

Fair Housing Fundamentals



Heather Roth, Regional Director



Fair Housing in Pennsylvania —

It's Your Right.

Who is PHRC?

Two-Part Mission:

- **Enforce PA non-discrimination laws**
 - PA Human Relations Act
 - PA Fair Educational Opportunities Act
- **Promote Equal Opportunity for ALL in PA**

Promoting Equal Opportunity

Key Partnerships

- **Community Relations & Activities Task Force**

PA Attorney General

PA State Police

Other local, state & federal partners

- **PHRC Advisory Councils**

Blair, Berks/Lebanon/Lancaster, Cambria, Centre, Cumberland/Dauphin/Perry, Lehigh, Montgomery, Monroe, South Western and York

Local Commissions

- **Advocacy Organizations**

Promoting Equal Opportunity

Training

- schools, employers,
community organizations

Request online at
www.phrc.state.pa.us

▶ Three Regions Served by PHRC



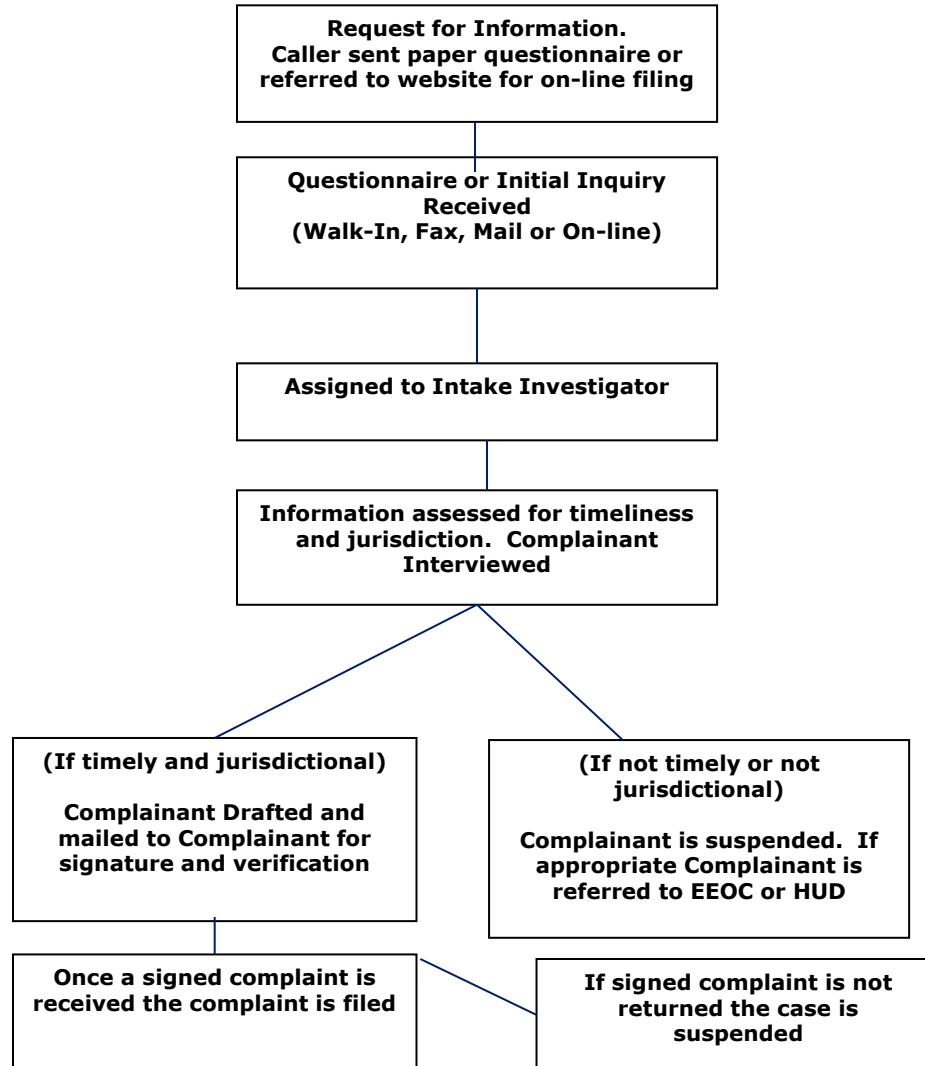
What Do Our Laws Cover?

