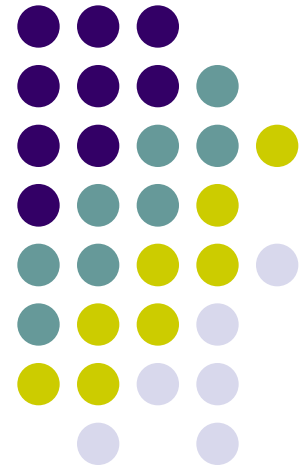


# Fair Housing 101

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April 11, 2013



# The Fair Housing Act – Title VIII of the Civil Rights Act of 1968



- Federally Protected Categories:
  - Race
  - Color
  - National Origin
  - Religion
  - Sex
  - Familial Status (families with children)
  - Handicap

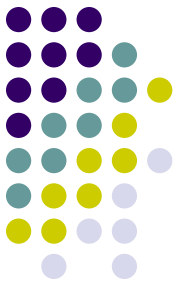
# The Massachusetts Fair Housing Act, M.G.L. Chapter 151B, §1



- Additional Protected Categories in Massachusetts:
  - Marital status
  - Age
  - Sexual Orientation
  - Gender Identity and Expression
  - Military or Veteran Status
  - Ancestry
  - Public Assistance
  - Housing Subsidies or Rental Assistance
  - Genetic Information

# Connecticut Fair Housing Laws

## Con.Gen.Stat. 46a-64c



- Additional Protected Categories in Connecticut
  - Marital Status (except an unmarried unrelated man and woman)
  - Age (except minors)
  - Lawful Source of Income
  - Sexual Orientation
  - Gender Identity and Expression
  - Ancestry

# All Protected Categories Under Federal and MA State Fair Housing Laws

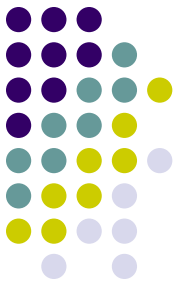


- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Marital Status
- Handicap
- Age
- Sexual Orientation
- Gender Identity and Expression
- Military/Veteran Status
- Ancestry
- Public Assistance
- Housing Subsidies
- Genetic Information

# With a protected category you can't...



- Refuse to rent based on the fact someone falls into that category
- Place an ad that indicates intent to discriminate
- Make a discriminatory statements
- Create different terms or conditions
- Inquire about the category – “Are you of the Druid persuasion?”
- “Steer” the individual by only showing them apartments where others “of their kind” live



# Violations of the fair housing laws

- Refusal to rent or sell
- Different terms and cond
- Steering
- False representations of nonavailability
- Statements
- Advertisements

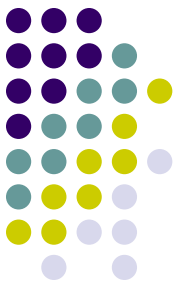




# Covered Properties

- All properties are covered under federal and state fair housing laws
- In Massachusetts, there are two exceptions:
  - Owner-occupied two family
  - Property with three apartments or less, one of which is occupied by an elderly or infirm person for whom the presence of children would be a hardship





# No exemption

- No exemption for race or national origin
  - a separate federal civil rights statute applies
- No exemption for receipt of public assistance, rental assistance, or housing subsidy program (Massachusetts)
- All advertisements and statements are subject to state and federal fair housing laws with no exemptions

# What Constitutes Discrimination?



- To have a valid charge of discrimination there must be:
  - An act
  - An injury or harm suffered
  - Connection to a protected class

# Valid Tenant Selection Criteria



- Pays rent on time.
- Not destructive.
- Clean.
- Quiet.
- Obeys the Law (no drugs, etc.).
- RESPECT!
- Others?

# Optional selection criteria (must apply uniformly):



- No Pets.
- (No) Smokers.
- No Astronomers.
- Other...

# Families with Children and Lead Paint



- It is illegal to refuse to rent to a family with a child under the age of 6, even if there is lead paint present in the rental unit
- Massachusetts Lead Paint Law
  - Requires removal/covering of lead paint hazards in homes built before 1978 where children under the age of six live
  - Lead paint hazards include loose lead paint and lead paint on windows and other surfaces accessible to children
  - Owners are responsible for complying with the law, including owners of rental property and those living in their own single family home
  - Financial help is available through tax credits, grants and loans

# What Does A Child's Blood Lead Level (given in micrograms/deciliter, $\mu\text{g}/\text{dl}$ ) Mean?



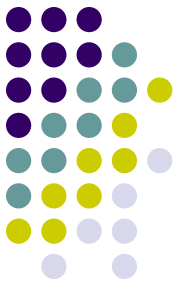
|                                      |   |                                 |
|--------------------------------------|---|---------------------------------|
| Under 10 $\mu\text{g}/\text{dl}$     | Most children in MA have levels in this range | Follow screening regulations    |
| 10-14 $\mu\text{g}/\text{dl}$        | A level of concern                            | Venous test within 3 months     |
| 15-19 $\mu\text{g}/\text{dl}$        | Elevated level                                | Venous test within 2 months     |
| 20-24 $\mu\text{g}/\text{dl}$        | High level                                    | Venous test within one month    |
| 25 $\mu\text{g}/\text{dl}$ and above | Lead poisoned                                 | Venous within one month or less |

# Massachusetts Lead Paint Regulations



- M.G.L. Chapter 111, Sections 190-199.
- Passed in 1971 and amended in 1988 and 1993.
- Enforcement is the concurrent responsibility of the Childhood Lead Poisoning Prevention Program (CLPPP, part of the Executive Office of Health and Human Services) and local Boards of Health.
- Most state regulations affecting property owners can be found in Code of Mass. Regulations 105 CMR 460.
- Other states???

