



Fair Housing Rights



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DISCLAIMER



HOPE provides education, outreach, and resources to inform people about fair housing rights.



The information we are presenting today is NOT intended to be legal advice.



Please consult a lawyer for legal counsel on specific matters.

HOPE's Mission

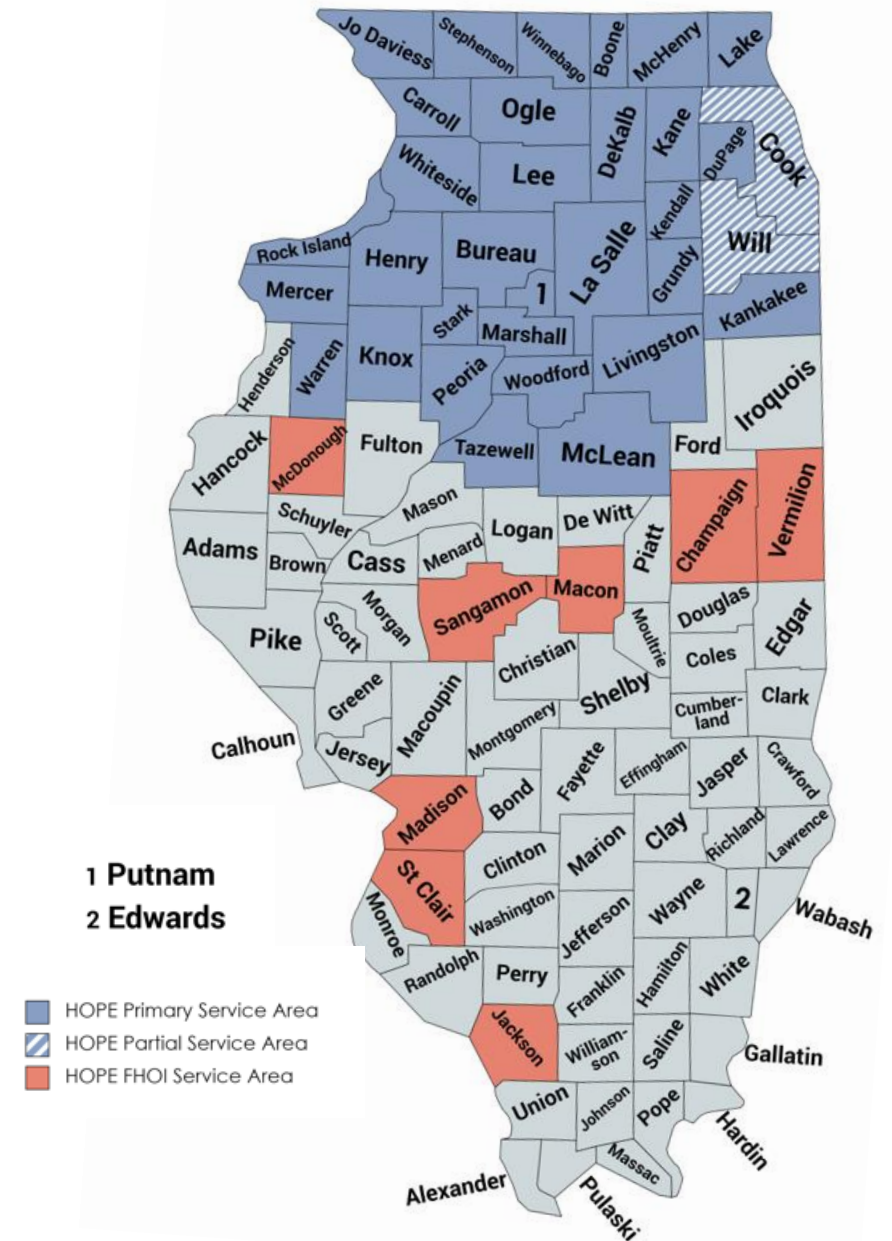
Work to create **greater housing opportunities for all.**

We want to ensure everyone has the chance to live in the place of their **choice**, free from illegal discrimination.

