resource in the field of fair housing to other non-profit agencies, corporations, government, and individuals.

Professional group presentations and training can be provided. Contact our office for detailed information. ***Se habla español. Language Line available as needed.***



**A 501 (c) 3
nonprofit
fair housing
agency serving
Long Islanders
since 1969.**



Revised: 9/2016
© 2016 Long Island
Housing Services Inc.

LONG ISLAND HOUSING SERVICES, INC.
AGENCY HISTORY

Long Island Housing Services, Inc. (hereafter LIHS) is a private, not-for-profit 501(c)(3) corporation with its principal place of business located at 640 Johnson Avenue, Suite 8, Bohemia, New York. LIHS is the island's only private fair housing advocacy and enforcement agency serving Nassau and Suffolk counties. The mission is the elimination of unlawful housing discrimination and promotion of decent and affordable housing through advocacy and education.

Within a week after the tragic assassination of Dr. Martin Luther King Jr., the Fair Housing Act, Title VIII of the Civil Rights Act of 1968 was passed. The next year, what has developed into Long Island's premier and unique Fair Housing organization was formed through Smithaven Ministries. The idea came together from volunteers representing civic and religious group leaders concerned about racially discriminatory practices and segregation on Long Island. Well-qualified prospective black purchasers and renters were unable to secure housing and get honest information about the opportunities so easily available to whites.

In the early 1970's, the group incorporated and became an independent non-profit fair housing agency that came to be well known as Suffolk Housing Services. The group successfully challenged real estate agencies, management companies, landlords, and owners where investigation revealed solid evidence for discrimination. In the mid-1980's, the agency became nationally acclaimed for its investigative and testing abilities after receiving a landmark jury award of \$565,000.00 in favor of two black air traffic controllers in federal court. LIHS conducted tests, which proved that black prospective tenants were falsely denied rental housing at the Watergate Apartments in Patchogue, New York.

In 1991, the agency expanded its services to investigate discrimination in Nassau County and became Long Island Housing Services (LIHS). The work in challenging all kinds of discrimination, but especially race, handicap, and familial status has received national attention. For example, in 1994, LIHS' successful testing program was highlighted on CBS' 48-Hours News Magazine show. The story featured our undercover black and white testers being given false information about availability of housing by the broker.

Now, in the 21st Century, LIHS continues to lead in challenging race, national origin, disability, familial status and all types of illegal discrimination and has worked to outlaw Source of Income discrimination in Nassau and Suffolk Counties. LIHS has successfully conciliated landmark complaints against several major developers in pursuing compliance with the Fair Housing Act's requirements for accessibility in multi-family design and construction; has challenged discriminatory advertisers; is screening and investigating for predatory lending and reporting mortgage rescue scams to protect consumer and public interests.

In 2015, landmark efforts were initiated to eliminate restrictive zoning and residency preferences and to challenge a municipality's violations of the Fair Housing Act and Constitutional rights stemming from discriminatory and abusive code enforcement practices. Work continues to eliminate discriminatory advertising and practices involving Source of Income and familial status discrimination.

In an historic case, (Long Island Housing Services, Inc., et al. v. German American Settlement League) we filed suit in Federal Court and reached an Agreement in 2016 to eliminate the community's discriminatory restrictions on membership, leasing, and resale of homes which served as a barrier to prospective homebuyers who are not white and of German ancestry. In numerous other cases, our clients now enjoy housing with accessible features or accommodations. In continuing response to the mortgage crisis so deeply affecting LI communities, we have expanded services to provide free legal services of 6 attorneys for those facing foreclosure and have helped nearly 700 secure affordable loan modifications. This past year, more than 1,000 tenants have received counseling and advocacy to secure their rights or improve their housing conditions. LIHS' outreach and advocacy efforts to alert and educate the public on avoiding mortgage rescue scams and helping to report scams continue. Staff has grown to 21, including 7 fluent bilingual Spanish speakers. We are on air, producing and hosting a weekly Spanish language radio program, *Vivienda Justa*, which can be heard Mondays on WLIE 540AM at 1:30-2pm or streamed through our website.

LIHS' founding objectives are to promote racial and economic integration and equal housing opportunity throughout Long Island; to reduce and eliminate unlawful housing discrimination, to encourage the development of low-income and affordable housing, and to educate and assist the public regarding housing rights and opportunities in the region. Activities include fair housing investigations and testing (rentals, sales, insurance and lending); advocacy to facilitate enforcement/compliance; public/industry education; serving as a clearing-house for information. To meet these objectives, we continue to provide rental counseling and referrals; education and outreach; legal services and counseling for mortgage default/foreclosure prevention and loan modification rescue scam counseling and reporting.

