

## DOMESTIC VIOLENCE AND FAIR HOUSING LAWS

National and local statistics show that 85-90% of victims of domestic violence are women. When a housing provider has a policy of denying tenancy to or evicting anyone who is involved in a domestic violence incident, the housing provider's neutral policy could have a "disparate impact" on women. **Because women are far more likely to be the victims of domestic violence and not the perpetrators, domestic violence policies such as these negatively affect women far more than men, and are likely to be a violation of fair housing laws.**

Housing providers may establish policies and procedures to screen prospective residents and to evict residents; however, those policies could be discriminatory even when they appear neutral, if in fact, they have a disproportionately negative impact on a protected class of residents. Civil rights agencies analyze this type of discrimination under the "disparate impact" theory of discrimination.

Disparate impact cases in housing do not need to show intent. In other words, a resident or prospective resident need only establish that the housing providers' policies or practices had a significantly greater adverse impact on the resident's protected class. Statistical evidence (preferably figures gathered locally) is used to prove that the policy had a discriminatory impact.

Once a resident has shown sufficient evidence of a discriminatory impact, the burden shifts to the housing provider to demonstrate a "business necessity" to justify the policy or practice. The housing provider must supply objective evidence that the policy has a strong relationship to a legitimate and substantial goal, not merely generalizations or subjective evidence. Housing providers must also be able to show that no alternative policy exists that could accomplish that goal with less impact on the protected class.

Here are a few examples to show how this policy issue plays out in practice.

**Q:** A woman applied for an available unit at a apartment complex. Her screening report indicated that she had been involved in a domestic violence incident. Management did not want violence or other problems associated with domestic violence at their complex, so they have a policy of not accepting applications from prospective residents with a history of domestic violence on their screening report. Is this a violation of the fair housing laws?

**A:** When you receive an indication of a history of domestic violence during the screening process, you should ask the prospective resident about the circumstances. If she can show that she was the victim of domestic violence, then a refusal to take her application could be a violation of fair housing laws. Typically, policies such as this are based on a concern for the safety of residents in one's rental community. The policy, however, has an adverse impact on women based on sex/gender, because a disproportionate number of victims of domestic violence are women. The assumption that former victims of domestic violence would bring trouble to the community or introduce a safety concern is

not enough to justify that policy, and has been found to be a violation of the fair housing laws.

**Q:** The police were called to a rental community in response to a domestic violence incident involving a husband and wife who live in the complex. The community has a "zero tolerance" policy for any type of violence, and has issued an eviction notice to the household. Does this policy violate fair housing laws?

**A:** This policy has a disproportionate adverse impact on women, because 85-90% of victims of domestic violence are women. Management may assert that zero tolerance for violence at the community simply represents concern for the health and safety of their residents. Such a rule, however, may not be supported by business reasons based on overly broad generalizations that fail to take into account the individual circumstances of the female domestic violence victim. Housing providers have some options in this type of situation that would assist them in complying with the fair housing laws. A housing provider could evict the perpetrator and allow the tenancy to continue for the victim of domestic violence. Housing providers may also:

- offer a separate, available unit at their community to the victim of domestic violence
- offer the domestic violence victim a chance to move to another rental at a different community managed by the same company
- allow the victim of domestic violence to cancel her rental agreement or lease (without penalty) and move elsewhere.

The key is to take steps to work with the resident in this situation to help prevent any further harm or damages.

Housing providers, domestic violence advocates and fair housing agencies are working together to develop clearer guidelines for housing providers on how to manage domestic violence situations. A sample policy for landlords and managers on "Domestic Violence & Fair Housing" is available in CD format from King County Office for Civil Rights and also online at [www.kingcounty.gov/exec/CivilRights/FH/HPresources.aspx](http://www.kingcounty.gov/exec/CivilRights/FH/HPresources.aspx).

If you have any questions about the fair housing laws in domestic violence situations, feel free to contact your local fair housing agency.