HOPE's Service Area

HOPE serves over 30 counties in the Northern and North Central parts of Illinois.

HOPE is also in the process of expanding its services to areas in Southern IL!





History of Fair Housing

Discriminatory Practices

REDLINING

The refusal of loans to neighborhoods with a significant minority and foreign-born population.

RESTRICTIVE COVENANTS

Contractual agreements that prohibit the purchase, lease, or occupation of a piece of property by a particular group of people, usually Black families.

CONTRACT BUYING/ PREDATORY CONTRACTS

Contracts where the title to the property was not transferred to the buyer until the last monthly payment had been made. This meant that families could have their home taken from them at any time & without any legal recourse.

DISCRIMINATION

Treating someone unfavorably based on the group to which the person belongs to.

Fair Housing Act of 1968

Prohibits discrimination in renting, leasing, buying, selling, or occupying a dwelling because of a person's membership in a protected class.



Home Owners' Loan Corporation Act (HOLC)

The HOLC maps show how loan officers, appraisers and real estate professionals evaluated mortgage lending risk.

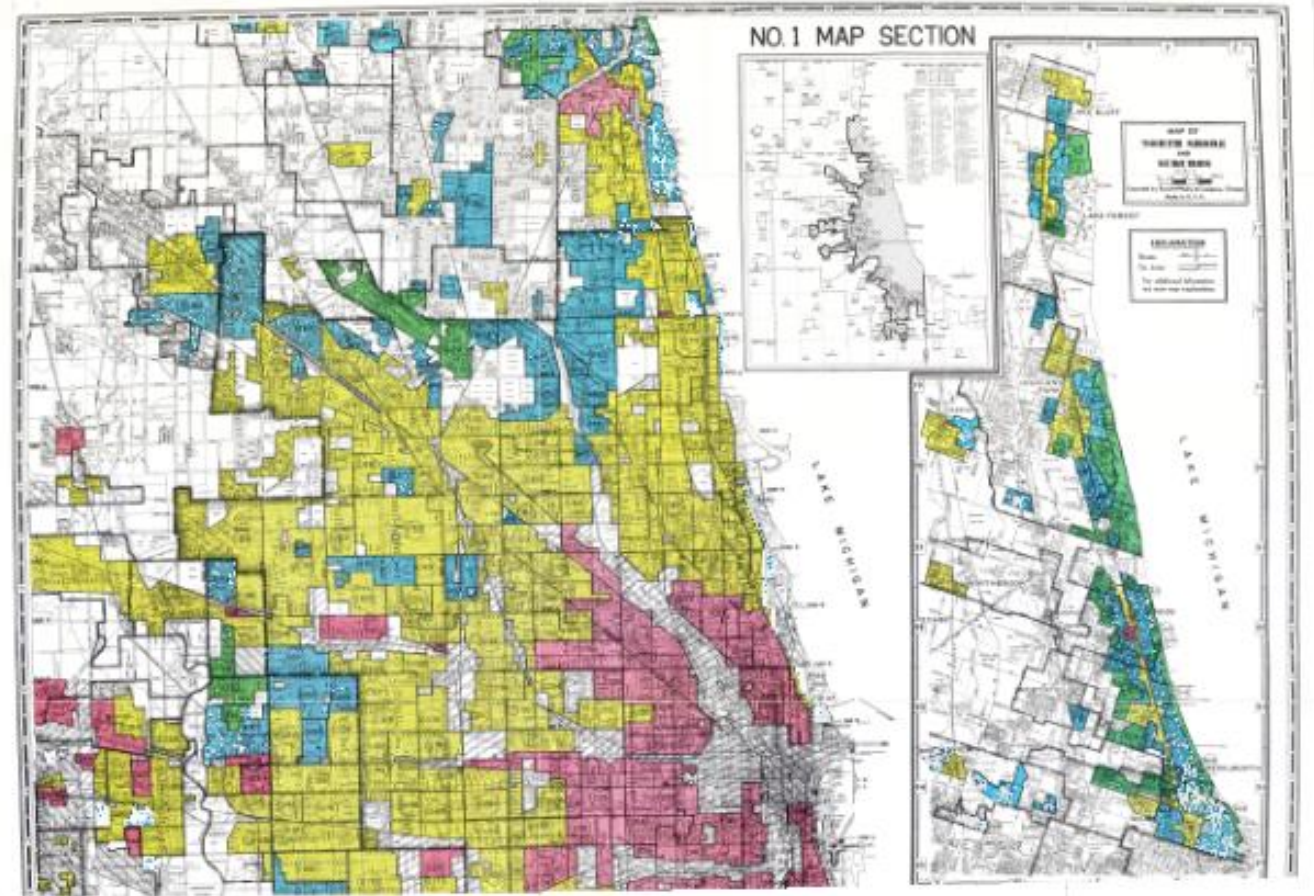


Figure 1. A map of Chicago, IL mortgage lending trends adapted from *Mapping inequality* (n.d.)

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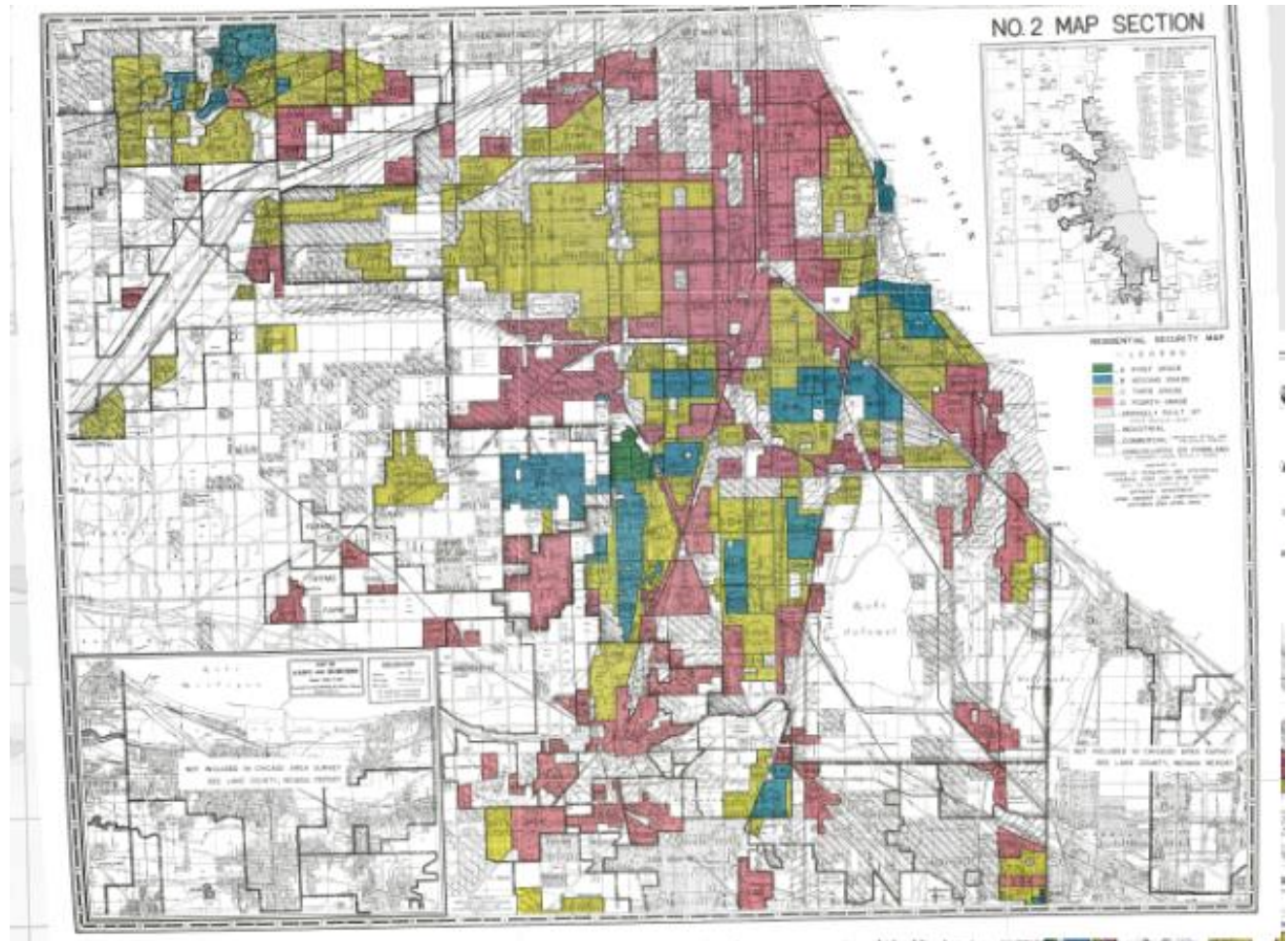