LIHS does not charge for services to individuals. However, as a non-profit 501(c) (3) charitable organization we seek to secure grants, private and corporate donations in order to continue our housing work. Donations are 100% tax deductible. LIHS' Board of Directors, Advisory Council and professional staff serve as a unique resource for non-profits, industry, government, and individuals.

Michelle Santantonio, Executive Director

Linda R. Hassberg, Esq., President

***Our mission is the elimination of unlawful housing discrimination
and promotion of decent and affordable housing
through advocacy and education.***

LIHS accommodates people with disabilities including
vision, mobility and cognitive impairments.

YOUR FAIR HOUSING RIGHTS

Title VIII of the Civil Rights Act of 1968, together with the Fair Housing Amendments Act of 1988, is called the Fair Housing Act. This federal law says that discrimination based on race, color, national origin, religion, sex, familial status and handicap is illegal in the sale or rental of most dwellings. These categories are commonly referred to as “*protected classes*”. Mortgage financing and homeowner’s/renter’s insurance are also covered transactions.

The Civil Rights Act of 1866 is a different federal law which bars **all** discrimination in the sale or rental of both residential and commercial dwellings and vacant property based on race or color.

WHAT DOES THE FEDERAL FAIR HOUSING ACT PROHIBIT?

It is against the law because of race, color, national origin, sex, religion, familial status or handicap to:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable or deny that housing is available
- Set different terms, condition, or privileges for the sale or rental of housing
- Advertise that housing is available only to persons of a certain race, color, national origin, religion, sex, or without handicap or children. This includes verbal statements and graphic ads indicating preference or limitation
- Deny anyone access to or membership in any real estate service such as multiple listing services
- Blockbusting- an unlawful tactic used in neighborhoods undergoing racial or ethnic change used by real estate agents or speculators approaching existing homeowners to frighten them into selling their home quickly and cheaply, so a greater profit will be realized on the resale
- Steer - the attempt to direct racial or ethnic classes to specific areas in an effort to maintain segregated living patterns
- Redline - Lenders and insurance companies exclude geographic areas by refusing to make loans or issue insurance policies in certain neighborhoods because of the racial or ethnic composition of the area, regardless of the economic qualifications of the borrower or (prospective) homeowner

- Deny or create different terms or conditions for a mortgage, home loan, insurance, or other “real estate related transaction”
- Threaten, coerce, or intimidate anyone exercising a fair housing right or assisting others in exercising those rights

NEW YORK STATE HUMAN RIGHTS LAW

It is also important to note that New York State’s Human Rights Law aka NYS Executive Law, Article 15, Section 296 exempt 2-family owner-occupied housing. However, federal law protection may still apply. It covers commercial space and land, terms, advertisements, real estate activities, and credit. In addition to the protected classes defined in the Fair Housing Act, the NYS Human Rights Law also prohibits discrimination based on marital status, sexual orientation, and age (18 and older), military status. A major distinction in NYS law through a 2010 amendment requires housing providers to pay for reasonable modifications in public or common use spaces (NYS Exec. Law, Art. 15, Sec. 296.18).

LOCAL HUMAN RIGHTS LAWS

In addition to the protective laws described above, Nassau and Suffolk Counties have local Human Rights laws that address discrimination. Since a 2000 amendment, Nassau County includes prohibiting discrimination based on source of income (e.g. public assistance, Section 8, SSD, SSI, court ordered child support). As of January 21, 2015, Suffolk County’s wide-sweeping amendments expand coverage to outlaw housing discrimination based on Source of Income, Victims of Domestic Violence, Military Status and Veteran Status. Contact Long Island Housing Services for information related to enhanced enforcement provisions of the Counties’ local laws. Reporting these violations is urged!

WHAT HOUSING IS COVERED BY THE FAIR HOUSING ACT?

- Single family homes owned by private persons when a real estate broker and/or discriminatory advertising is used to sell or rent the home
- Single family homes not owned by private persons (such as corporations or partnerships) even if a broker is not used to sell or rent the home
- Multifamily dwellings with five or more units including rooming houses
- Multifamily dwellings with four or less units, if the owner does not live in one of the units



WHAT HOUSING IS NOT COVERED BY THE FAIR HOUSING ACT?

