

804 CMR 2.00: DISCRIMINATION IN HOUSING

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2.01: General Provisions Pertaining to Housing Discrimination

(1) Applicable Law. The Massachusetts Fair Housing statute, as contained in M.G.L. c. 151B, § 4 prohibits discrimination because of race, color, religious creed, national origin, sex, age, ancestry, veteran status, sexual orientation, marital status, children, handicap, and receipt of public assistance or housing subsidy in the selling, renting or leasing of housing accommodations, commercial space, or land intended for use as such.

(2) Persons Covered By M.G.L. c 151B, § 4.

- (a) Owners of single family dwellings, multiple family dwellings, commercial space, or land intended for such use are covered by M.G.L. c. 151B, § 4.
- (b) Licensed real estate brokers, managing agents, lessees, sublessees, or assignees of such dwellings, commercial space or land are covered by M.G.L. c. 151B, § 4.
- (c) Those having right of ownership or possession, or right to rent, lease or sell, or negotiate for the sale or lease of such dwellings, commercial space or land are covered by M.G.L. c. 151B, § 4.
- (d) Agents or employees of any person(s) described in 804 CMR 2.01(a), (b) or (c) are covered by M.G.L. c. 151B, § 4.
- (e) Any organization of unit owners in a condominium or housing cooperative is covered by M.G.L. c. 151B, § 4.
- (f) Those persons who coerce, intimidate, threaten or interfere with another person in the exercise or enjoyment of any right under M.G.L. c. 151B, § 4.
- (g) Those persons who directly or indirectly prevent or attempt to prevent the construction, purchase, sale or rental of any dwelling or land covered by M.G.L. c. 151B, § 4.
- (h) Those persons who aid or abet in doing any illegal acts specified by 804 CMR 2.00 *et seq.* are covered by M.G.L. c. 151B, § 4.

(3) Property Covered By M.G.L. c 151B, § 4.

- (a) Virtually all land and housing accommodations in the Commonwealth are covered by M.G.L. c. 151B, § 4. These include, but are not limited to: residentially zoned land and house lots; three family homes; apartments and tenement houses; multi-family dwellings and housing developments; publicly assisted housing; and, single and two family residences intended for sale.
- (b) All commercial space, for sale or for rent, and all land intended to be put to commercial use are covered by M.G.L. c. 151B, § 4.

(4) Property Not Covered By M.G.L. c. 151B, § 4. The leasing or rental of units in those two family homes in which the owner occupies one apartment of that home as his residence is not covered by this law unless:

- (a) The home seeker or renter is a recipient of public assistance or housing subsidy; or,
- (b) The leasing or rental process utilized the services of a person or organization whose business includes engaging in residential real estate related transactions; or,
- (c) The availability of such unit is made known by making, printing, publishing, or causing to be made printed or published any notice, statement, or advertisement with respect to the rental of such a unit that indicates any preference limitation, exclusion or discrimination based upon race, color, religion, sex, sexual orientation, national origin, ancestry, children, marital status, handicap, veteran status, or public assistance or housing subsidy reciprocity.

2.01: continued

(5) Unlawful Housing Practices

- (a) It is unlawful to refuse to rent or lease or otherwise to deny to or withhold from any person such housing, space or land because of race, color, religious creed, national origin, sex, age, ancestry, veteran status, sexual orientation, marital status, children, handicap or receipt of public assistance or housing subsidy.
- (b) It is unlawful to discriminate against any person because of his or her race, color, religious creed, national origin, sex, age, ancestry, veteran status, sexual orientation, marital status, children, handicap or receipt of public assistance or housing subsidy in the terms, conditions or privileges of such housing, space or land, or the acquisition thereof, or in the furnishing of facilities and services in connection therewith.
- (c) It is unlawful to cause to be made any written or oral inquiry, or record, concerning the race, color, religious creed, national origin, sex, age, ancestry, veteran status, sexual orientation, marital status or handicap of any person seeking to rent, lease, or buy any such housing, commercial space, or land.
- (d) It is unlawful to advertise for rent or for sale any housing, space, or land (vacant or not), or to post a "For Rent" or "For Sale" sign or notice, or to offer or to accept a listing, which advertisement, sign or listing is intended to discriminate against any person or group of persons because of the race, color, religious creed, national origin, sex, age, ancestry, veteran status of such person or persons, sexual orientation, marital status, children, handicap or receipt of public assistance or housing subsidy.