Figure 1. A map of Chicago, IL mortgage lending trends adapted from *Mapping inequality* (n.d.)



What Is Fair Housing?

The right for all people to:

- ▣ Live where they choose
 - ▣ Have access to housing (seek, rent, or buy)
 - ▣ Enjoy the full use of their homes
-

Without:

- ▣ Unlawful discrimination
- ▣ Interference
- ▣ Coercion
- ▣ Threats
- ▣ Intimidation



A Deeper Look at Fair Housing

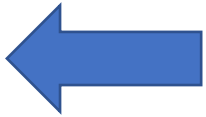
Different Kinds of Discrimination

Direct discrimination – treating someone less favorable than another individual based on their membership in a protected class.

Disparate Impact – a policy that is neutral on its face but when put into practice has a greater negative impact on one protected class more than another.

Federal Protected Classes

- Race
- Disability
- Sex
- National Origin
- Color
- Religion
- Familial Status



**Sexual Harassment is covered.
In 2021, HUD issued guidance
interpreting Sexual Orientation &
Gender Identity to be included.**

Illinois Protected Classes

- Sexual Orientation
- Ancestry
- Marital Status
- Gender Identity
- Age (over 40)
- Order of Protection Status
- Unfavorable Military Discharge
- Pregnancy
- Arrest Record (Juvenile, Expunged, and Sealed Records)
- Source of Income (effective 1/1/23)
- *Immigration Status Protection

The Immigrant Tenant Protection Act is a law which prohibits housing providers from harassing, threatening or evicting tenants based on any perceived immigration or citizenship status. This is separate from protected classes in the IL Human Rights Act.

Cook County Human Rights Ordinance

Includes all federal + state protections plus...

- ❑ Source of Income
- ❑ Gender Identity
- ❑ Housing Status (if you have been or are: unhoused, a homeowner, or a renter)
- ❑ Just Housing Amendment (arrests and conviction records)

*The County does not have a protection for Order of Protection Status; complaints must be filed with the State.

Chicago Fair Housing Act

Includes all federal + state protections (except Order of Protection Status) plus...

- Source of Income
- Gender Identity

*The City does not have a protection for Housing Status or Covered Criminal History; you must file that complaint with the County.

When Is It a Fair Housing Violation?

Prohibited Act + Protected Class = Illegal Discrimination

Direct discrimination: A landlord refusing to rent to someone (Prohibited Act) because they have children (Protected Class)

Disparate Impact: A housing provider refusing to accept disability assistance to pay for rent (Prohibited Act) from tenants with a disability (Protected Class)

When Is It a Fair Housing Violation?

Prohibited Act + Protected Class = Illegal Discrimination

The following are just some kinds of discrimination people may experience.

See if you can spot where there is a prohibited act in the examples that follow.

Is it a Fair Housing Violation?

Mary is searching for affordable housing in her neighborhood. She is unable to work full-time due to her mental health disability. She receives disability benefits to cover her living expenses.

