

This month marks the 50th Anniversary of the federal fair housing act which made it illegal to discriminate against individuals based on race, color, national origin or religion. Sex, disability and familial status were added later due to widespread discrimination against those groups. Sadly, we have not eliminated housing discrimination in these past 50 years. Where you live makes a tremendous difference in access to opportunity and vital services including schools, public transportation, jobs, healthy food choices, recreational opportunities as well as environments free of toxins in the air, ground and water. Everyone should have the right to live where they choose. The staff at the HRC works hard to ensure this promise.

- Karen Richards

“Fair Housing Ain’t
Fair—It’s EQUAL!”

- Doug Chasick



Governor Scott speaks with HRC executive director, Karen Richards, and Commission Chair, Representative Kevin “Coach” Christie after signing the 2018 [Fair Housing Proclamation](#) on April 6, 2018.

In This Issue

- [From the Executive Director](#)
- [Fair Housing Act](#)
- [Familial Status](#)
- [Public Assistance](#)

Did you know?

When the Fair Housing Act was originally passed in 1968, there were only four protected classes: race, color, religion and national origin. Sex was added as a protected class in 1974. Disability and familial status were added in 1988.

Vermont law, [9 V.S.A. § 4503 Unfair housing practices](#) also includes protections for sexual orientation, gender identity, marital status, age and receipt of public assistance, including housing assistance.

On June 25, 2015, the U.S. Supreme Court in an [opinion](#) by Justice Anthony Kennedy determined that both disparate treatment claims and disparate impact claims were cognizable under the FHA. “Recognition of disparate-impact liability under the Fair Housing Act plays an important role in uncovering discriminatory intent: it permits plaintiffs to counteract unconscious prejudices and disguised animus that escape easy classification as disparate treatment.”

The federal government was complicit in creating segregated neighborhoods that continue to exist today through the practice of redlining (refusing mortgage insurance in predominantly poor, black neighborhoods) and allowing public housing projects to be segregated by race.

According to the [2017 Fair Housing Trends Report](#), by the National Fair Housing Alliance:

- There were 28,181 housing discrimination complaints filed in 2016 across the U.S.
- 55% of the filed complaints were based on disability, 19.6% based on race, and 8.5% based on familial status. 91.5% of all filed complaints are in rental housing.



Photo Credit: LBJ Library photo by Yoichi Okamoto

Fair Housing Act

April 2018 marks the fiftieth anniversary of the [Fair Housing Act](#) signed by President Lyndon B. Johnson on April 11, 2018.

During the Vietnam war era, many African-American and Hispanic members of the armed forces died serving their country. Those who returned found themselves shut out of the rental and sales markets in desirable neighborhoods because of their race, color or national origin. This discriminatory practice gained the attention of organizations such as the National Association for the Advancement of Colored People ([NAACP](#)), the [G.I. Forum](#) and the [National Committee Against Discrimination in Housing](#). These organizations, notably with the NAACP’s Washington director, [Clarence Mitchell, Jr.](#), began lobbying for new fair housing legislation.

During the debate of this legislation in the U.S. Senate, the first African-American Senator, [Edward Brooke](#), spoke to the Senate of his personal experience with housing discrimination and inability to choose a home for his family after his return from World War II because of his race. On April 4, 1968 the bill barely passed the Senate defeating a southern *filibuster* with the support of Senate Republican leader, [Everett Dirksen](#).

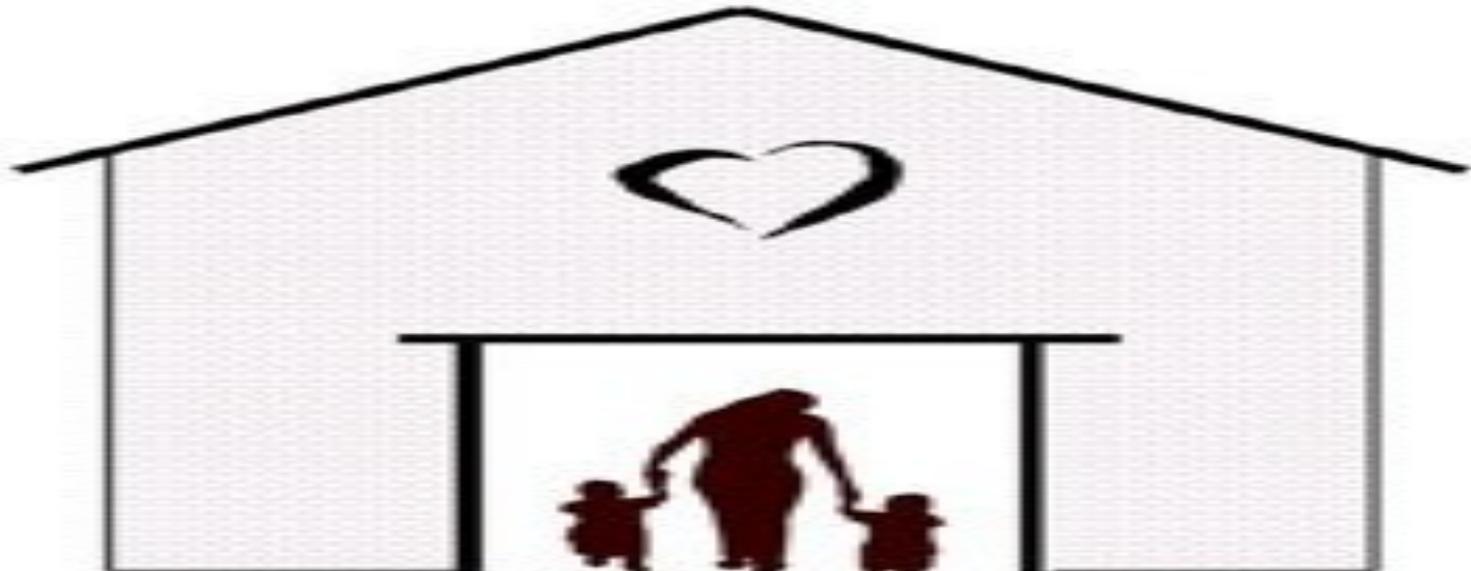
April 4, 1968 was also the day Dr. Martin Luther King, Jr. was assassinated in Memphis, Tennessee. Since 1966 Mr. King had been a vocal proponent of open housing in Chicago and was associated with the fight for fair and equal housing opportunities.

