

**Texas Workforce Commission  
Civil Rights Division (CRD)  
Fair Housing & Equal Employment  
Opportunity Rules**

**Neighborhoods, USA – Workshop Session**

**Thurs., May 21, 2015**

*Presented by:*

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**CRD Manager**

# Mission and Vision



Our mission is to reduce discrimination in employment and housing through education and enforcement of state and federal laws.

Our vision is to help create an environment in which citizens of the State of Texas may pursue and enjoy the benefits of employment and housing that are free from discrimination.



# Agenda



- **Purpose of the Texas Commission on Human Rights Act (Texas Labor Code, Chapter 21) and Texas Fair Housing Act (Texas Property Code, Chapter 301)**
- **Outreach Initiatives**
- **Protected Classes**
- **Issues**
- **Exceptions and Exemptions**
- **Case Scenarios**
- **Mediation**

# Texas Human Rights Act and Texas Fair Housing Act



The purpose of the Texas Commission on Human Rights Act is to:

- Provide for execution of Title VII, ADEA, and ADA
- Provide authority for state to seek relief
- Secure equal opportunity for the disabled
- Full productive capabilities, avoid unrest, preserve public safety, and promote interest, rights, and privileges

The purpose of the Texas Fair Housing Act is to:

- Provide for fair housing practices
- Create a procedure for investigation and settling complaints
- Provide rights and remedies substantially equivalent to federal law

# Outreach Initiatives



## **Employment**

- **Comprehensive, interactive presentations**
- **Practical understanding of Equal Employment Opportunity (EEO)**
- **On-site, webinar, or phone at minimal cost**
- **Free self-help resources are in development**

## **Housing HUD Grant**

- **Raise Fair Housing Awareness in Midland, Odessa, Laredo, Victoria (Oil and Gas Boom Areas)**
- **Raise Awareness in surrounding towns**
- **Raise Awareness in other targeted cities in Texas**
- **On-site, webinar, or phone at no cost**

# Protected Classes/Bases



## Employment:

- Race
- Color
- National Origin
- Sex
- Religion
- Disability
- Age
- Genetics



## Housing:

- Race
- Color
- National Origin
- Familial Status
- Religion
- Sex
- Disability

# Protected Class: Race



## Employment and Housing:

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or other Pacific Islander
- White



# Protected Class: Color



**Employment and Housing:  
Pigmentation of the Skin**

# Protected Class: National Origin



## Employment and Housing:

- Person's ancestry
- Country of birth outside the United States
- Language they speak
- Native-born U.S. citizens based on their family ancestry
- Hispanic or Latino\*
- Limited English Speakers\*
- Non-Hispanic or Latino\*



# Protected Class: Familial Status



## Housing:

- Children under the age of 18
- Pregnancy
- Securing custody of a child



# Protected Class: Religion



## Employment:

- Reasonable Accommodation
- Claim Undue Hardship



## Housing:

- Segregating people based on a protected class
- Zoning to limit use of private homes as places of worship

# Protected Class: Sex



## Employment and Housing:

- Sexual harassment in the workplace or housing
- Gender stereotyping in the workplace or housing



## Employment:

- Includes discrimination because of or on the basis of pregnancy, childbirth, or a related medical condition

# Protected Class: Disability



## Employment and Housing:

Disability means

- A mental or physical impairment that substantially limits at least one major life activity
- A record of an impairment, or
- Being regarded as having an impairment



# Protected Classes: Age and Genetics



## Employment:

### Age

- 40 or over
- Age requirements or limitations in job notices or advertisements
- Exception example: The owner of a bar may require that applicants for a bartending job be old enough to legally serve alcohol. Police and fire departments may set upper limits on age for some employment purposes.

### Genetic Information is information that is

- based on a scientific or medical determination of the presence or absence in an individual of a genetic characteristic
- derived from the results of a genetic test performed on, or a family health history obtained from, an individual

# Issues/Discriminatory Practices



## Major Employment Categories:

- Specific prohibitions against people who are disabled
- Practices involving hiring or firing; terms and conditions
- Limits, segregates, or classify employees
- Printing discriminatory statements
- Test Scores
- Training
- Wages and benefits
- Harassment/Retaliation

## Major Housing Categories:

- Specific prohibitions against people who are disabled
- Practices involving sale or rental; terms and conditions
- Making discriminatory statements
- Inspection; entry into a neighborhood
- Discriminatory lending practices
- Prohibited conduct relating to brokerage services
- Harassment/Retaliation

# Issue: Terms & Conditions



## For employment, someone may not

- Refuse to interview someone for a job;
- Refuse to promote;
- Refuse to train;
- Set different terms, conditions or privileges for performing the job

***“We have no job openings.”***

## For housing, someone may not

- Refuse to negotiate for housing;
- Refuse to rent or sell housing;
- Deny a unit; or
- Set different terms, conditions or privileges for sale or rental of a unit or in providing services

***“We just rented the last vacant unit.”***



# Issue: Publication



## Employment

A person **may not:**

- Print
- Publish (or cause to be printed or published)

a notice or an advertisement that indicates a preference, limitation, specification, or discrimination because of a protected class.