While on a scheduled tour of an apartment, Mary mentions she will be able to put down a security deposit by the end of the week, as that is when she will have the money deposited into her account. The landlord informs Mary that that he doesn't accept any "Section 8 or anything else from the government" for rent.

Is this a prohibited act?

Is it a Fair Housing Violation?

Brianna has been residing at Maple Oaks Condominium for 4 months.

Last Tuesday, a property management team member sent her a suggestive text message. Uncomfortable but not wanting to cause any problems, Brianna ignored the message. Today, while she was opening the door to her unit, the staff member appears, pressing her for a sexual favor. When she refuses, he threatens her with eviction unless she accepted his advances.

Is this a prohibited act?

Is it a Fair Housing Violation?

Miles is looking for a condo near his new job as an attorney at a law firm.

On a call with the property management team inquiring about the qualifications for rental, Miles mentions he should meet the requirement because his new salary at the firm will cover all the application fee and security deposit. In response, the property manager says he doesn't rent to lawyers because "they are all liars."

Is this a prohibited act?



Discrimination in a Protected Class

Familial Status

- Familial status protects all families with children **under** the age of 18
 - Includes pregnant woman and parents in the process of adopting or securing custody of a child
 - Children can include foster or grandchildren, so long as the person has legal custody
- Examples of discrimination include:
 - Advertisements saying “no children”
 - A landlord/property manager insisting you can only live on a certain floor or area
 - Building rules saying “No teens loitering after 10 PM”
 - Loan officer charging higher interest rates because you or your partner are pregnant

Familial Status - Example

Brian is a single parent of six-year-old twins. His children have recently started attending a new elementary school. He is looking for a home in the neighborhood near the school.

While touring an apartment complex building, he is handed a copy of the lease agreement, along with the qualifications necessary to secure the unit. He notices a clause in the lease stating, "families with children under the age of 8 can only reside on the 1st floor units", and that there is an additional fee of \$125 added to rent "to cover any damage that may occur in a unit occupied by a family."

Is this a prohibited act?

Disability as a Protected Class

The following is information related to protections for people with disabilities in the United States.

The Fair Housing Act talks about what accessibility requirements must be met so people with disabilities can access their homes in the same manner as a person without a disability.

What is A Covered Disability?

- Mental or physical diagnosis that substantially limits one or more major life activities

(i.e., breathing, walking, seeing, hearing, learning, speaking, performing manual tasks or self care)

OR

discrimination based on the perception of having a disability

What does "substantially limit" mean?

- The individual's disability must limit their ability to use or enjoy their home, or interfere with their ability to meet requirements of the lease agreement
 - An individual who is blind may not be able to read/comply with a written notice unless provided in Braille
- Temporary disabilities are evaluated on a case-by-case basis using the same criteria.

Key Housing-Related Laws Impacting the Disability Community



FAIR HOUSING ACT



SECTION 504
1973 Rehabilitation Act

Fair Housing Act: Design and Construction Requirements

Requirement 1: An accessible building entrance on an accessible route.

Requirement 2: Accessible common and public use areas.

Requirement 3: Usable doors (usable by a person with a wheelchair).

Requirement 4: Accessible route into and through the dwelling unit.

Requirement 5: Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

Requirement 6: Reinforced walls in bathrooms for later installation of grab bars.

Requirement 7: Usable kitchens and bathrooms.

Impact of the 1973 Rehabilitation Act

- The Rehab Act was one of the first laws extending civil rights to individuals with disabilities.
- It applies to recipients of federal financial assistance



Key Features of Section 504 of the 1973 Rehabilitation Act

COVERS

Any housing that receives federal assistance, such as Section 8 public housing, or subsidized housing.

MANDATES

At least 5% of units designed for persons with physical disabilities.

At least 2% of units designed for persons that are Deaf, Hard of Hearing, Blind or have low vision.

STANDARDIZES

As per the Architectural Barriers Act, buildings built for or leased to federal government must be physically accessible.

