PCHR Who Are We

- Established in 1951 under the City’s Home Rule Charter

- Enforce civil rights laws, particularly the City’s Fair Practices Ordinance (FPO), Section 9-1100 of the Philadelphia Code and resolve community conflicts

- FPO prohibits discrimination in employment, housing and public accommodations
Title VIII of the Civil Rights Act of 1968

The Fair Housing Act

Under the Federal Act it is unlawful to deny or interfere with the housing accommodation opportunities of an individual based on their:

- Race
- Color
- National Origin
- Sex
- Religion
- Disability
- Familial Status
- National Origin
PA Human Relations Act

Under the State Act it is unlawful to deny or interfere with the housing accommodation opportunities of an individual based on their:

- Race
- Color
- National Origin
- Sex
- Religious Creed
- Handicap or Disability
- Familial Status
- National Origin
- Age
- Ancestry
The Philadelphia Fair Practices Ordinance

Protected Categories

- Race
- Ethnicity
- Color
- Sex
- Sexual Orientation
- Gender Identity
- Religion
- National Origin
- Ancestry
- Disability
- Age
- Marital Status
- Source of Income
- Familial Status
- Domestic or Sexual Violence Victim Status
The FPO – § 9-1104

Unlawful Housing Practices

- For any owner, or any other person with authority, to refuse to sell, rent, lease or in any way discriminate
- For any lending institution to discriminate in lending, loans, accepting mortgages, etc.
- For any person to print or circulate any advertisement or use any application that limits
The FPO – § 9-1104
Unlawful Housing Practices

Also prohibits:

- Use of limitations or quota systems
- Retaliation and Harassment
- Property transfers designed to circumvent the law
- Failures to post appropriate notices
- Providing false or misleading info
- Aiding and abetting violations
- Solicitation of sale, rent or lease after refusal by owner
Discrimination in Advertising

Both the FPO and the FHA provide a separate cause of action for discriminatory advertising practices.

- Blanket ban on ads that indicate any preference (or aversion) to a certain type of buyer or tenant, based on their membership in a protected class.
- Includes both written and oral advertisements.
- Also includes written and oral statements made on (or in connection with) any applications for housing or credit/loans.
The FPO – § 9-1109 (1)  
Exemptions

• Religious entities can give preference to those within the same religion.

• Leasing/renting a room or rooms within their personal home (except in the case of Limited Lodging - i.e. Air BnB).

• Federally regulated senior homes.
The FPO – § 9-1110
Remedies

• Cease and desist order
• Injunctive or equitable relief
• Compensatory damages
• Punitive damages, $2,000 per violation
• Attorneys’ fees
• Costs and Expenses
The FPO - § 9-111 et. seq.
Procedure

- Philadelphia - 300 days since act of harm
- Complaint served on Respondent
- Must respond in 28 days (extensions given)
- Investigators neutral
- Power to compel documents and witnesses
- Opportunities for settlement and mediation
- Investigation must be completed within 100 days
- Probable Cause found – Case will be heard by Commissioners
What Is Discrimination?

• Generally, discrimination is the act of treating an individual differently based on their actual or perceived protected class.

• If this different treatment denies an individual equal opportunity in employment, housing or public accommodations, it may rise to unlawful discrimination under the FPO.
Theories of Discrimination

**Disparate Treatment**: Landlord treats a specific protected class differently from others.

- Landlord refuses to rent to immigrants or refugees, but rents to similarly situated American citizens.
- White homeowner in a predominately White neighborhood will not sell house to a buyer of color.
- Landlord refuses to rent to families with children, in order to circumvent the City’s lead law.
Additional Theories

**Disparate Impact:** Landlord has a facially neutral policy or practice which disproportionately impacts a specific protected class.

- Refusing to review any applications with criminal records disproportionately impacts Black and Latino applicants
- Refusing to allow a reasonable modification to an apartment building disproportionately impacts people with disabilities.
Additional Theories

**Harassment:** Landlord or neighbors can create a “pattern of harassment” against tenants/homeowners based on a protected class (includes sexual harassment), via unwelcome conduct that is sufficiently severe or pervasive and interferes with their use and enjoyment of the property.

- Respondent neighbor continually uses racial slurs when speaking to minority homeowner, tells homeowner that they are unwelcome in the neighborhood because of their race etc.
**Retaliation**: Retaliation against a person who exercises their rights or the rights of others.

Two types:

- **Participation** - Retaliation in the terms or conditions of property ownership, sale or rental, for participating in a housing discrimination claim.
- **Opposition** - Retaliation for opposing (refusing to enforce) a discriminatory housing practice.
Reasonable Accommodations

**Reasonable Accommodation**: A change, exception or adjustment to a rule, policy, practice or service that may necessary for a person with a disability to have equal opportunity to use and enjoy a dwelling, including common areas.

- Tenant requests triggers interactive process with landlord
- May include a modification to the premises which the Tenant must pay and restore when moving.
HUD Regulations: Other Protected Individuals

Fair Housing for LGBT Community Members
In 2012, HUD promulgated the LGBT Equal Access Rule – Prohibits owners of HUD assisted or insured housing from discriminating against applicants or residents based on their sexual orientation or gender identity. Also prohibits discrimination by lenders offering FHA insured mortgages.

Fair Housing for those with a Criminal History
On April 4, 2016 HUD issued legal guidance from the Office of General Counsel stating criminal history may be a protected basis under the FHA when housing providers use blanket policies in refusing to rent, or sell property based on criminal history because such policies may have a disparate impact on racial minorities.
Selected Cases

- In *Francis v. Kings Park Manor, Inc.*, 944 F.3d 370, 373 (2d Cir. 2019) and *Wetzel v. Glen St. Andrew Living Community, LLC* 901 F.3d 856 (7th Cir. 2018) Landlords can be held liable under the FHA if they fail to reasonably address tenant-on-tenant discrimination in their buildings.

- In *Texas Dep't of Hous. & Cmty. Affairs v. Inclusive Communities Project, Inc.*, US Supreme Court held in 2015 that facially neutral housing restrictions (such as zoning laws), that exclude minorities from certain neighborhoods without any sufficient justification, may give rise to a claim for “disparate impact” liability under the FHA.
THANK YOU!

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