- **Employment**
- **Housing**
- **Commercial Property**
- **Public Accommodations**
- **Education**

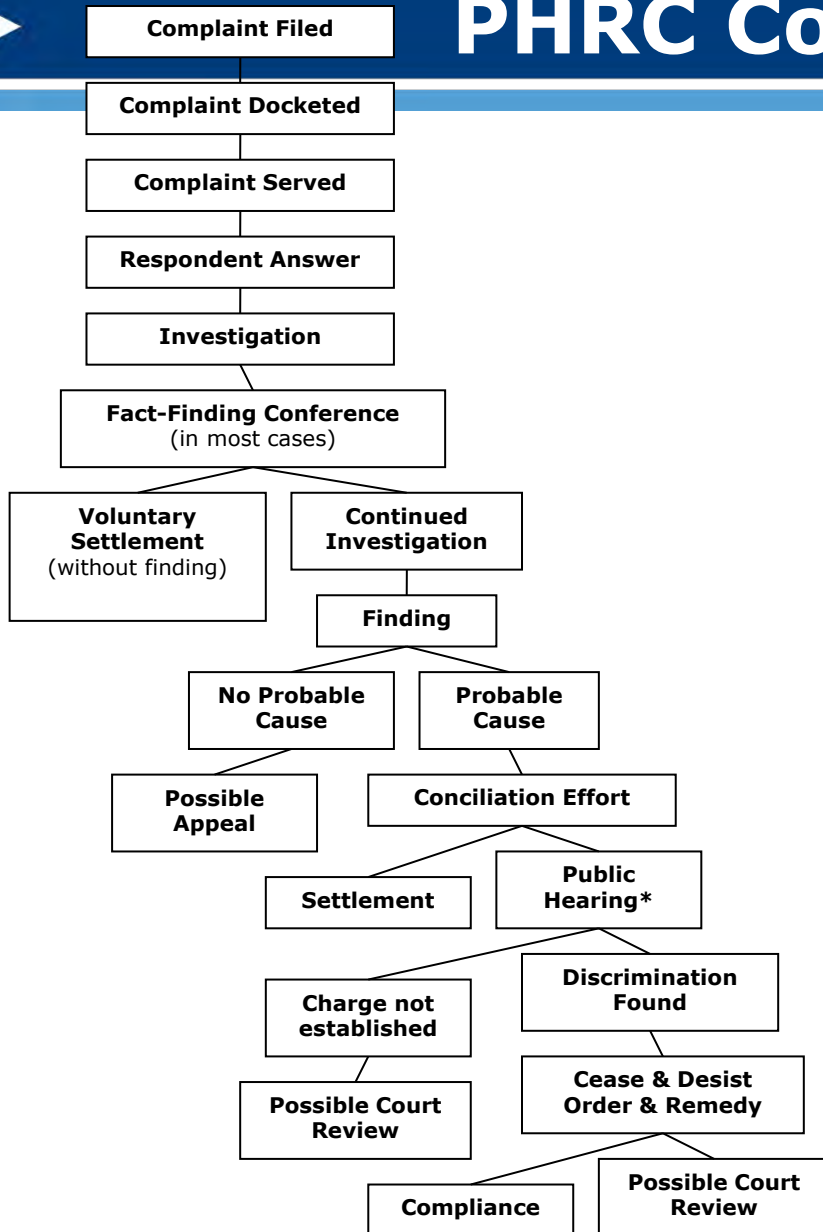
What Classes Are Protected?

- Race or color
- Sex
- Age (40 or over)
- Religion
- National Origin
- Ancestry
- Disability
 - Use, handling or training of support animals for disability
- Familial status
- Retaliation

PHRC Intake Process



PHRC Complaint Process



Housing Jurisdiction

- HUD: 4 or more properties or if you publically advertise vacancies and/or get Federal funding with even only 1 property
- PHRA: **1 property regardless of funding or advertising**
- You have 180 days from the act of harm to file a complaint with PHRC and 365 days to file a complaint with HUD.
- All eligible complaints will be dual-filed with HUD

Protected Class Specific to Housing

Familial Status

- Families with children under the age of 18 living with parents or legal custodians
- Pregnant women
- People securing custody of children under the age of 18
- Foster Children included



More About Familial Status

- Landlord cannot refuse to rent/lease because of children
- Landlord cannot specify what areas or units families live in
 - Ex. All families with young children have to be one building
 - Ex. All families with young children cannot be on 3rd floor
- Landlord cannot impose different terms and conditions
 - Ex. Charging more security deposit for families with children
 - Ex. Only allowing children to use community center at certain times