Reasonable Accommodations

A reasonable accommodation is a change in rules, policies, practices, or services that are necessary for a person with a disability to have an equal opportunity to “use and enjoy” housing.

Basic Principles of Reasonable Accommodation

- Both the need and request for accommodation are based on a person's disability
- Housing provider must be aware of the disability
 - If it is a visible disability, a housing provider cannot ask for confirmation.
 - If it is an invisible disability, a housing provider may ask for third party verification for the requested accommodation

Reasonable Accommodations – Examples



Allowing tenants with disability to have an assistance animal.



Accessible parking for tenants with a disability.



Allowing a tenant with a mental health disability which affects other residents to get medical treatment before deciding to evict them.

Reasonable Modifications

A requirement to permit, at the expense of the person with a disability, reasonable modifications of existing premises.

Reasonable Modifications – Examples



Installing bathroom grab-bars



Widening doorways



Installing wheelchair ramps

Is it a Fair Housing Violation?

Shirley has a physical disability. She is looking for an accessible apartment in her neighborhood.

While inquiring about a unit, she asks the rental office if there is an accessible parking space available and what the process would be to request a reasonable accommodation for her assistance animal, which is a dog.

The property management staff state there is plenty of parking available to all residents in the back of the building and that it's first come, first serve. Additionally, there is a pet fee of \$75 that she must add to her security deposit and application fee in order to have the assistance animal in the unit.

Is this a prohibited act?

Associational or Perceived Protected Class

- **Protected class** = a group of people that share characteristics protected by law from discrimination
- Protection can be extended to those **perceived** or **associated** to a protected class
- Example of a **Perceived Protected** class:
 - A landlord treating a woman who they perceive to be a lesbian because she does not act or dress like a “normal straight woman”
- Example of an **Associational Protected** class:
 - A white tenant inviting their black friends to visit and a landlord banning them despite any negative issues or interactions occurring



Source of Income Law

Source of Income – HB 2775

- Source of Income is now a state-protected class effective 1/1/23
 - Currently, there are local ordinances in IL (Chicago and Cook County)
- Applies to both the rental and sales of homes
- Source of Income = “the lawful manner in which an individual supports himself or herself and their dependents”
 - The above definition is the same language as in the Cook County Human Rights Ordinance. In the absence of State guidance, it’s reasonable to assume the State will interpret their definition the same as Cook County.

Source of Income Discrimination – HB 2775

A housing provider:

- Requires prospective renters must have been employed for one year or longer
- Announces that they don't take vouchers or work with public housing authorities
- Refuses to complete the voucher paperwork or schedule inspections
- Indicates that renters with a certain type of income must pay a different amount of rent or extra fees.
- Lies about the availability of a unit simply because the renter intends to use a subsidy
- Refuses to rent to someone because of their occupation.

Source of Income – HB 2775

Decades-long effort to pass protections that affect thousands of residents of Illinois:

- **Over half of** Illinois households that earn some sort of non-wage income
- **Nearly 3,000 veterans** who utilize Veterans Affairs Supportive Housing vouchers (VASH) in order to avoid homelessness and help pay their rent
- **Nearly 95,000** households who use Housing Choice Voucher to help pay rent
- **More than 214,000** individuals who receive survivor benefits
- **More than 264,000** individuals receiving Social Security Insurance (SSI)

Source of Income – Housing Voucher Calculations

- Landlords can require a minimum income to qualify to rent (e.g. must earn 3x the rent.)
- However, considering the guidance from the Cook County Commission on Human Rights this should work differently for a voucher holder, who should only be required to demonstrate they earn 3x their rent portion.

	Without HCV	With HCV
Rent Due by Tenant	\$1,500	\$500
Income Minimum	\$4,500	\$1,500

Arrest & Conviction Records in Housing



Just Housing Amendment to the Cook County Human Rights Ordinance

Discrimination is treating someone differently because of their record.