The law does not apply to noncommercial housing run by religious organizations and private clubs that limit occupancy solely to members.

WHAT ABOUT FAIR HOUSING RIGHTS FOR TENANTS OR LANDLORDS?

Long Island Housing Services promotes fair housing practices on Long Island through education, advocacy and enforcement. As a resource, we also provide guidance pertaining to your “Tenant’s Rights” regarding apartment renting. It is vital that tenants and landlords throughout New York State know about the laws affecting the principal rights of rental housing including occupancy standards, habitability, equal treatment, access, rent regulations and special rules applicable to certain dwellings.

In addition to tenants’ rights information we’ve included in this booklet, you may also wish to obtain a free copy of the “*Tenant’s Rights Guide*” published by the NY State Attorney General’s Office, call in Nassau County (516) 248-3300 or in Suffolk County (631) 231-2400.

FEDERAL LAWS PROTECT AGAINST DISCRIMINATION BASED UPON RACE/COLOR/NATIONAL ORIGIN

The *Civil Rights Act of 1866* and a 1968 United States Supreme Court decision, *Jones v Mayer*, say that ALL housing, public and privately owned or managed, must be sold or rented without regard to a person’s race or color. The *Fair Housing Act* (Title VIII of the Civil Rights Act of 1968, as amended in 1988) outlaws the practices referred to on the previous pages.

Why do I need both these laws to protect me from racial discrimination in housing?

All of the unlawful acts and kinds of housing that are described in the federal Fair Housing Act pertaining to race and color are also covered by the *Civil Rights Act of 1866*. (Some courts have included protection for national origin and religion as well.)

Sometimes, when discrimination based on race or color occurs, the Fair Housing Act will not apply. For example: two-family, owner occupied housing may be exempt. Because most housing on Long Island is single family or 2-family owner-occupied you need to know about both of these important laws to protect yourself against this type of discrimination. Different means to formally protest discrimination are available. Long Island Housing Services can give you advice as to the particular options and recourse these laws provide.

THE FAIR HOUSING ACT PROTECTS FAMILIES WITH CHILDREN

The Fair Housing Amendments Act of 1988 gives families with children under age 18 (*familial status*) specific protection from discrimination in housing.

“Children under 18” includes:

- Children living with legal custodians or an adult designated to care for the children
- Pregnant women
- People in the process of securing custody of children, such as adoption
- In addition to the general protection provided by the Fair Housing Act of 1968, the Fair Housing Amendments Act of 1988 makes it illegal to:
- Refuse to rent or sell a home or apartment to a family because they have children
- Require an additional security deposit or charge for families with children that is not required of other residents
- Segregate families with children to certain areas of a housing complex, mobile home park, etc.
- Limit the use of the housing complex’s pools, elevators and other services to adults only, though reasonable safety rules are permissible
- Evict a family after a baby is born or adopted unless reasonable occupancy standards are violated



WHEN CAN FAMILIES WITH CHILDREN BE EXCLUDED FROM HOUSING?

The Fair Housing Act allows “housing for older persons” to exclude families with children. *“Housing for older persons” is strictly defined:*

- All the people living in the housing complex, including both spouses, must be age 62 and older; or
- The housing has been funded by the state or federal government for older persons
- The housing meets the criteria set by HUD to be legitimately exempt
- 80%* of all the units in a complex must be occupied by at least one person age 55 or older

*Currently on Long Island, some Municipal Town codes may restrict the senior development to require 100% of the units for 55 and older occupants.

THE FAIR HOUSING ACT PROTECTS PERSONS WITH DISABILITIES

If you, or someone associated with you (such as a family member or companion), have a mental or physical disability (including AIDS), the Fair Housing Amendments Act of 1988 provides specific protection from discrimination.

WHO IS HANDICAPPED OR DISABLED?

“Handicap” means a physical or mental impairment which substantially limits one or more of a person’s major life activities. This includes wheelchair-users and visually impaired people, and those people limited by emotional problems, mental illness or retardation, alcoholism and difficulties associated with aging. It does not apply to current illegal use of, or addiction to, drugs.