➤ Other Issues Unique to Housing

Age Related Issues

- **55 and Over Communities**
 - Only one resident needs to be 55 or older
 - 80% of units must be occupied by at least one person who is 55 and older
 - Cannot deny tenants with children under 18
 - Federal law says that they may deny use of some services to those under 55
 - They may advertise and market as 55 and older
- **62 and Over Communities**
 - Must be certified by the government
 - This is the only exception to not allowing children or anyone under age 62

Unlawful Practices

- Printing or circulating **statements indicating a preference or limitation** related to protected class

Examples:

“near Catholic school”

“perfect for empty-nesters”

“near Korean grocery”

“great for singles”

Unlawful Practices

The following words may violate the advertising provisions of the PHRA:

Able Bodies, Adult, *Child/Children, Christian, Couple, Crippled, Empty Nester, Ethnic Neighborhood or Group, Foreigners, Handicapped, Ideal for..., Immigrants, Independently capable of living, Integrated, Interracial, Mixed Community, Nationality, Newlyweds, Perfect for, Prefer, **Retired Persons, *Retirees, *Senior, Suitable For, Young, Youthful

*Unless in relation to housing for older persons

Unlawful Practices

The following phrases DO violate the advertising provisions of the PHRA:

Adult atmosphere, Mature adults preferred, Great for retired couple, Great for couple just starting out, No kids, Perfect for empty nesters, Couples only, Separate building for adults, Ideal for singles, Young professionals, Professional male preferred, Surround yourself with Christian neighbors...

Unlawful Practices

- Refusing to **sell, lease, finance** or otherwise withhold housing or commercial property

Examples:

- A relator not showing homes to an Latino couple because the seller knows the neighbors don't want "those kinds of people in their neighborhood."
- A bank refusing to lend money to a pregnant woman because she can't prove she will go back to work once the baby is born
- Falsely stating a property/unit is not available when it is because the landlord does not like the religion of the potential tenant

Unlawful Practices

- **Discriminating in terms or conditions of sale, lease or financing**

Examples:

- Higher fees for teenagers
- Extra security deposit for service/support animals
- Increased monthly rental costs for certain races

Unlawful Practices

- **Discriminating in provision of **facilities, services or privileges** connected with ownership, occupancy or use of housing or commercial property**

Examples:

- Not allowing children to use pool
- Ignoring or taking longer to complete maintenance requests based on a protected class
- Unequal application of rules or lease provisions

Predatory Lending

Targeting people for unfair or deceptive loans based on protected factors such as race, sex or age.

- **Recent settlement of a \$175 million, 8-state settlement included \$3.4 million for “reverse redlining” in Philadelphia**

Unlawful Practices

- **Making *inquiry or record* related to protected class in connection with sale, lease or financing**

Examples:

- Asking if someone has a disability on a mortgage application
- Asking a caller inquiring about an apartment for their race or if they have children

Unlawful Practices

- **Attempting to induce listing, sale or other transaction, or discourage purchase or lease by making direct or indirect references to present or future protected class composition of the neighborhood**
 - **Sometimes called “steering”**

Unlawful Practices

- Refusing to make **reasonable accommodations** in rules, policies, practices or services necessary to afford equal opportunity for a person with a disability to use and enjoy a housing accommodation

Examples:

- Not allowing a person with disability income to pay their rent on a different date than other tenants
- Not allowing a person with a disability to have a service animal when there is a no pet policy

Unlawful Practices

- Refuse to allow a person with a disability **permission to modify and pay for changes** to enable them to use a facility
 - Renters must agree to restore interior to original condition, minus wear & tear
 - **NOTE** - If the housing provider receives federal funds they are required to pay for the modification not the tenant.

Examples:

- Not allowing a tenant to install grab bars in bathroom
- Not allowing a tenant in a wheelchair to construct a ramp

Modification/Accommodation

What is the difference?

- **A reasonable modification is a structural change made to the premises;**
- **A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice or service.**

▶ Service/Support Animals

- **It's not a *choice*.**
- **It's a right.**
- **It's a necessity.**
- **It's a support animal.**
- **Under the Pennsylvania Human Relations Act, it is unlawful to discriminate against individuals who use support or guide animals for a disability.**

Service/Support Animals

- **PA law is more liberal than Federal law**
- **Not just dogs**
- **Can be for physical or emotional support**
- **No certification or license is required**
- **Animal does not need vest or special tags**

Service/Support Animals

- **Housing provider CAN ask for proof of need but NOT tenant's actual medical condition**
- **Medical note of need does not need to be from primary physician**
- **If need is documented no pet fees can be charged**

