



Homelessness and the Open Housing Law

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Roadmap

- I. Wisconsin Open Housing Law
 - A. Protected Bases
 - B. Prohibited Actions
 - C. Some specific rules and exceptions
- II. Resources
- III. Community Organizations



Open Housing Law

- Makes it unlawful to discriminate in housing based on protected characteristics



Protected Bases

- Sex
- Race
- Color
- Sexual Orientation
- Disability
- Religion
- National Origin
- Marital Status
- Family Status
- Status as a victim of domestic abuse, sexual assault, or stalking
- Lawful Source of Income
- Age
- Ancestry



Prohibited Actions

- **Refusing to sell, rent, finance or contract to construct housing** or by refusing to negotiate or discuss the terms
- Refusing to permit inspection or **exacting more stringent price, terms or conditions for the sale, lease, financing, or renting of housing**
- Refusing to finance or sell an unimproved residential lot or to construct a residence upon such lot



Prohibited Actions, cont.

- Advertising in a manner that indicates discrimination by a preference or limitation
- For a person in the business of [insurance], disparate treatment in insurance against hazards to a dwelling
- **Refusing to renew a lease, causing the eviction of a tenant, or harassing a tenant**
- **In providing the privileges, services or facilities related to housing**



Prohibited Actions, cont.

- **Falsely representing that housing is unavailable for inspection, rental, or sale**
- By denying access to, or membership and participation in, a multiple listing service or other real estate service
- By coercing, intimidating, threatening or interfering with a person in the exercise or enjoyment of a right granted under this section



Prohibited Actions, cont.

- Discriminating in the making or purchasing of loans or other financial assistance for purchasing, constructing, improving, repairing or maintaining housing, or in selling, brokering, or appraising real property (**“Red lining”**)
- **Otherwise making unavailable or denying housing**



Relevant to Homelessness

- To a certain extent, all of these, but especially -
 - Refusing to rent
 - Refusing to renew
 - Eviction
 - Harassment
 - “Otherwise making unavailable”



Individuals with a disability

- Nearly 1/4 of individuals experiencing homelessness are individuals with a disability, whether mental, physical, developmental, or substance abuse
- Employment difficulties and medical expenses complicate finding or maintaining oneself in housing



Open Housing Law: Disability

- No person may
 - Segregate, separate, exclude or treat unequally a person with a disability in rental or purchase of housing
 - Also covers individuals associated with an individual with a disability
 - Refuse to permit reasonable modifications of existing housing at the expense of the resident
 - Refuse to make reasonable accommodations in rules, policies, practices, or services associated with housing



Disability and Animal Companions

Distinction between

- Service animals, which are “individually trained to do work or perform tasks” related to the person’s disability (guide dogs, seizure dogs, etc.)
- Emotional support animals, which are not trained to perform tasks and are evaluated as reasonable accommodations – does it pose an undue hardship?



Lawful source of income

- Unlawful to discriminate against someone for receiving government living assistance (such as SSDI or similar), but
- Section 8 rental assistance is not a “lawful source of income” under the Act.



Victim Status

The Act protects individuals who are the victim of domestic abuse, sexual assault, or stalking from housing discrimination.

- Prohibits adverse action against individuals who call police to their home.
- Evictions unlawful for so called “nuisance” offenses.



Age

- Unlike in the employment context, landlords and rental companies may not discriminate because of age with regard to anyone 18 years old or older.
- The Act doesn't offer an avenue to address the homelessness of unaccompanied minors, who are disproportionately BIPOC or LGBTQ.

Testing

- The Act authorizes the use of testers.
- Typically, these are used in race, color, ancestry, and national origin cases.
- Involves sending “comparable” individuals outside the protected group to find out whether terms or conditions for rental differ



Remedies

- Temporary Injunction / Halt to Eviction
- Damages (economic and non-economic), but no punitive damages available
- Forfeiture of up to \$10,000, increasing up to \$50,000 for repeat offenders
- Attorney Fees and Costs



Some resources

- The Open Housing Act:
<https://docs.legis.wisconsin.gov/statutes/statutes/106/iii/50>
- The Equal Rights Division web page:
<https://dwd.wisconsin.gov/er/civilrights/housing/>
- Call or email the Equal Rights Division!
 - 608-266-6860
 - ERInfo@dwd.wisconsin.gov




Community Orgs

- Milwaukee Metropolitan Fair Housing Council:
<https://www.fairhousingwisconsin.com/>
- Tenant Resource Center:
<https://www.tenantresourcecenter.org/>
- 211 Call Center
- Disability Rights Wisconsin:
<https://www.disabilityrightswi.org/>



Questions?



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