The law makes it illegal for a landlord, cooperative, condominium, homeowners’ association or agent to:

- Demand an additional security deposit because you are handicapped
- Inquire into the nature or severity of your disability
- Segregate handicapped tenants in certain areas of a housing complex
- Deny access to recreation facilities, parking privileges or other privileges and services available to other residents
- Unreasonably refuse modifications, at your expense, to the dwelling, such as widening doorways, installing grab bars in the bathroom, lowering kitchen cabinets, etc.

REASONABLE ACCOMMODATIONS / MODIFICATIONS FOR PEOPLE WITH DISABILITIES

People with disabilities are entitled to the same access, use and enjoyment where they live as those without disabilities. It is important to note that the fair housing law requires not only equal treatment and opportunity for people with disabilities, but also contains special provisions to allow access and full use/enjoyment of housing. It is unlawful to deny or otherwise make housing unavailable. Landlords may be obligated to make a “reasonable accommodation” in rules, policies, practices or services if necessary to use (or have access to) the housing. An example of this is allowing a guide dog even if the building has a “no pets” policy. The landlord also may not refuse to allow reasonable modifications to your dwelling or common use areas, at your expense,* if necessary to make the housing accessible. (Where reasonable, the landlord may permit changes only if you agree to restore the property to its original condition when you move.)

*In 2010, NYS Human Rights Law was amended (296.18(2)) so that providers may be obligated to pay for public/common space modifications.

If you are a person with a disability and need a reasonable accommodation, we recommend a letter to the landlord or housing provider. The following are the suggested procedures and sample requests for a reasonable accommodation.

Suggested Procedures/Sample Requests:

- Indicate that you qualify as a person with a disability as defined by civil rights laws. It is not necessary to reveal the nature or severity of your disability (unless you are challenging a discriminatory practice).

“I qualify as an individual with a disability as defined by the Federal Fair Housing Amendments Act of 1988.”

- State where you live and who is responsible for the building.

“I live at 805 W. Green Street, Apartment #2A. This building is managed by John Doe and owned by you, Jane Smith.”

- Describe the policy, rule, or architectural barrier that is problematic to you.

“There is not any reserved accessible parking in our building’s parking lot.”

- Describe how this policy or barrier interferes with your needs, rights, or enjoyment of your housing.

“I am unable to park in regular size parking places because I need additional space to transfer from my car into a wheelchair.”

- In clear and concise language, describe the change you are seeking in the policy, rule, or barrier.
“I am requesting that you designate a reserved, handicapped parking space for [me or my unit #] people with disabilities next to the curb cut on the west side of the parking lot.”
- Cite the applicable law which protects your rights.

For modifications, quote the law as follows:

“Under the Federal Fair Housing Amendments Act of 1988, Section 804 (42 U.S.C. 3604) (f) (3) (A), it is unlawful discrimination for a housing provider to deny a person with a disability “reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises... .”

For a reasonable accommodation request:

“Under the Federal Fair Housing Amendments Act of 1988, Section 804 (42 U.S.C. 3604) (f) (3) (B), it is unlawful discrimination for a housing provider to deny a person with a disability “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.”

- Ask for a written response within a certain amount of time.
- *“Please respond in writing to my request within ten days.”*
- Sign and date the request. Remember to keep a copy of your request.
- If the request is denied, contact Long Island Housing Services for help.



The landlord may allow interior changes only if you agree to restore the property to its original condition when you move, if the changes are not useable for others. There may be instances when it will be reasonable for the landlord to require payment into an escrow account as part of a restoration agreement.

Future Construction and New Construction - Accessibility Features



For most “newly” constructed multifamily housing ready for occupancy by March 13, 1991, the Fair Housing Act says that the building must be designed with accessibility features, including:

- Doors wide enough for persons in wheelchairs
- Readily accessible public and common use areas
- Accessibly located light switches, electrical outlets and thermostats
- Reinforced bathroom walls for the installation of grab bars
- Ample space in kitchens and bathrooms for wheelchairs to maneuver
- Accessible routes into and through the dwelling

THE FAIR HOUSING ACT PROTECTS AGAINST DISCRIMINATION BASED ON RELIGION

The Fair Housing Act says that discrimination based on religion is illegal in the sale or rental of most housing. This means that, in addition to the general prohibitions in the Act, it is unlawful to:

- Question a potential purchaser or renter about their religion or religious affiliation in connection with the purchase, sale or rental of housing
- Advertise or publish a preference for selling or renting housing to persons of a particular religion unless permitted by law
- Refuse to rent or sell a home or apartment to a person of a particular religion or religious affiliation

Religious organizations can give preference to their members in the sale, rental or occupancy of noncommercial housing or lodges, as long as membership in the religion is not restricted on the basis of race, color or national origin.