Service/Support Animals

- **If documentation is not provided timely housing provider can deny accommodation**
- **Service animals must abide by the rules of the community i.e. cannot attack or otherwise disturb the enjoyment of other tenants and guests**
- **If there are limits on breeds or weight limits they must be waived for service/support animals**
- **Animals must follow State and Local regulations.**

➤ Investigation Of Disability Complaints

- **Does Complainant have a disability (physical or mental)?**
- **Did Respondent know or have reason to know of the disability?**
- **Does Complainant need a reasonable accommodation or modification?**
- **Did Respondent know about Complainant's need?**
- **Did Respondent refuse to make the accommodation, modification or offer a reasonable alternative?**

Respondent's Defense- Undue Hardship

- The factors to be considered in determining whether an undue hardship is imposed by the requirement that a reasonable accommodation be made for the handicap or disability of a person include the following:
 - (1) The extent, nature and cost of the accommodation required, including the overall size and nature of the housing accommodation or commercial property. Financial capability shall be a factor when raised as a part of an undue hardship defense.
 - (2) The extent to which a person with a handicap or disability can reasonably be expected to need and desire to use, enjoy or benefit from the housing accommodation or commercial property which is the subject of the proposed reasonable accommodation.
 - (3) The requirements of other laws or contracts, to the extent they are not preempted by the act.
 - (4) The extent to which the accommodation would pose a demonstrable threat of harm to the health and safety of others

Accessibility

- **It is unlawful to construct new housing or commercial property that isn't accessible for people with disabilities.**
- **Owners are required to make reasonable modifications to existing buildings so they can be accessible**



Disability

In 2015-16, Disability-related complaints made up 38% of all housing complaints in PA.



▶ Top Three Complaint Bases 2015-'16

Housing

1. Disability
2. Retaliation
3. Race/Color



Employment

1. Retaliation
2. Sex
3. Disability

Public Accommodations

1. Disability
2. Race/Color
3. Retaliation and Sex (tie)



Education

1. Disability
2. Retaliation
3. Race/Color

How Else Do We Investigate?

- Review:
 - Applications
 - Leases
 - Eviction Notices
 - Tenant Files
 - Tenant Complaints
 - Maintenance Requests
 - Police Reports
 - Requests for accommodation/modification
- Interview:
 - Complainant
 - Respondent and their employees
 - Tenants
 - Service Providers



What Are Potential Remedies?

This chart shows some remedies that could be available for Housing Cases:

Lease/ Rent or Sale of property	Eviction Stopped	Reasonable Accommodations
Modifications Made to Housing Units	Money for pain and embarrassment	Changes to Housing Agreements
Policy Changes	Posting of Fair Housing Notices	Training for Respondent
Reimbursement or forgiveness of fees	Civil Penalties	Out of pocket expenses

Test Your Knowledge

Review each scenario. Which is it?



Scenario 1

An apartment building owner who rents to people of all age groups decides that families with younger children can only rent in one particular building, and not in others, because younger children tend to make lots of noise and may bother other tenants.



Illegal

Scenario 1

Notwithstanding the rationale presented for differential treatment of families with children – that children make noise and may bother other tenants – federal and state law does not permit such actions in most apartment settings. The complex is not restricted to seniors only.

Landlords may not, under these circumstances, treat families with children under the age of 18 different from others, either with respect to building assignment or any other way.

Scenario 2

In checking references on an application for a vacant apartment, an apartment building owner learns that an applicant does not have the best housekeeping habits; he does not always keep his current apartment neat or clean. The owner does not want to rent to such a person.



Legal

Scenario 2

The building owner is not making a decision about a prospective tenant based on any factor other than information about housekeeping habits obtained during a reference check. There is no appearance of discrimination based on the applicant's protected class.

Persons with bad housekeeping habits are not protected under fair housing law. Therefore, the landlord's decision is legal

Question – Does this change if the person is a “hoarder?”

Scenario 3

An apartment building owner is renting to a tenant who uses a wheelchair. The building is old and does not have a wheelchair ramp and the tenant wants a small wooden ramp constructed at the building door to more easily access the building.

The tenant says he will pay all costs, and agrees to have the ramp removed at his expense when he leaves. The owner believes such a ramp will not look good on his building and decides he does not want it constructed on his property.



Illegal

Scenario 3

It is illegal for an owner to prohibit a wheelchair ramp from being constructed on the property. A landlord may not refuse to let a renter make reasonable modifications to the housing unit or common use areas at the disabled person's expense if such modifications are necessary for a person with a disability to use the housing.