[\(google map\)](#)

2BR / 2Ba

1200ft²

available jan 31

application fee details: **\$45 you pay...credit/background check**
<http://turbo.rent>

apartment

laundry on site

street parking



Available NOW!!! * 2 Bedroom... *2 full baths. * High ceilings. * Updated kitchen with granite countertops and bath. "Appliances included Fridge, stove, large deep freezer, Washer and dryer. *Central air... *Large front porch and back deck for those nice summer days and nights!! *Finish basement only accessible to 1st floor, makes great bonus/recreation room. **MUST HAVE A 2 YR RENTAL HISTORY PROOF OF INCOME *NO FELONY, *NO EVCTIONS!!! NO EXCEPTION!!! *PETS CASE by CASE... *\$500 move in fee *1 YEAR LEASE AGREEMENT. *Utilities included are GAS and Water. *Close to Transportation; Minutes away from California green line, Pete's fresh market and Eisenhower Expy....All around great location!!!**

What Fair Chance Housing Laws Mean to Communities

“Our father committed a felony when he was 19 years old...when I told some of my friends...they were surprised because they don’t look at my amazing father that way.”

-Sophia, child of a returning citizen

“I feel like if I have paid my debt to society, why do you keep holding it over my head? ...I’m back in the system, I can vote, I can work, I can do all those things but find a place to live.”

- Wanda, returning citizen

“Keeping people with records out doesn’t keep our communities safe. As landlords, we can help returning citizens come back to society.”

- Anne, landlord

What Does the Just Housing Amendment Do?

Landlords can't consider:

- Arrests, charges and citations
- Participation in diversion or deferral of judgment program
- Sealed/expunged records
- Juvenile records
- Convictions older than 3 years old – subject to exceptions*

Landlords can consider conviction records from the last three years, but only after giving applicants an opportunity to discuss their record and share more information.

Important, but limited exceptions

1. Exceptions in federally subsidized housing:
 - Current use of illegal drugs
 - Individuals who were evicted from subsidized housing in prior 3 years for drug-related illegal activity
 - Manufacturing methamphetamine in federally subsidized housing
 - Lifetime requirement to register for past sex offenses
2. People who are currently required to register for past sex offenses
3. People who are currently subject to a residency restriction for past sex offenses

Tenant Screening Process

Step 1 Prequalification

This step can include a landlord checking credit history, income, landlord references, etc.



If the application passes prequalification, then the landlord moves on to Step 2.

Step 2 Background Check

This step screens for a 3-year conviction history. Convictions older than 3 years MAY NOT be used to deny an application.* If a conviction is found, the landlord must conduct an individualized assessment.



Based upon the individualized assessment, the landlord must notify the applicant of an approval or denial.

Step 3 Approval or Denial and Right to Dispute

If the application passes both Steps, the landlord should notify the applicant of approval. If the application did not pass Step 1 or Step 2, the applicant may be denied. BUT they do have the right to dispute the denial.

Step 1: Prequalification Stage



- First, landlords must consider other factors, such as the applicant's ability to pay rent. They can consider typical qualifications, such as credit history, income requirements, or landlord references.
- Landlords can't ask about the applicant's prior justice involvement on a housing application.
- Notice to the applicant:
 - Prequalification stage is complete
 - Background check to be completed

Step 2: Background Check



The law does not require landlords to run a background check.

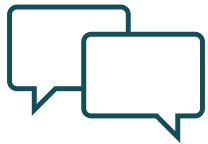
- Landlords can only consider convictions from the last 3 years.
- The landlord must deliver a copy of the background check to the applicant within **5 business days** of receiving it. Three ways to deliver copy of the background check
 1. In person
 2. By certified mail
 3. By electronic communication

Step 3: Approval, Denial and Right to Dispute



- After receiving a copy of the background check, the applicant has **5 business days** to provide evidence that disputes the accuracy and relevance of the information related to the background check.
- **Disputing accuracy:** Background checks may contain inaccurate information.
- **Disputing relevancy:** Primarily through evidence of rehabilitation
 - Court-issued good conduct certificates
 - Employer recommendations
 - Education or vocational training
 - Participating in programs that assist with the transition back to the community
 - Letters of recommendation from community organizations, counselors or case managers, teachers, faith leaders, or parole/probation officers

Step 3: Approval, Denial and Right to Dispute



Landlords have to consider **all factors** relevant to the applicant's conviction history (within 3 years) and whether that history negatively impacts their ability to be a good tenant.

