

Fair Housing Act & Equal Credit Opportunity Act Issue Spotting and Enforcement

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Outline

- Fair Housing Act Primer
- DOJ Enforcement of the Fair Housing Act
- Sexual Harassment and the Fair Housing Act
 - Hypos
 - Enforcement
 - Pattern and Practice Cases
- Equal Credit Opportunity Act

Fair Housing Act

Prohibits housing discrimination on the basis of:

- race
- color
- religion
- sex
- disability
- familial status
- national origin

FHA Prohibits

- Refusing to sell or rent after making bona fide offer
- Refusing to negotiate for sale or rental of dwelling
- Making unavailable or denying a dwelling
- Discriminating in “terms, conditions, or privileges” or “in the provision of services or facilities”
- Making, printing, or publishing a statement or advertisement indicating a preference or limitation

FHA Prohibits

- Representing that a dwelling is not available when in fact it is
- Discriminating in residential real estate-related transactions or in the terms or conditions of such transactions
- Intimidating, threatening, or interfering with any person for exercising her/his housing rights
- Criminal threats, use of force, intimidation or interference

Examples of FHA Cases

- [*United States v. Collier* \(W.D. La. 2015\)](#): allegations of race-based intimidation, harassment, and retaliation under 42 U.S.C. § 3617. Resolved by Consent Order.
- [*United States v. J & R Associates* \(D. Mass. 2017\)](#): allegations of a pattern or practice of discrimination and/or denial of rights to a group of persons on the basis of racial steering in violation of 42 U.S.C. § 3614(a). Resolved by Settlement Agreement.
- [*United States v. The Home Loan Auditors* \(N.D. Cal. 2018 & 2019\)](#): allegations of a pattern or practice of national origin discrimination when they targeted Hispanic homeowners for predatory mortgage loan modification services and interfered with those individuals' ability to keep their homes. Resolved by Settlement Agreements.

DOJ Enforcement of FHA

- The Attorney General can bring an action in federal court when there is reason to believe that a person or entity is engaged in a “pattern or practice” of discrimination or where there has been a “denial of rights to a group of persons that raises an issue of general public importance.” 42 U.S.C. § 3614(a).
- DOJ may also file suits for individual instances of discrimination ONLY when the Department of Housing and Urban Development (HUD) refers the matter to DOJ.

If you think you've identified housing discrimination

- File a lawsuit within 2 years after the occurrence or termination of the alleged discriminatory act
- File a complaint within 1 year with HUD **AND** with the Washington State Human Rights Commission
- If possible criminal conduct, call local law enforcement or the FBI
 - Local FBI (509) 458-8100
- If you have information that suggests a “pattern or practice” of discrimination in housing, submit a complaint to the USAO Civil Rights Team using the complaint forms found at <https://www.justice.gov/usao-edwa/edwa-civil-rights-webpage> and submitting them directly via email to USAWAE.CivilRights@usdoj.gov
 - You can also submit a complaint to DOJ Civil Rights at <https://civilrights.justice.gov>

Sexual harassment in housing may violate the Fair Housing Act



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Who does this?

Where does this happen?



What type of housing?



1. Quid Pro Quo

2. Hostile Housing Environment

3. Retaliation

Quid Pro Quo

Apartment is still available if you...

I won't run a credit report if you...

I will make the repairs if you...

You can pay me later if you...

I can charge you less if you...

Hostile Housing Environment

“Severe or pervasive”

Sexual / suggestive comments

Showing pornography

Exposing self

Repeatedly enters housing

Unwelcome sexual touching

Retaliation





Hypothetical Sexual Harassment Case

HYP0: Screening at Intake

Tasha, 30 years old

Lives with her two minor children

Uses a Housing Choice Voucher

Says she is being evicted by landlord Dave, age 58, for not paying rent

Worried about losing her voucher

HYPO

First encounter: a little creepy

Texts: friendly, then personal

First time short on rent: suggested sexual contact

Weekly comments about her body

Uninvited entry to apartment, touching

HYPO

Second time short on rent: demand for oral sex; Tasha acquiesced

Near-daily comments about her body

Third time late on rent: oral sex, stopped him when he wanted more

Three days later, notice of eviction

Immediate Concerns

- Safety
 - Law Enforcement?
 - TRO/CPO?
 - Shelter/other accommodations?
- Eviction proceedings
 - Raise sexual harassment?
- Housing Authority
 - Complaint?
 - Emergency transfer?

Options for Civil Rights Enforcement

1. Private enforcement
 - Federal court FHA complaint
 - State courts/civil rights laws
2. HUD/State or Local Agency
3. Department of Justice – Civil Rights Division and USAO EDWA Civil Rights Team

What to do if you believe you or someone you know is a victim of discrimination

File a lawsuit within 2 years after the occurrence or termination of the alleged discriminatory act.