Where reasonable, a landlord may permit changes only if the individual agrees to restore the property to its original condition (at move out). Additionally, the landlord may not refuse to make reasonable accommodations in rules, policies, practices or services if such an accommodation is necessary for a disabled person to use the housing.

Scenario 4

An apartment owner places a notice on a community bulletin board to find a tenant for a vacant apartment. The notice states “Christians preferred”.



Illegal

Scenario 4

It is illegal for an owner to advertise a preference based on religion. In fact, it is illegal to advertise or make any statement that indicates a preference based on a protected class.

Scenario 5

In checking references on an application for a vacant apartment, an apartment building owner learns that the applicant has a history of mental illness. Although the applicant is not a danger to anyone, the owner does not want to rent to such a person.



Illegal

Scenario 5

It is illegal for an owner to reject an applicant because of mental illness. However, housing does not have to be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs. The scenario clearly specifies that the person is not a danger to anyone.

Scenario 6

An apartment building owner learns that an applicant for a vacant apartment has a different religion than all the other tenants in the building. Believing the other tenants would object, the owner does not want to rent to such a person.



Illegal

Scenario 6

It is illegal for a landlord to reject or otherwise discriminate against an applicant based on religion. Even if the landlord believed the other tenants would object, or that it would somehow be better for current or prospective tenants if the latter were rejected because of religion, it is against federal and state law to do so.

Scenario 7

A family is selling their house through a real estate agent. They are white and have only white neighbors. Some of the neighbors tell the family that if a non-white person buys the house, there would be trouble for the buyer. Not wanting to make it difficult for the buyer, the family tells the real estate agent they will sell their house only to a white buyer.



Illegal

Scenario 7

It is illegal for a family selling their house through a real estate agent or broker to restrict the sale of their house only to white buyers.

The law exempts from this prohibition single-family housing sold without the service of a real estate agent.

However, the family cannot restrict the sale of their house because of race or other attributes, affiliations, or conditions as stipulated by the Fair Housing Act.

Scenario 8

A white family looking to buy a house goes to a real estate agent and asks about the availability of houses within their price range. Assuming the family would only want to buy where white people live, the agent decides to show them only houses in all-white neighborhoods, even though there are many houses in their price range in other parts of the community.



Illegal

Scenario 8

It is illegal for a real estate agent to restrict a client's housing search to neighborhoods of a certain racial composition.

This type of behavior – “steering” – involves systematically showing minority buyers houses in neighborhoods different from those shown or recommended to comparable white buyers.

Systematically steering minorities away from predominantly white neighborhoods – and vice versa – is a form of discrimination that limits housing and neighborhood choice and may play a role in perpetrating patterns of residential segregation

Scenario 9

A black person applies for a bank loan for a home mortgage. He does not have a steady job or enough income to pay a monthly mortgage payment. When he did work, the job did not pay very much. Because of his lack of a steady job and insufficient income, the loan officer decided not to give this person a mortgage.



Legal

Scenario 9

It is legal for a loan officer to turn down an applicant because he or she lacks sufficient income to cover a monthly mortgage payment. The scenario clearly states that the bank denied the mortgage because of insufficient income and not because of race or other protected characteristics.

Scenario 10

A Hispanic family goes to a bank to apply for a home mortgage. The family qualifies for a mortgage but, in that bank's experience, Hispanic borrowers have been less likely than others to repay their loans. For that reason, the loan officer requires that the family make a higher down payment than would be required of other borrowers before agreeing to give the mortgage.



Illegal

Scenario 10

It is illegal to require a higher down payment from this otherwise qualified applicant than would be required of similarly qualified persons. While the loan officer appears to be making a business decision, federal and state law prohibits a lender from profiling an applicant based on protected characteristics, and, as a result, imposing differential terms or giving different treatment.

What Is Wrong With This Picture?



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▶ Pennsylvania Association of Realtors

“ Please do not ask, or expect to be shown homes or properties according to the racial, religious, or ethnic characteristics of the neighborhood in which homes are located. ***Company policy***, as well as ***Federal Law***, prohibits us from placing any such restrictions on showings or information about the availability of homes or properties for sale or rent.”

File A Complaint

www.phrc.state.pa.us

PA Fair Housing Hotline

Toll free 855-866-5718

You must file your complaint within 180 days of the discriminatory act.

Contact Us

Central & Harrisburg Regional Offices
333 Market Street, 8th Floor
Harrisburg, PA 17101
717-787-9780