

Sexual Harassment under the Fair Housing Act

Courts around the nation have recognized sexual harassment as a form of discrimination based on sex. Sexual harassment under the Fair Housing Act (FHA) is any form of unwanted sexual advances, requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature made by a housing provider. Even if a comment or action was not intended to be perceived as a sexual advance, it may still be considered sexual harassment if it is perceived as such by the receiver and if the comment or action was unwanted. Sexual harassment can happen to anyone, regardless of his or her gender.

Sexual harassment does not have to be motivated by a sexual desire. Sexual harassment can also be motivated by hostility toward a particular sex.

The FHA recognizes two types of sexual harassment:

1) Quid Pro Quo Sexual Harassment

Quid pro quo sexual harassment occurs when a housing provider or his or her employee, agent or contractor conditions access to or retention of housing or housing-related services or transaction on a victim's submission to sexual conduct. A claim against a housing provider alleging quid pro quo sexual harassment can be pursued regardless of whether the victim submitted to the sexual conduct.

Examples of quid pro quo sexual harassment include:

- Conditioning home repairs and other housing benefits on performance of a sexual favor
- Threatening eviction if sexual demands are not complied with
- Threatening to reject an application for housing from a prospective tenant if sexual demands are not complied with

2) Hostile Environment Harassment

Hostile environment harassment occurs when a housing provider or his or her employee, agent or contractor, or in certain circumstances another tenant, engages in sexual behavior of such severity or pervasiveness that it alters the terms and conditions of tenancy and results in an environment that is intimidating, hostile, offensive, or otherwise significantly less desirable.

In order to determine whether the conduct is sufficiently pervasive and severe, courts will look to the context, nature, severity, scope, frequency, duration, and location of the incidents, as well as the characteristics of the people involved.

Examples of hostile environment harassment include:

- A housing provider making sexual comments or using sexual words in front of a tenant
- A landlord requesting that a tenant take off his or her clothing
- A housing provider or his or her employee refusing to help after being informed that another tenant is sexually harassed by a tenant.

Retaliation: If someone files a complaint against a housing provider based on sexual harassment or any other fair housing violation, it is illegal for that housing provider to retaliate against the individual who filed the complaint. Forms of retaliation include eviction, rent increases, refusing to make repairs, and making threats.