(6) Examples of Unlawful Housing Practices. Examples of unlawful housing practices include, but are not limited to the following:

- (a) To refuse to rent or sell a dwelling, commercial space or land (vacant or not) to a person or group of persons because of their protected status.
- (b) To charge a person more for the purchase or rental of a dwelling, commercial space or land because of his or her protected status.
- (c) To advertise a dwelling, commercial space or land in any way so as to convey an attitude of discrimination on the basis of a person's protected status.
- (d) To falsely deny the availability of a dwelling, commercial space or land because of a person's protected status.
- (e) To refuse to permit reasonable modifications to the premises to accommodate a person with a handicap.
- (f) To pass an ordinance that unlawfully denies a dwelling, commercial space or land to a person or group of persons because of their protected status.
- (g) To refuse to rent to a family with a child or children because the premises do or may contain lead paint.
- (h) To publicly or privately make any offering, whether in writing or verbally, in any way, so as to convey an attitude of discrimination on the basis of a person's protected status.

2.02: Housing Discrimination Against Persons with Children

(1) Applicable Law. M.G.L. c. 151B, § 4, subsection 11 prohibits discrimination in the leasing or renting of accommodations to any person because the person has a child or children who shall occupy the premises with such person.

(2) Definition of Children.

- (a) For the purposes of 804 CMR 2.02, a child is any individual who has not yet attained the age of 18 years.
- (b) For the purposes of 804 CMR 2.02, discrimination against persons with children shall extend to women who are pregnant.
- (c) For the purposes of 804 CMR 2.02, discrimination against persons with children shall extend to persons who are in the process of securing legal custody of a child or children.

(3) Examples of Unlawful Practices. Examples of unlawful practices under 804 CMR 2.02(3) include but are not limited to the following:

2.02: continued

- (a) Refusing to rent to families with young children because of lead paint in the unit.
- (b) Refusing to allow families with young children to live above a certain floor.
- (c) Charging a higher rent or security deposit to families with children.

2.03: Housing Discrimination On The Basis Of Handicap

(1) Applicable Law. M.G.L. c. 151B, § 4, subsections 6, 7 and 7A prohibit discrimination in the sale or rental of accommodations to any person because of that person's physical or mental handicap.

(2) Definition of Handicap. Handicap is defined as follows:

- (a) A person with a physical or mental impairment which substantially limits one or more major life activities. Major life activities include walking, seeing, hearing, speaking, breathing, learning and working.
- (b) A person with a *record* of having this kind of impairment, or
- (c) A person who is *perceived* as having this kind of impairment.

(3) Reasonable Accommodations and Modifications. Under state law, rules, policies, practices or service delivery must be changed so that people with disabilities can reasonably live in and enjoy the premises, including public and common areas. In addition, an owner must permit a person with a disability to make structural modifications to the building or unit to make them accessible. Under state law, if the dwelling is in a building with ten or more units or it is publicly assisted housing, the owner must pay for the reasonable modifications unless she/he can show that making the changes would cause an "undue hardship." In all other cases, the disabled person must pay for the modifications.

(4) Examples of Reasonable Modifications and Reasonable Accommodations. Examples of reasonable modifications and reasonable accommodations include, but are not limited to the following:

- (a) A sight-impaired person could request that raised numbers be put on the mailbox, on the intercom system or in the elevator.
- (b) A hearing-impaired person could request that the doorbell flash a light when it is activated, rather than ring.
- (c) A person with a mobility impairment could request that a cabinet be lowered, that a doorway be widened, that a grab bar be installed or that a front entrance, of five or fewer steps, be ramped.

(5) New Construction. As of March, 1991, all new residential construction for multi-family dwellings (three or more units) must provide basic access. This includes:

- (a) At least one building entrance on an accessible route;
- (b) Accessible public paths and other public common areas;
- (c) The path of travel into and through the unit (including most balconies and patios) must be accessible;
- (d) Doors intended for passage from outside the unit and throughout the unit must be sufficiently wide to allow passage by wheelchair;
- (e) Switches, thermostats, environmental controls and electrical outlets in accessible locations;
- (f) Bathrooms and kitchens must be able to be maneuvered by persons in wheelchairs.

All units on the ground floor must comply with these criteria, and if there is an elevator, all units served by the elevator must comply. In addition, 5% of all units must be fully wheelchair accessible, and 2% must be fully communication accessible.

Renovations must comply with state architectural access regulations (521 CMR).

2.04: Housing Discrimination in Credit Services or Rental Accommodations--Applicable Law

M.G.L. c. 151B, § 4, subsection 10 prohibits discrimination in the furnishing of credit services, or in the renting of accommodations against an individual who is a recipient of federal, state or local assistance.

804 CMR: MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

2.05: Housing Discrimination in the Granting of Mortgage Loans--Applicable Law

M.G.L. c. 151B, § 4, subsection 3B prohibits discrimination in the granting of mortgage loans, including the terms thereof because of race, color, religious creed, national origin, sex or ancestry.

REGULATORY AUTHORITY

804 CMR 2.00: M.G.L. c. 151B, § 3.