

# Common interest communities and the Fair Housing Act | Home & Living

*Jimmy Jackson*

Many of us may be familiar with the Fair Housing Act's prohibition against discrimination in selling houses or renting apartments. But even though condominiums were rare when the Act was passed 50 years ago, it applies as much to condo communities as other types of housing.

With the 50th anniversary of the Fair Housing Act's passage coming up April 11, this is a good time to explore the Act and what it means to common interest communities, too.

As Virginia Realtors notes on its website, the federal Fair Housing Act (as well as the Virginia Fair Housing Act) bars discrimination in real estate dealings on the basis of race, color, religion, national origin, sex, elderliness, familial status or disability.

Some of those categories are self-explanatory. Familial status refers to individuals younger than 18 who live with a parent or guardian, pregnant women and anyone about to obtain custody of someone younger than 18.

(By the way, the Realtors code of ethics prohibits Realtors from discrimination on the basis of sexual orientation and gender identity as well.)

So how do Fair Housing laws apply to condominiums? For starters, condos are bought, sold and rented, and those transactions involve many different players covered by the laws. The state's Fair Housing website (<http://www.dpor.virginia.gov/FairHousing/>) notes that Fair Housing applies to property managers, owners, landlords, real estate agents, banks, savings institutions, credit unions, insurance companies, mortgage lenders and appraisers.

Another relevant fact is that, unlike a standalone single-family home, condominium communities have common areas, including clubhouses, swimming pools, parking lots and grounds. Because of Fair Housing laws, condo associations cannot prohibit anyone in a protected class from using any common area.

Fair Housing laws' influence extends beyond common areas and real estate transactions. For example, a condo association that has a no-pet policy nonetheless must allow a disabled resident to keep an assistance animal, be it a seeing-eye dog or an emotional support animal. (For more information on this, go to [http://www.dpor.virginia.gov/FairHousing/Housing\\_People\\_with\\_Disabilities/](http://www.dpor.virginia.gov/FairHousing/Housing_People_with_Disabilities/)).

The Community Associations Institute website notes that managers and board members "must be sensitive to those matters that may constitute discrimination, even if they otherwise seem normal or customary.

"Matters as simple as selective rules enforcement, adopting and enforcing rules that disproportionately impact on children without a well-documented safety or public

welfare basis, or suggesting that a family with children would be more “comfortable” in a different community, may all result in successful claims of discrimination,” says CAI (<https://www.caionline.org/Advocacy/PublicPolicies/Pages/Fair-Housing.aspx>).

CAI offers another compelling reason to know Fair Housing law: “the potential ramifications of Fair Housing law violations, including the awarding of punitive damages and legal fees to successful third parties, which damages and fees are generally not covered by insurance.”

Fair Housing rules continue to evolve and can be complex, which is why condo associations’ property managers and boards of directors should get educated on the regulations that apply not only at the federal level but the state and local level.

It’s both the right and smart thing to do.

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