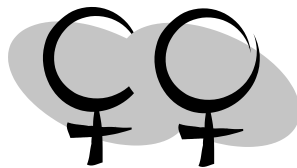


FAIR HOUSING ACT PROTECTS AGAINST DISCRIMINATION BASED ON SEX

The Fair Housing Act protects you from discrimination in the sale or rental of most housing based on sex. The law says that sellers, landlords, homeowners' associations, realty agents, etc. may not limit where you live because of gender.

In addition to the general protection provided by the Fair Housing Act, it is illegal to:

- Rent, sell or negotiate for housing with women on a different basis than men
- Refuse to acknowledge as income any alimony or child support payments received by a divorced woman or man
- Require, directly or by implication, sexual favors in exchange for housing or real estate related transactions
- Imply that continued tenancy, different terms (e.g. rent rates), or services (e.g. repairs) will depend on submission to sexual advances
- Sexually harass tenant with unwelcome, sexual advances or behaviors



Sexual Orientation - The Fair Housing Act does not apply to sexual orientation discrimination. However, the New York State Human Rights Law does prohibit sexual orientation discrimination, defined as, “heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived”. The law affords protection where individuals are targeted either based on their actual sexual orientation, or based on what the discriminator believes their orientation to be. Both Nassau and Suffolk local laws also prohibit sexual orientation discrimination.

UNLAWFUL INTERFERENCE, COERCION OR INTIMIDATION

It is unlawful for any person who engages in the lending, purchasing, selling, brokering, renting, managing or appraising of residential real property to discriminate on the basis of the protected classes listed. Neighbors or others that intimidate, coerce, harass, or interfere with anyone from exercising or enjoying their Fair Housing rights can also be held liable.

FAIR HOUSING ISSUES IN THE HOUSING SEARCH AND OBTAINING A MORTGAGE LOAN

LAWS FOR ENFORCEMENT

As described above under the Civil Rights Act of 1866 and the Fair Housing Act, certain kinds of discrimination are unlawful. Additionally, the Equal Credit Opportunity Act and other laws provide for protection in unique ways.

Collectively, they work to address various aspects of possible discrimination that may occur with respect to home buying. The laws apply not only to the lenders, but to the housing providers as well, including: owners selling homes, real estate or other agents or managers assisting the buyer or the seller.

PROHIBITED ACTS

Collectively, the following are factors covered under the three (3) protective laws listed above:

1. Denial of truthful information about what is available for inspection or sale;
2. Refusal to sell or negotiate or make a loan for housing;
3. Unequal terms and conditions of the sale or mortgage loan products;
4. Level of services offered (treatment);
5. Discriminatory advertising;
6. Assessment of creditworthiness of applicant;
7. Discriminatory property appraisal;
8. Steer - the attempt to direct or limit racial or ethnic groups to specific areas in an effort to maintain segregated living patterns;
9. Blockbust - an unlawful tactic used in neighborhoods undergoing racial or ethnic change used by real estate agents or speculators approaching existing homeowners to frighten them into selling their home quickly and cheaply, so a greater profit will be realized on the resale;
10. Redline - Lenders and insurance companies exclude geographic areas by refusing to make loans or issue insurance policies in certain neighborhoods because of the racial or ethnic composition of the area, regardless of the economic qualifications of the borrower or (prospective) homeowner.
11. Predatory Lending/Loans - Examples include high interest, excessive fees, and aggressively soliciting borrowers, selling defective properties at inflated prices, and failing to disclose essential information about the property or mortgage costs or terms, needless steering to sub-prime loans.

Fair lending is an integral part of a financial institution’s legal responsibility to society. Although overt discrimination in mortgage lending is rare in today’s market, unintentional discrimination may be found due to standard practices of loan underwriting or appraisals which have the unwarranted effect of denying a loan or offering less favorable terms on loans due to racial composition of property’s location or a borrower’s race/color, ethnicity, age, gender, mental and physical disability.

Another type of lending discrimination is known as “predatory lending.” Some lenders make legitimate sub-prime loans to borrowers whose income and credit history disqualify them for a prime mortgage at current market rates. However, some of these ‘sub-prime’ lenders prey upon uninformed borrowers by charging unconscionably high interest rates or adding excessive points and fees into the loan together with a multitude of terms very unfavorable, often unexplained to the borrower.