# Inspecting for Lead



**Lead Level Must Be Below 1.0 milligrams per square centimeter (mg/cm<sup>2</sup>):**

- On all deteriorated surfaces.
- On all “mouthable” surfaces (5 ft. from floor, 4 in. from edge, 0.5 in. high). Includes trim, railings, moldings, stairs, etc.)
- On all movable surfaces (doors, cabinets, windows – inside and outside).



# Steps Toward Obtaining a Letter of Full Deleading Compliance



- Hire a private lead inspector to inspect the interior and exterior of the property.
- Have an “authorized” person(s) correct all the violations cited in the initial inspection report.
- Have a lead inspector re-inspect the property.
- If all violations have been corrected by an authorized person(s) the property will receive a Letter of Compliance (LOC).

# Tenant Notification & Certification



To comply with both State and Federal lead notification requirements the owner must supply the prospective tenant the following documents before entering a rental agreement:

- Two copies of the Tenant Notification and Tenant Certification Form (1 for owner, 1 for tenant to keep)
- A copy of the most recent lead inspection or risk assessment report for the rental unit, if it exists
- A copy of the LOC or Letter of Interim Control for the rental unit, if it exists

# Federal Lead Paint Laws



- “De-minimus” Standards for defective paint. For example, under Housing Quality Standards (HQS) inspection for Section 8.
- LOC needed for Section 8 in pre-1978 building if a child under 6 is in household.
- Visual inspection.
- “Stabilization” and “clearance.”

# EPA Renovation Guidelines: RRP Rules



- Renovation guidelines, as of April 2008
- Contractors must give information (***Renovate Right***) to homeowners and tenants in housing built before 1978 if they disturb more than 6 sq. ft. interior or 20 sq. ft. exterior painted surfaces (schools & child care facilities also). (***Renovate Right is on the EPA website.***)
- Contractors disturbing lead paint in pre-1978 housing must be certified for lead-safe work practices, including clean-up (“Certified Renovator”) ***This includes the landlord/owner.***

# Familial Status Discrimination



- Occupancy Standards – e.g. Massachusetts 105 CMR 410.400
  - Every dwelling unit should have 150 square feet of floor space for first occupant; 100 square feet for each additional occupant
  - Rooms used for sleeping purposes shall contain at least 70 square feet for the first occupant and 50 square feet for each additional occupant
- Be cautious of occupancy standards! Should not be used as a technique to refuse to rent to families with children.
- Occupancy standards should not be advertised –
  - Ex: “Apartment only suitable for a couple”

# Senior or Retirement Housing



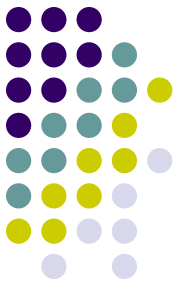
- Age is a protected category under State Law
  - It does not protect minors (18 or under)
- According to Massachusetts General Laws c.151B s.4:
  - Housing intended for persons 55 and over or 62 and over must register once every two years with the Department of Housing and Community Development (DHCD)
  - Housing intended for persons 55 and over or 62 and over shall comply with Federal law – Housing for Older Persons Act of 1995 (HOPA) 42 U.S.C. 3601

# Section 8 and Public Assistance Discrimination



- It is illegal to refuse to rent to someone because they receive Section 8 housing assistance - **No exceptions!**
- It is illegal to state a discriminatory preference against someone participating in a housing subsidy program
  - i.e. “Section 8 need not apply”
- It is illegal to refuse to rent to someone because of their receipt of public assistance
  - i.e. receipt of social security benefits
- It is **NOT** illegal to refuse to rent to someone because, regardless of source, his or her income is not enough to afford the rent

# Disability – Who is covered?



- Persons who have a physical or mental impairment that substantially limits one or more major life activities
  - caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working...
  - ADA Amendments Act of 2008 expanded this category
- Persons who have a history of such an impairment; or
- Persons who are regarded as having such an impairment.