- Factors include:
 - Nature and severity of the conviction
 - Number of convictions
 - How much time has passed since the last conviction
 - Age at time of conviction
 - Evidence of rehabilitation
 - Tenant history before and after conviction
 - Whether the conviction(s) was related to a **disability**
 - If you have a **disability**, whether a reasonable accommodation could be provided

Step 3: Approval, Denial and Right to Dispute



- After the applicant provides additional information, the landlord has **3 business days** to accept or deny the application.
- **Written Notice of Denial:**
 - Explains why denying the application is necessary to protect the personal safety and property of others.
 - Informs the applicant of their right to file a complaint with the Cook County Commission on Human Rights

Discussion Question 1:

Candace, her partner, and their 7-year-old son are looking for housing. Candace struggled with Post Traumatic Stress Disorder and drug dependency which led to her arrest and an eventual plea to possession of prescription painkillers in 2020. Since her conviction, Candace has worked with a therapist and completed an intensive substance abuse program. She has not used drugs for years. Days after applying for an apartment, Candace's family was denied because of the landlord's zero-tolerance policy for drug-related convictions. JHA violation or no?

Discussion Question 2:

Tony is currently homeless and has been living on the streets since 2020. He has several arrests on his record spanning the last 2 years for offenses, such as loitering, disorderly conduct, and lying down in public. None of these arrests have resulted in a conviction. Tony also receives supportive services and has a case manager from the county health department. He applies for housing and receives a denial letter listing his past arrests. JHA violation or no?



Disparate Impact in Fair Housing

Disparate Impact

A policy that is neutral on its face but when put into practice has a greater negative impact on one protected class group more than another group.

Eviction Records in the U.S

- In a study done by Eviction Lab (2020) it was found that in a typical year, landlords file **3.6 million eviction cases**.
- When looking at court records across the country, this study found that:
 - “Black individuals made up **19.9%** of all adult renters in the counties for which we had data, but **32.7%** of all eviction filing defendants.”
 - “1 in every 5 adult renters in our sample was Black, yet one in every three eviction filings was served to a Black renter.”

Eviction Records in the US

- Eviction estimate 2022: **+3,000,000** renters
- In Illinois, about **72** individuals/families lose their homes every day
- People are primarily evicted because of poverty
- Being evicted can result in emotional, social, psychological, and economic trauma to the individual and family
 - Resulting in struggles to keep a job, care for family, stay in good health, and secure future housing
- Disparate Impact and Eviction Records
 - Tenant Screening

Eviction filing \neq Eviction

Who Can Be Held Responsible for Fair Housing Violations?

- Landlords
- Property Owners
- Property Management Companies
- Housing Associations
- Municipalities

Who Can Be Held Responsible for Fair Housing Violations?

- Real Estate Brokers
- Appraisers/Lending Institutions
- Building Developers
- Insurance Companies
- Newspapers that Publish Discriminatory Ads
- Agents of All the Above

Statute of Limitations For Filing a Complaint

With HUD

1 YEAR AFTER DISCRIMINATION OCCURS/CEASES



With IDHR

1 YEAR AFTER DISCRIMINATION OCCURS/CEASES



With US Federal or State Courts

2 YEARS AFTER DISCRIMINATION OCCURS/CEASES





How HOPE Can Help

Connect With Us

1

HOPE Fair Housing Center
630-690-6500

2

HUD Chicago Regional Office
312-353-5680



Support Our Work

Request a Fair Housing Training

Sign Up to Volunteer/Intern online

Sign Up to Be a Tester

Sign Up for Our Newsletter

Follow Us on Socials



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