

Fair Housing Laws and Survivors Looking for Housing

What is housing discrimination against survivors?

- It is when a landlord or other housing provider treats a tenant or applicant who is a survivor worse than other tenants or applicants because they are a survivor.
- For example, if you're denied housing because you experienced domestic violence, you're being discriminating against for being a survivor.

Is it illegal for landlords to discriminate against survivors?

- Yes, it is often illegal for landlords to discriminate against survivors.
- The Violence Against Women Act (VAWA) makes it illegal for many federally subsidized housing providers to discriminate against someone because they experienced domestic violence, dating violence, sexual assault, or stalking.¹
- California law makes it illegal for landlords to deny someone housing or offer them worse lease terms because they are a survivor.²
- State and federal fair housing laws can make it illegal for landlords to discriminate against survivors.

How do fair housing laws law protect me?

- Fair housing laws protect you by not allowing housing providers, like landlords, housing authorities, and shelters, to treat you unequally because of one or more of your below protected characteristics.³

Race	Gender expression	Disability
Color	Sexual orientation	Genetic information
Religion	Familial status	Marital Status
Sex	Source of income	Veteran or military status
Gender	National Origin	
Gender identity	Ancestry	

¹ 34 U.S.C. § 12491(b). Learn about how VAWA helps survivors applying to federally subsidized housing at <https://fvaplaw.org/resource/legal-rights-of-survivors-applying-for-subsidized-housing/>.

² Civ. Code, § 1946.9. Learn about California protections for survivors applying to housing at <https://fvaplaw.org/resource/legal-rights-of-survivors-applying-for-housing/>

³ 24 C.F.R. §§ 100.60 - 100.80; Gov. Code, § 12955.

Who must follow fair housing laws?

- Most people who provide housing must follow fair housing laws.⁴
- So, if you live in subsidized housing, private housing (like a market rate apartment), a homeless or domestic violence shelter, or a motel, you are likely protected from discrimination by fair housing laws.

When are survivors protected from discrimination by fair housing laws?

- Survivors can be protected by fair housing laws because discrimination against survivors is often sex or gender discrimination.⁵ For example, fair housing laws can protect survivors when:
 - A housing provider's policies or practices negatively impact women more than people of other genders. This is called disparate impact.
 - A housing provider's unfavorable decision is based on sex or gender. This is called disparate treatment.

Illegal Discrimination: Disparate Impact

- Disparate impact is when a policy or practice seems fair or “neutral”, but unjustifiably has a greater negative impact on people sharing a protected characteristic.
- A policy or practice negatively impacting survivors may be considered illegally discriminatory under disparate impact rule if it (1) results in more unfavorable decisions against women than people of other genders and (2) doesn't have a legally sufficient justification.
- For example: A policy to deny all applicants with past evictions looks “neutral” because it applies to all genders. Yet, the policy may affect more women than people of other genders and have discriminatory disparate impact⁶ because:
 1. Most survivors are women;⁷ and
 2. Survivor's are often evicted because of abuse, so they may be more likely than other applicants to have a past eviction.

⁴ 42 U.S.C. §§ 3602(b), 3604(b), 3607; Gov. Code, § 12927; Cal. Code Regs., tit. 2, § 12005, subd. (o).

⁵ Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHAct) and the Violence Against Women Act (VAWA) (Feb. 9, 2011) (“DV, FH Act & VAWA”).

⁶ DV, FHAct & VAWA at pp. 4-5; 24 C.F.R. 100.500(a); Cal. Code Regs., tit. 2, §§ 12060-12063

⁷ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics Crime Data Brief, Intimate Partner Violence, 1993-2001 (2003).

Illegal Discrimination: Disparate Treatment

- Disparate treatment is when you receive unequal treatment because of your protected characteristic(s).
- Unequal treatment of survivors is illegal discrimination when it is based on sex, gender or gender stereotypes about survivors.⁸
- For example: A landlord denying a woman survivor housing because the landlord doesn't rent to women "who cause trouble with their men" is illegal disparate treatment because:
 1. The woman was denied housing because of a gender stereotype that women cause their abuse.