# Disability – Who is not covered?

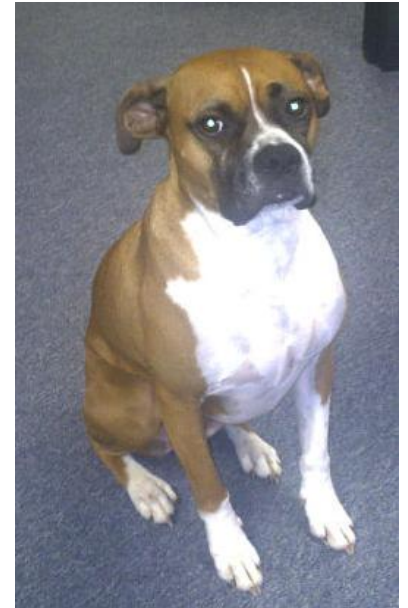


- Persons currently engaged in illegal drug use
- Sex offenders
- Persons whose tenancy would constitute a “direct threat” to the health and safety of other individuals, unless a reasonable accommodation would eliminate the threat
- Persons whose tenancy would cause substantial physical damage to the property of others

# Reasonable Accommodations



- A change in rules, policies, practices, or services to afford equal opportunity to use and enjoy dwelling
- Housing providers **must** make reasonable accommodations for persons with disabilities **when** requested at expense of landlord
  - i.e. designated parking spots, permission to have an assistance animal, or permission to transfer to a larger unit
- Not required to make changes that would fundamentally alter the program or create undue financial and administrative burden
- Can be requested at any time





# Reasonable Modifications



- Housing providers **must** allow persons with disabilities to make reasonable modifications
- Structural modifications are made to allow persons with disabilities the full enjoyment of the housing and related facilities
  - i.e. install a ramp into a building, lower entry threshold of a unit, install grab bars in bathroom
- Expense on tenant unless it is publicly funded housing or a building w/ 10 or more units, then landlord must pay

# Hoarding as a disability



- Compulsive hoarding was commonly considered to be a type of obsessive compulsive disorder (OCD).
- Some estimate that 19 to 25% of people with OCD also have compulsive hoarding.
- Recent research suggests that 17% of people with compulsive hoarding have non-hoarding OCD symptoms.
- Compulsive hoarding is also considered a feature of obsessive compulsive personality disorder and may develop along with other mental illnesses, such as dementia and schizophrenia.

# Defining compulsive hoarding:



Compulsive hoarding is defined as the acquisition of and failure to discard items that appear to be useless or of little value.

- Three features define compulsive hoarding:
  - (1) the accumulation and failure to discard a large number of possessions that appear to most people to be useless or of limited value
  - (2) excessive clutter in living spaces that precludes activities for which the rooms were designed, and
  - (3) significant distress or impairment in functioning caused by the hoarding (*Frost & Hartl, 1996*).

Note that: This definition distinguishes hoarding from collecting, in which individuals maintain collections of objects that are generally considered interesting and valuable (*Steketee & Frost, 2007*).

## Home, Sweet Home

- Majority of unit not accessible
- No egress path
- Unable to access bath or shower
- Limited access to bathroom sink
- No access to oven/stove
- Space on bed for sleeping



# Health and Safety Issues: Hoarding is a danger to the hoarder and to others



- Infestation / pests
- Disease
- Danger of fire
- Blocked access to exits
- Physical appearance of building
- Odors



# Clutter Image Rating: Living Room

Please select the photo below that most accurately reflects the amount of clutter in your room.



1



2



3



4



5



6



7



8



9



# Intervention



- If field staff can place a unit on the image rating scale just shown at or above the #4, it's probably time to intervene.
- If you get involved while the rating is low, we have the opportunity to intervene before housing stability becomes an issue.

# Housing Rights for Victims of Domestic Violence



- Domestic violence includes physical, verbal, emotional, psychological, financial, & sexual abuse between members of a family or household, as well as between individuals involved in an intimate relationship.
- Federal fair housing laws & state anti-discrimination laws:
  - Grant some protection to victims of domestic violence, stalking, dating violence, or sexual assault.
- Massachusetts Law
  - New state protection for victims as of April 2013 (M.G.L. c. 186 s. 23-29)
- **Violence Against Women Act (VAWA):**
  - Protects victims who are residing in public housing that is federally funded;
  - Makes it illegal for a landlord to evict an individual on the basis of domestic violence, stalking, or dating violence; and
  - Allows landlords to evict the abuser.

# Housing and CORI



## What is a CORI (“Criminal Offender Record Information”)?

- A record kept by MA of every criminal court appearance in state courts
- When charged with a crime in MA, there is a CORI even if dismissed or not guilty

## Individuals with a CORI have a right to:

- Get a copy of their CORI, try to fix mistakes on their CORI, try to seal records

## Sealing does not happen automatically – Eligibility to apply for sealing:

- After 10 years for felonies; After 5 years for misdemeanors
- Sealing waiting periods begins at release of incarceration or custody
- If no incarceration, clock begins at the conclusion of court proceedings

Any housing provider can get a CORI to evaluate applicants for rental or lease of housing. They can only get:

- Felony convictions for 10 years following disposition or incarceration
- Misdemeanor convictions for 5 years following the disposition or incarceration
- Pending criminal charges, included cases that are continued without a finding

# Thank you



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