BEFORE YOU SIGN A CONTRACT TO BUY A NEW HOME, FOLLOW THESE SIX IMPORTANT STEPS:



1. Meet with a HUD-approved, non-profit counseling agency. This service is usually free.
2. Use a professional realtor to help you shop for a house and negotiate on your behalf.
3. Hire a licensed engineer to inspect the property and examine the report carefully. It will disclose defects and repairs that the house needs. You may require the seller to finish the repairs before you purchase the house.
4. Choose your own lender. Be suspicious if anyone tries to steer you to a lender. Go to several lenders and compare all costs, including interest rates and all fees and points. Beware of predatory loans: that is, high interest rates* with fees, credit insurance, and other costs added to the loans. Review the terms with a certified housing counselor. (This should be free)
5. Choose your own attorney. Read everything carefully. Ask questions. Take time to understand the deal and see the property. Have it reviewed by an attorney skilled in real estate law.
6. Do not let anyone rush you into signing a contract. See a counselor first.

* Rates are subject to change, another reason to comparison shop and get consumer education.

Home Mortgage Disclosure Act (HMDA) Regulation C:

The intention of this Congressional Act (enacted in 1975 and amended from 1988-91) is for lending institutions to provide the public with data to determine if the institution is serving the housing needs of all community residents. It was enacted to assist in identifying possible discriminatory practices in lending and to assist public officials in distributing public sector investments. HMDA requires most lenders to report the sex, race and income of mortgage applicants and borrowers. Regulation C requires lenders to report data regarding loan applications, including information on origination and purchases.



Equal Credit Opportunity Act (ECOA) Regulation B:

ECOA was enacted to promote fair credit to applicants without regard to sex, race, color, religion, national origin, marital status, age, receipt of public assistance funds or the exercise of any right under the Consumer Credit Protection Act in 1974. Under ECOA, Regulation B prohibits creditor practices that discriminate on the basis of these protected classes.



Community Reinvestment Act (CRA):

In 1977 the CRA was enacted to encourage financial institutions to help meet the credit needs of low and moderate income neighborhoods within the communities by requiring each federal financial supervisory agency's compliance. Institutions are required to prepare an annual CRA statement which maps out the area they serve and the types of loans they provide. These files are to be maintained for two years along with any written comments about the CRA.

WHAT IF YOUR RIGHTS HAVE BEEN VIOLATED?
HOW CAN DISCRIMINATION BE CHALLENGED?

On the Federal Level...

Long Island Housing Services can assist in filing Federal complaints and provide related advocacy services, or the United States Department of Housing and Urban Development's (HUD) Fair Housing Enforcement Office may take complaints by mail or phone (1-800-669-9777, TTY 1-800-927-9275). You must file a complaint with HUD within one year of the housing discrimination incident.



On the State & Local Level...

Long Island Housing Services can assist in filing State and local complaints and provide related advocacy services, or administrative complaints can also be filed with the New York State Division of Human Rights or your county Commission on Human Rights. Their numbers are listed in the telephone book.

In the Private, Non-Profit Sector serving the needs of the residents of Nassau and Suffolk...

Long Island Housing Services, the Fair Housing Agency of Nassau and Suffolk, has established a housing discrimination toll free complaint line: 1-800-660-6920. Long Island Housing Services will investigate your complaint, conduct testing (if appropriate), and determine whether a violation of your fair housing rights has occurred. Where substantial evidence is found, Long Island Housing Services will assist you in pursuing your administrative (NYS or HUD) and judicial (Federal District Court) remedies. No fees are charged for individual services.

IS THERE A TIME LIMIT?

You must file an administrative complaint within one year of the housing discrimination occurrence. You have two years to file a Federal District Court complaint. If you are able to prove that you have been a victim of housing/lending discrimination, the Fair Housing Act may entitle you to receive compensation for actual damages, including humiliation, pain and suffering, and other relief. In some cases, the law may also allow punitive damages.