Energetic,  
young  
worker  
needed!

## Housing

A person **may not:**

- Make
- Print
- Publish (or cause to be made, printed, or published)

a notice or statement, or an advertisement about the sale or rental of a unit that may indicate any preference, or limitation, or discrimination because of a protected class.

Pets OK - No Children

For Rent  
Great for  
Adults!

# Issue: Retaliation, Interference, Coercion, Intimidation



## Employment and Housing Retaliation

Retaliation (includes harassment)  
against a person who:

- Opposes a discriminatory practice
- Makes or files a charge or complaint
- Testifies, assists, or participates in a protected activity

Employment Example:

*“You are fired because you filed an EEO complaint.”*



## Housing

Under the Texas Workforce Commission  
Fair Housing Rules, someone cannot:

- Interfere with an individual in their enjoyment of a dwelling
- Coerce a person
- Threaten
- Intimidate

*\*No exemptions apply\**



Housing Example:

*“Assistant Manager, you are fired because you refuse to rent to only Americans.”*

# Issue: Reasonable Accommodation



## Employment:

If a person is disabled, an employer may not refuse to make a reasonable workplace accommodation such as providing auxiliary aids or services to enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, employment.



## Housing:

If a person is disabled, a landlord may not refuse to make a reasonable accommodation in rules, policies, practices, or services **if** the accommodation is necessary for the person with a disability to use and enjoy housing.

*Housing example:*

*“You must pay pet fees.”*

*“No dogs allowed.”*

# Issue: Reasonable Modification



## Housing:

If a person is disabled...

...a landlord cannot refuse to let that person make reasonable modifications to the person's dwelling or common use areas, at that person's own expense, if necessary for that person to use the housing.

Examples:

*"We can't install a ramp there, so you can't live in this complex."*

*"No painting"*



# Issue: Design & Construction



## Housing:

For all covered multifamily dwellings that were built for first occupancy **after March 13, 1991**, they have to be designed and constructed in a manner that is:

- Accessible
- Usable



# Issue: Design & Construction Requirements



## Housing Requirements

- Accessible building entrance on an accessible route into and through the dwelling.
- Accessible public and common use areas
- Doors that allow (wheelchair) passage into and within all rooms
- Accessible route into and through each covered unit





# Issue: Inspection



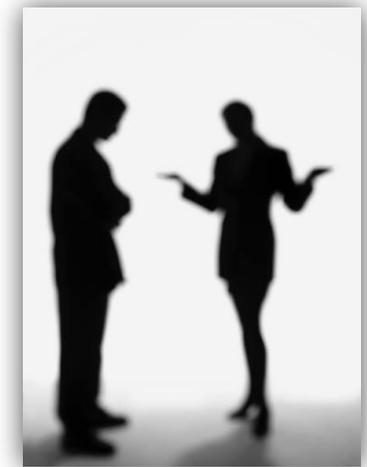
## Housing:

A person **may not** represent to another that a unit is not available

- For inspection
- For sale
- Or for rental

when the unit is actually available for inspection.

*“There is nothing available to show you at this time.”*



# Issue: Entry Into Neighborhood



## Housing:

A person **may not**:

- For profit, persuade someone to sell or rent with representations regarding the entry or prospective entry into a certain neighborhood.
- A/K/A “Blockbusting”



Examples:

*“The property is undergoing change in race, so sell now.”*

*“Property taxes will go up when the national origin changes, sell now.”*

# Issue: Brokerage Services



## Housing:

- Setting different fees for access to or membership in a multiple listing service
- Denying or limiting benefits accruing to members in a real estate brokers' organization
- Imposing different standards or criteria for members in a sales or rental organization
- Establishing geographic boundaries for access, membership or participation in any multiple listing service



# Issue: Loans and Other Financial Assistance



## Housing:

In the making of loans or other financial assistance, refusing to provide a person with information:

- Regarding the availability of loan or financial assistance
- Application requirements
- Providing information that is inaccurate or different
- Determining the type of loan or financial assistance
- Fixing the amount, interest rate, duration, etc.
- Using different practices in determining credit worthiness.



There is also prohibited conduct in the purchasing of loans.

