
FAIR HOUSING FOR CITY AN OFFICIALS and PLANNERS

Presented by:

CVOEO Fair Housing Project

Agenda

- **Introduction**
 - **Overview of the Fair Housing Laws**
 - **Applying the Fair Housing Laws to the Work of City and Town Officials**
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About The Fair Housing Project and What We Offer

The FHP works to eradicate housing discrimination in Vermont through education, outreach, and enforcement of fair housing laws.

- We offer information and education related to fair housing.
 - We help businesses, agencies and organizations understand their responsibilities in regards to fair housing.
 - We are not attorneys, nor do we provide legal advice.
 - No information provided here should be construed as legal advice.
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Overview of the Fair Housing Laws

Begin by Asking Three Questions

- Is the person covered?
- Is the property covered?
- Is the behavior covered?

If the answer to all three questions is yes, then the fair housing laws apply.

Is the Person Covered--Civil Rights Act of 1866

- Prohibits discrimination based on race
- Broadly applied to include housing circa 1960.



Is the Person Covered— The Fair Housing Act

- Passed in 1968 (amended in 1974)
 - Prohibits discrimination based on race, color, national origin, gender, religion.
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Is the Person Covered—Fair Housing Amendments Act of 1988

- Familial status and disability
 - Definition of familial status
 - Household with Children under 18
 - Pregnant woman
 - Household in the process of obtaining custody of a child under the age of 18
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Is the Person Covered—Disability

Three definitions:

- Physical or mental impairment that substantially limits one or more life functions
 - A record of having such an impairment
 - Someone who is considered by others to have such an impairment
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Is the Person Covered--Disability, cont'd

- Physical or mental “impairment”
 - a condition or disease that affects the mind or the body
 - That “substantially” limits
 - for a long period of time or to a great degree
 - One or more “major life functions”
 - walking, talking, breathing, seeing, hearing, self-care, paying bills, etc.
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Is the Person Covered--Disability, cont'd

- Record of having a substantial impairment
 - E.g. receipt of SSI, SSDI, etc.
- Considered by others to be disabled



Is the Person Covered—Vermont Fair Housing Act

- Marital Status
 - Sexual Orientation
 - Age (18+)
 - Receipt of Public Assistance
 - Gender Identity
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Is the Property Covered?

- Civil Rights Act of 1866
 - All properties covered, no exemptions
 - Race, national origin, gender, religion, disability
 - All property except owner-occupied 3-family (state)
 - Shelters—depending on rules of the shelter
 - Supportive housing for people with disabilities
 - Dormitories
 - Nursing homes
 - NOT hotel or motel rooms
 - Test is length of stay and intent to return
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Is the Property Covered?

- Familial status discrimination, Age
 - Elderly housing
 - Housing built and occupied solely by persons 62 or older
 - Housing where at least 80% of units are occupied by at least 1 person 55 or older
 - Marital status, sexual orientation, receipt of public assistance, gender identity
 - All housing except owner-occupied 3 families
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Is the Property Covered?

- Laws apply to the following groups who control housing access or location:
 - ❑ Cities and towns
 - ❑ Zoning Boards
 - ❑ Zoning Boards of Appeal
 - ❑ Boards of Health
 - ❑ Planners
 - ❑ Housing Authorities
 - ❑ Lenders
 - ❑ Insurers of housing
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Is the Behavior Covered?

- Differential treatment
 - Refusing to rent or sell because someone is a member of a protected class
 - Refusing to permit housing for low-income people?
 - Different terms and conditions for members of protected classes
 - Steering
 - Discriminatory statements
 - Discriminatory advertising
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Is the Behavior Covered—Familial Status

Illegal to:

- Refuse to rent or sell to someone because there are children in their household
 - Refuse to grant building permits for family housing
 - Have different terms and conditions for families with children
 - Steer families with children
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Is the Behavior Covered—Familial Status

- Disparate impact
 - Neutral rule that has a disparate impact (greater effect) on members of a protected class
 - Occupancy standards
 - HUD memo on occupancy
 - As a general rule, it is reasonable to have two persons per bedroom under the Fair Housing Act
 - No state or federal occupancy code, some Vermont municipalities have their own
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Is the Behavior Covered—Disability

- Cannot refuse to rent or sell to a person because he/she is disabled or because a member of his/her household is disabled
 - Cannot have different rules for people who are disabled than for everyone else
 - Cannot steer people who are disabled
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Is the Behavior Covered—Disability