A housing provider discriminated against me because I am a survivor, what can I do?

1. **Find legal help.** Find your local legal aid at www.lawhelpca.org.
2. **Tell the housing provider they illegally discriminated against you.** With or without legal help, you can assert your rights with a template letter below. Access each temple by clicking on its name.
 - a. [Survivor's Legal Protections in Housing Screenings](#): For people whose housing application was denied because they experienced abuse or violence.
 - b. [Demand a VAWA Covered Housing Provider Rethink Your Denied Application](#): For people denied federally subsidized housing because they experienced abuse.
 - c. [Survivor Requests Equal Treatment](#): For people discriminated against by a housing provider because they are a survivor.
3. **Explore your legal options.** If you can't find legal help you may take the steps below without an attorney.
 - File a complaint with California's Civil Rights Department if the housing provider violated fair housing laws. Learn about the process at <https://civildrights.ca.gov/complaintprocess/>.
 - Sue the housing provider for violating the law.

⁸ See DV, FHAct and VAWA.

Template Survivor Requests Equal Treatment

1. You can download this template in a word document by clicking this [link](#).
2. Fill out the highlighted sections.
3. Date and sign the letter.
4. Delete instructions, highlights and brackets i.e. [] before giving your letter to the housing provider.
5. Save a copy or picture of the letter and attachment(s) for your records.
6. Give or send the completed letter and attachment(s) to the housing provider.
7. If the housing provider does not respond to you, reach out to them.

[Insert Date]

[PROPERTY MANAGER/LANDLORD]

[Addressee]

[Addressee's Address]

Re: Request for Equal Treatment

Dear [PROPERTY MANAGER/LANDLORD NAME]:

On [insert date], I applied for housing at [insert address]. Unfortunately, [my application was denied; you increased my security deposit; you increased my rent] because I experienced gender-based violence.

The federal fair housing act and California's fair employment and housing act often protect gender-based violence survivors from being denied housing, evicted, or treated unequally because they are survivors.¹ Fair housing laws make unequal treatment of survivors illegal when the treatment is based on sex, gender or gender stereotypes.² If a housing providers discriminate against someone because of sex, gender or gender based stereotypes, the housing provider may be liable for civil damages and attorney fees.³ To avoid liability, housing providers must ensure their

¹ U.S. Dept. of Hous. & Urban Dev, Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA) (Feb. 9, 2011) pg. 2-6 (hereafter Domestic Violence under FHA & VAWA).

² See supra Domestic Violence under the FHA and the VAWA.

³ 42 U.S. Code § 3613 (c); Gov. Code, § 12980 subd. (h), 12989.3.

policies and practices do not intentionally or unintentionally discriminate against applicants or tenants because of their sex or gender.⁴

[Explain how you were discriminated against. Below are some examples:

- After I disclosed I had domestic violence restraining order against my ex you increased my rent. Increasing my rent because I am protected by a domestic violence restraining order is illegal gender-based discrimination based on the stereotype that women invite abuse.
- When I applied for housing, I told you my past landlord cannot be a reference because I filed a restraining order against them after they sexually harassed and assaulted me. You then rejected my application because you did not want to rent to people who wrongfully accused others. This is illegal discrimination based on a gender stereotype that men cannot sexually assault or harass women.

Because you [increased my security deposit; increased my rent] because of [my sex; my gender; gender-based stereotypes] you violated California's fair employment and housing act and the federal fair housing act. Therefore, I request that you [reconsider my application; provide me equal treatment].

Thank you for the opportunity to explain fair housing protections for gender-based violence survivors. I look forward to your response. [OPTIONAL: If you do not hear from you within 10 days of the date on this letter, I plan on filing a complaint with the California's Civil Rights Department. To avoid liability please reconsider my housing application.]

Sincerely,

[Survivor's Signature]_____

[Survivor's Name Printed]

Attachments: [list what you are attaching]

⁴ Cal. Code Regs., tit. 2, § 12062.