# Issue: Purchasing Loans



## Housing:

- Different terms and conditions for loans secured to purchase, construct, improve, etc. real estate
- Pool or package loans differently
- Use different terms or conditions on the marketing or sale of loans



# Employment Exceptions



- Bona Fide Employee Benefit Plan
- Compulsory Retirement
- Age Requirement for Peace Officers and Fire Fighters
- Religious Organizations
- Persons Employed Out of State
- Business Necessity/ Bona Fide Occupational Qualification
- Other

# Housing Exemption: Sales and Rentals



Owner does **not own three or more properties, and does not:**

- own any interest in the proceeds from the sale or rental of more than three single-family houses at any one time;
- use sales or rental facilities or services of a licensed broker, agent, or salesperson; or
- publish, post, mail, make a statement or advertise property in a discriminatory manner; and
- has only one sale or rental in a 24-month period if the owner was not the most recent resident of the house at the time of the sale or rental.
- Owner maintains and occupies one of four living quarters as the owner's residence in a dwelling occupied by not more than four families living independently of each other.



# Housing Exemption: Housing for the Elderly



Housing for elderly is exempt if the Commission determines the property is specifically:

- Designed and operated to assist elderly individual under a federal or state program;
- Intended for and solely occupied by individuals 62 years old or older; or



- Intended and operated for occupancy by at least one individual 55 years of age or older for each unit.

# Other Housing Exemptions



- Religious organizations
- A private club that is not open to the public
- A person engaged in the business of furnishing real property appraisals



# Employment Case Scenario 1



## **Allegation:**

Complainant alleged that he was harassed because of his age and his perceived disability due to his on-the-job injury. He further contends that one of his co-workers made disparaging comments and derogatory comments regarding his age and his on-the-job injury. Complainant alleged denial of a reasonable accommodation, light duty work, and claims he was forced to take a paid leave of absence. Upon returning from his leave of absence, the Complainant was discharged from his position.



# Employment Case Scenario 2



## **Allegation:**

Complainant alleged she was subjected to harassment and was forced to resign on October 4, 2012, because of her age, 59, and because she was regarded as disabled. Complainant identified other co-workers who she alleged were treated more favorably.



# Housing Case Scenario 3



## Allegation:

The Complainant uses a wheelchair, and times, a walker.

She alleges that she was denied a reasonable accommodation.

The Complainant was issued a disabled parking space without a curb cut and was told she would be charged for the installation of a curb cut.

The complex then charged her for it.

The Complainant also was given a unit that required negotiation of a step.



# Housing Case Scenario 4



## **Allegation:**

The Complainant alleged she was disabled and had a great granddaughter living with her in a local housing authority complex.

She alleged the Executive Director was harassing her by sending her notices of eviction for no reason.

The Complainant alleged her daughters were acting as her caregivers and spent the night with her.

She stated her daughters even had to provide copies of their own leases to prove they were not living with her.

The Complainant alleged she was being subjected to different terms and condition and harassed because of familial status and her disability.

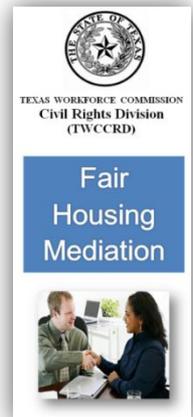


# Mediation



## Employment and Housing

- Free service offered from the time of the complainant filing until resolved
- Eliminates lengthy investigations and expensive litigation
- Speedy resolution of complaints
- Saves time and money
- Opens lines of communication between disputing parties
- Allows each party to understand the position of an opposing party
- The agreement is binding on both the Complainant and the Respondent



# What Respondents Can Expect



If you have a complaint filed against you:

- You will be notified of the allegations
- You likely will be invited to mediate
- If you decide not to mediate, you may file an answer that is
  - In writing
  - Under penalty of perjury
  - May be amended at any time
- You must provide Information/Documentation to support answer
- TWCCRD will resolve the case through Administratively, No Reasonable Cause, or Reasonable Cause

# What Complainants Can Expect



If you file a complaint or charge:

- You will be notified of acceptance of the complaint or charge for investigation
- You likely will be invited to mediate
- If you decide not to mediate, you must provide Information/Documentation to support your allegations
- TWCCRD will resolve the case through Administratively, No Reasonable Cause, or Reasonable Cause

# Training & Technical Assistance



You should contact :

The Texas Workforce Commission

Civil Rights Division

at

(888) 452-4778 or (512) 463-2642

[crdtraining@twc.state.tx.us](mailto:crdtraining@twc.state.tx.us)

# Questions?



- **Please complete the evaluation for today's training**
- **Please sign up for the Civil Rights Reporter at:**  
<http://www.twc.state.tx.us/partners/civil-rights-reporter>