File a complaint within 1 year with HUD or equivalent state agency.

If possible criminal conduct, call local law enforcement.

If you're not sure whether there is a violation, ask-contact the USAO EDWA Civil Rights Team.

If you have information that suggests a “pattern or practice” of discrimination in housing, call or email the USAO EDWA Civil Rights Team or DOJ Civil Rights.

We strongly suggest that anyone who has experienced sexual harassment in housing file a complaint with HUD within one year. This will:

1. Preserve his or her individual rights to bring an action later, because;
2. There is no guarantee DOJ will be able to investigate or ultimately file a lawsuit against the harasser.

<https://www.hud.gov/fairhousing/fileacomplaint%20>

You can also speak with an HUD intake specialist by calling 1-800-669-9777 or 1-800-877-8339.



Pattern or practice cases



Relief –
injunctive &
monetary



United States v. Webb (E.D. Mo.)

Settled in 2018



St. Louis landlords reach \$625,000 settlement over 20 years of alleged sexual harassment

Accused of offering cheaper rent and other benefits in exchange for sexual favors

Protective Order

1. Contact Between the Defendants and Alleged Victims or Witnesses.

defendant Douglas Waterbury or anyone operating on his behalf or at his direction (excluding counsel of record, counsel's staff or employees, or anyone hired by defendants' counsel for the purpose of representing the defendants in this action) shall not deliberately contact or attempt to contact any persons identified by the United States in its initial disclosures or other discovery responses as witnesses to, or victims of, the defendants' alleged discriminatory housing practices. If any defendant proceeds *pro se* at any time during this action, that defendant shall



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SEXUAL HARASSMENT IN HOUSING INITIATIVE - HOW TO REPORT

Call the Sexual Harassment in Housing Initiative at 1-844-380-6178.

[Report Sexual Harassment in Housing](#)

Send an **email** describing your experience or the experience of someone you know to the Sexual Harassment in Housing Initiative. You can give as much or as little information as you like. If you provide a phone number, we will call you back.

Sexual Harassment in Housing Initiative

HUD's Sexual Harassment Training Initiative

- PHAs
- Voucher Program Landlords and Managers
- PHA and Voucher Tenants

<https://www.hudexchange.info/trainings/preventing-harassment/>

CALL HUD
BECAUSE SEXUAL HARASSMENT IN HOUSING IS ILLEGAL.

1-800-669-9777 / 1-800-877-8339 TTY
WWW.HUD.GOV

Fair Housing Awareness

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
EQUAL HOUSING OPPORTUNITY

HARASSMENT IN HOUSING BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, OR FAMILY STATUS IS ILLEGAL. IF YOU BELIEVE YOU'VE EXPERIENCED DISCRIMINATORY HARASSMENT, CONTACT HUD TO REPORT IT.

How does
DOJ learn
about cases?





1-844-380-6178



fairhousing@usdoj.gov



**[https://www.justice.gov/
crt/sexual-harassment-
housing-initiative](https://www.justice.gov/crt/sexual-harassment-housing-initiative)**



THE UNITED STATES
DEPARTMENT *of* JUSTICE

United States Attorney's Office
Eastern District of Washington

U.S. Attorney's Office Eastern District of Washington
Civil Rights Team

Email: USAWAE.CivilRights@usdoj.gov

Phone: (509) 835-6306

Webpage: <https://www.justice.gov/usao-edwa/edwa-civil-rights-webpage>

What does DOJ/USAO do with the complaints it receives?



Additional Reporting

DOJ Civil Rights Division, Housing Section:

1-844-380-6178

fairhousing@usdoj.gov

HUD FHEO Hotline: **(800) 669-9777**

Equal Credit Opportunity Act (ECOA) Enforcement

Equal Credit Opportunity Act (ECOA)

Prohibits creditors from discriminating against credit applicants with respect to any type of credit transaction on the basis of:

- race
- color
- religion
- national origin
- sex
- marital status
- age
- receipt of public assistance
- exercise of rights under the Consumer Credit Protection Act

Attorney General has independent pattern or practice authority

If you think you've identified a ECOA Violation

- If you have information regarding a ECOA violation, you may submit a complaint to:
 - The U.S. Consumer Protection Bureau at <https://www.consumerfinance.gov/complaint/> and/or the Washington State Human Rights Commission
- If you have information that suggests a “pattern or practice” of discrimination, submit a complaint to:
 - The USAO Civil Rights Team <https://www.justice.gov/usao-edwa/edwa-civil-rights-webpage> and submitting directly via email to USAWAE.CivilRights@usdoj.gov and/or;
 - DOJ Civil Rights at <https://civilrights.justice.gov>

QUESTIONS?