- Everyone involved in a real estate transaction must make “reasonable accommodations”
 - Changes in rules, policies or practices
 - Unless it creates a fundamental alteration in the business of the housing owner/manager
 - How to request a reasonable accommodation
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Is the Behavior Covered—Disability

- Owners of units with federal operating subsidies must make “reasonable modifications”
 - physical changes to the premises to make it accessible
 - All owners must permit occupants to make modifications at their own expense
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Is the Behavior Covered—Disability

- All “multi-family housing” built for first occupancy after March 31, 1991 must be fully accessible
 - ❑ buildings containing four or more dwelling units if the buildings have one or more elevators AND
 - ❑ all ground floor units in other buildings containing four or more units, without an elevator.
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Is the Behavior Covered—Disability

- Cannot limit location of group homes for the disabled, sober living houses, other housing occupied by people who are disabled
 - Cannot place terms or conditions on housing for people who are disabled not placed on non-disabled
 - Cannot disclose the location of housing for the disabled
 - Cannot refuse building permits for housing for the disabled
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Design projects that are nondiscriminatory (some examples)

- Do not give rehab subsidies to properties known to discriminate
 - Do not give loans or grants to economic development activities that exclude members of a protected class
 - Do not steer monies away from areas with large concentrations of minorities or lower-income people
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Principals of Affirmative Action

- Design project activities that:
 - ❑ Overcome the effects or conditions that have kept your community segregated
 - ❑ Redress past discrimination
 - ❑ Encourage future inclusion
 - ❑ Create equal access to housing choice for all residents
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Affirmatively Further Fair Housing

- Every recipient or sub-recipient of CDBG money is required to affirmatively further fair housing *even if the grant is for non-housing related activities.*
- Fair housing poster contests and other equally benign activities are not evidence of a community's efforts to affirmatively further fair housing.¹
- Communities are encouraged and supported to include real, effective, fair housing strategies in their overall planning and development process.

¹HUD, "Fair Housing Planning Guide" <http://www.hud.gov/offices/ftheo/images/fhpg.pdf>

How to Affirmatively Further Fair Housing

- Perform an analysis of impediments to fair housing or identify an analysis of impediments to use in choosing fair housing action steps
 - State of Vermont 2006 AI, currently working on 2011 AI
 - Identify fair housing action steps to overcome the impediments to fair housing
 - Complete the fair housing action steps chosen
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Choosing an Analysis of Impediments to Fair Housing (AI)

- What is an AI?
- Who has to complete one?
 - In Vermont: City of Burlington, State of Vermont
- How to choose an AI (if your community is not required to complete one)
 - State AI¹

Creating a Fair Housing Action Plan

- To begin:
 - Identify the impediments to be overcome in your community
 - Choose action steps to overcome impediments
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Fair Housing Action Plan Elements

- Fair Housing Policy Statement
- Fair housing discrimination complaint procedure
- Tenant Selection Methodology¹

¹Applies only to housing-related projects

Fair Housing Action Plan Elements- Fair Housing Policy Statement

- State commitment to promoting fair housing choice and to not discriminate against any person protected by law
 - State commitment to promoting racial, economic integration in any housing developed or supported with state or federal funds
 - Identify the person assigned fair housing responsibilities by name, position, address, and telephone
 - Include fair housing complaint procedure
 - Disseminate to applicants and post
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Fair Housing Action Plan Elements- Discrimination Complaint Procedures

- Designate someone as the person to accept fair housing complaints—including name, address, phone number, and other contact information
 - Advertise name and address of the fair housing complaint person
 - Ensure the person designated is trained, knows s/he has been designated, and understands the complaint procedure
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Fair Housing Action Plan Elements- Discrimination Complaint Procedures

- Specify how to make a complaint—call, email, fax
 - Set out procedures for response
 - Create timelines for response
 - Document number of calls, reason for call, result of investigation
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Fair Housing Action Plan—Permissible Tenant Screening Criteria

- Demonstrated ability to pay rent on time
 - Housekeeping habits based on visits to the applicant's current residence
 - Comments from former landlords
 - Credit checks
 - Applicant shall be given opportunity to explain circumstances
 - Must make reasonable accommodations
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Fair Housing Action Plan—Problematic Screening Criteria

- Residency preferences
 - Working families
 - US citizenship
 - Ability to live independently
 - Able to assist in building or construction
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Contact Information:

Kevin Stapleton & Dani Fuoco

CVOEO Fair Housing Project

294 North Winooski Avenue

Burlington, VT 05401

(802)864-3334, ext. 202

kstapleton@cvoeo.org

dfuoco@cvoeo.org