FACING EVICTION: TYPES OF EVICTION*

Non-payment of rent: If you don't pay the rent, the landlord is likely to evict you. Papers served will set the court appearance date usually within 3-12 days. You may still pay the rent at this point. If your landlord accepts your offer, the eviction proceedings should stop. (Show up in Court anyway.) Be sure to get a signed receipt from the landlord whenever you pay the rent. If you don't pay the rent by the Court date, you can either give the Court a good reason (for instance, show the judge proof that you tried to get the landlord to fix the house before you stopped paying the rent and that you have saved the rent and deposited it with the Clerk of the Court), and try to have the proceedings stopped, or you can ask the judge for more time to find another house. **If you've been withholding rent, it is important that you deposit it with the Court. This will prevent you from being evicted for non payment. Prior to any formal litigation, landlord must orally or in writing demand payment of the rent due.**

Eviction with a Written Lease: The landlord must prove you have broken the terms of the lease in a major way. Again, the landlord must commence a summary proceeding and have you served with the proper notice setting the Court date and stating the cause of action. Bring any proof you have showing why you feel the lease has not been violated.

Eviction without a Lease: A landlord must give you at least 30 days notice to leave with or without cause, even if you have been paying the rent and taking good care of your house. For example, if you pay the rent on November 1 and the landlord gives you notice of eviction on November 10, it doesn't go into effect until December 31. The same type of notice is required if the landlord wants to raise the rent. If summoned to Court, it is important to appear, even if you believe you did not get proper notice. Consulting your attorney before you must appear is recommended whenever you receive a summons to Court.

Holdover: A holdover eviction is similar to an eviction without a written lease. A holdover is any tenant whose written lease has ended but continues to live in the house on a month-to-month basis, or a tenant who has an oral lease and whose 30-day notice has passed.

Illegal Eviction:

Retaliatory Eviction is illegal (Real Property Law Section 223-b). If you use this as a defense at a summary proceeding, you should have legal help, and a report from the County Health Department that you filed a complaint.

Lock-out: A landlord cannot lock you out of your home or remove your belongings. This can only be done by the Sheriff **AFTER** the Judge issues a decision to evict. If you are illegally locked out, you can re-enter the premises being careful not to damage the door or property.

If you do not respond to a legal eviction petition or if the Court decides against you, the Court will render a final judgment and issue a warrant signed by a Judge to the Sheriff. The warrant will be served on you and you will be given 72 hours (3-days) to leave the house. If you receive public assistance, **immediately** contact Social Services and let them know your situation. If you do not leave in 72 hours, the Sheriff has the authority to move your belongings and/or lock you out. **The landlord cannot do this, only the Sheriff.** It is against the law for the landlord to evict you without a Court Order and if he does so, you can file civil and possibly criminal charges against him.



INFORMATION ABOUT YOUR SECURITY DEPOSIT

Landlords have certain responsibilities in handling your security deposit. The following letter explains some of these obligations and may be used as a sample letter:

DATE

Dear Landlord:

This letter is a formal request to find out about my security deposit. As a tenant who has been counseled by Long Island Housing Services, Inc., I am taking the liberty of informing you about New York State General Obligations Law §7-103 (copy enclosed).

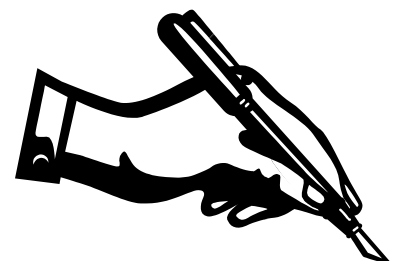
To paraphrase the law, the landlord must treat the security deposits as trust funds belonging to their tenants and may not co-mingle the deposits with their own funds. Furthermore, the tenants must be notified as to which New York State bank the deposit is in, along with the address of the bank and the amount of the deposit. In cases where there are six or more apartments in the building, the landlord is further required to have the money in an interest bearing account, and is entitled to keep up to 1% annually for administrative expenses. The remainder of the interest earned must be returned to the tenants, with the option of it having applied to the rent, paid annually, or paid at the end of the lease term. Please note that if the building has less than six units, the landlord is not required to put the deposit in an interest bearing account. If the landlord does elect to have it in an account that bears interest, the same protocol must be followed.

I hope this helps in clarifying the landlord's obligations regarding security deposits. Please notify me as soon as possible as to my security deposit status.

Sincerely,
Tenant's Name

cc: Long Island Housing Services, Inc.

Tenant: Please keep a copy for your own records, and mail a copy to LIHS, if you sought our assistance.



WARRANTY OF HABITABILITY

The “**Warranty of Habitability**” is a common issue for which LIHS receives inquiries. Tenants are entitled to a livable, safe, and sanitary apartment. If the landlord is not providing necessary utilities on a regular basis, or not taking care of repairs that are health hazards, there may be violation of this warranty. If the landlord has in fact breached the warranty, tenants may sue for a rent reduction for that time period.

When clients call us regarding lack of repairs/utilities, we generally advise them to document the issue. Write a detailed letter to the landlord (retaining a copy for yourself), stating the nature of the problem, the date the problem occurred, and the date(s) you made the landlord aware of the problem. Also include a reasonable date in which you request the landlord remedy the problem. Additionally, if the problem poses a health threat, try calling your County Health Department to respond to your complaint. If they respond, make sure you obtain documentation from the official. **If the landlord does not respond to your request**, you may want to try a “repair and deduct” letter or withhold rent until the problem is resolved.

The following are three sample letters that were furnished to us by Nassau Suffolk Law Services, a non-profit, community based poverty law program which provides legal assistance in some types of civil (non-criminal) matters to low income persons throughout Nassau and Suffolk Counties.

SAMPLE LETTER: “NEED FOR REPAIRS”

Date

Dear Landlord,

I talked to you on Thursday about fixing the front steps and the leaky pipe in the kitchen. You said you’d be over on Saturday to do the work.

Thank you for your prompt attention.

Sincerely, Tenant



SAMPLE LETTER: “REPAIR AND DEDUCT”

Date

Dear Landlord,

I have asked three times to fix the front steps, the leaky pipe in the kitchen, and the broken window in the bedroom. You keep saying you will make the repairs, but so far you haven't.

Since you haven't fixed these problems, I am going to make the repairs myself and take the money I spend out of next month's rent.

Please find the enclosed two written estimates for the materials. If I haven't heard from you by Saturday, March 15, I will buy the materials and do the repairs.

Sincerely, Tenant

SAMPLE LETTER: “RENT WITHHOLD”

Date

Dear Landlord,

For two months now I have been trying to get you to make repairs. The health department said that the following problems are health hazards:

Pipes in kitchen leak badly

Bad cockroach problem

One broken window in bedroom

Plaster came off wall by leaky pipes, wiring now exposed.

In return for my rent money, you are supposed to keep my apartment livable. I will not pay any more rent until you make repairs.

Enclosed is a copy of a money order for next month's rent. I will not pay this rent until you fix up the house.

Sincerely, Tenant

WE ONCE AGAIN MUST STRESS THE IMPORTANCE OF CALLING ON THE EXPERTISE OF AN ATTORNEY BEFORE COMMENCING OR RESPONDING TO ANY ACTION THAT MAY LEAD TO A CASE BEFORE THE COURT!

Long Island Housing Services, Inc.

501(c)(3), IRS designated charitable organization—Donations are 100% tax deductible.

Suffolk: 631-567-5111 / Nassau: 516-292-0400

Fax: 631-567-0160~Web: www.LIFairHousing.org~Email: info@LIFairHousing.org

640 Johnson Avenue, Suite 8, Bohemia, New York 11716-2624



Long Island Housing Services

Building a Long Island of Neighbors Since 1969

~ THANKS TO 2015 SUPPORTERS ~
LI FRIENDS OF FAIR HOUSING!

Alex P. Ames, CPA
Maritza Arriola Avila
Mario Calles
Emery Celli, Brinckerhoff & Abady LLP
Glen Cherveney, AIA, GRCH Architecture
CONCERN For Independent Living
Janet Hanson
Cathryn A. Harris-Marchesi, Esq.
Linda R. Hassberg, Esq.
Susan McNally
Sharon Mullon
Mike and Ellen Nied
Ginette Rows
Law Offices of Frederick K. Brewington

Law Office of Juana Cortes de Torres, Esq.
LCM Architects
Relman Dane & Colfax PLLC
Michelle Santantonio
Bina and Mark Schlam
Robert L. Schonfeld, Esq.
Erica Simonette
Sober Alliance Inc.
Thomas Smigelski, Esq.
Harriet Spiegelman
Richard E Wankel, P.C.
Beth M. Wickey, Esq.
Ian S. Wilder
TD Bank
Nawrocki Smith LLP

LIHS' programs are accessible; accommodations are provided for people with disabilities including vision, mobility and cognitive impairments.

Se habla español.

Help us build a Long Island of Neighbors!
Donate. Advocate. Volunteer!