In the short time it took for the bill to reach the House of Representatives, there was a tremendous amount of emotion, looting, urban unrest and increase in strength of the Black Power Movement creating an increasingly conservative view of this legislation in the House. However, President Johnson increased pressure on Congress to pass this civil rights legislation including in his argument that this bill would be a “fitting testimony to Dr. Martin Luther King, Jr. and his legacy.”

On April 10, 1968 the House passed the Fair Housing Act with President Johnson signing it into law the next day.

Despite the passing of the Fair Housing Act, segregation remains in most areas of the U.S. Between the years 1950 to 1980, the black population of urban areas increased from 6.1 million to 15.3 million, while the white population moving out of urban areas into suburbs steadily increased—taking housing and employment opportunities to areas blacks were not welcome to live in. This has led to the growth of inner city communities of poor minorities plagued by unemployment, crime, poor housing and little to no educational opportunities.

In 1988 Congress passed the [Fair Housing Amendments Act](#) expanding the prohibiting housing discrimination based on disability and familial status and placing enforcement more within the control of the [U.S Department of Housing and Urban Development \(HUD\)](#).



Familial Status

In 1988 familial status became a protected category under the Fair Housing Act, prohibiting discrimination against families with children under the age of eighteen.

In addition to prohibiting the outright denial of housing based on the presence of minor children, the amendment to this Act also prohibits housing providers from “imposing any special requirements or conditions on tenants” with minor children. Some examples of discriminatory practices based on familial status are:

- Placing families with minor children in an area of a housing complex *because of* the presence of minor children or only on the first floor;
- Imposing unreasonable restrictions of how many people reside in a dwelling;
- Restricting families with minor children from accessing a pool, or other recreational services offered to other tenants;
- Outright refusing to rent to families with minor children.

The Act also makes it unlawful to print or publish discriminatory advertisements for available housing. There can be no preference made on the basis of any of the protected categories within this Act, including familial status. In fact, if it is found that a published advertisement includes discriminatory language, not only the person or agency placing the advertisement is liable, but also the publisher of the advertisement may be held liable. The general rule to remember when advertising is to **describe the property itself and not who the desired occupant(s) would be.**

Some examples of discriminatory advertisements on the basis of familial status are:

- No children;
- Perfect for professional couple;
- Not suitable for children;
- Adults only;
- Single person occupancy.

Exceptions to familial status under the Fair Housing Act is senior housing. Exempt senior housing facilities and communities can lawfully refuse to sell or rent to families with minor children if:

- The housing is intended for and occupied only by persons 62 years or older;
- A minimum of 80% of the units are occupied by someone who is 55 years or older.
- The dwelling is occupied by the owner or a member of the owner’s immediate family and contains 3 or fewer units. Single family dwellings are covered under Vermont law and thus an owner may not discriminate.



PUBLIC ASSISTANCE

Public Assistance

Vermont law expands protections in fair housing, including making it unlawful to discriminate against an individual because they are a recipient of public assistance. The law also covers discriminatory advertisements based on the same. Federal law does not include receipt of public assistance as a protected category even though many public assistance programs are federally funded. It is unlawful to refuse federal or state rental assistance, disability income (SSI or SSDI), or Reach Up provided the rental assistance or income is sufficient to cover the rent.

When it comes to housing discrimination for individuals receiving public assistance, most complaints brought to the Human Rights Commission are based on denials of federal rental assistance most commonly known as [Section 8](#).

The Section 8 voucher program provides rental assistance to income eligible families and individuals allowing them to seek housing in any area of a community. It was designed to combat segregated neighborhoods and increase opportunities for low income families to live in safe and decent housing.

Some private housing providers refuse to rent to families or individuals with a Section 8 Voucher because: 1. they don't want to go through the inspection process ensuring that their available housing meets local building and safety codes and 2. they believe families or individuals receiving Section 8 are undesirable or difficult tenants.

In fact Section 8 ensures the housing provider will consistently receive a percentage of the rent every month by the administering housing authority. Further, the applicants are screened by the administering housing authorities and are subjected to credit checks, criminal background checks, and are denied if they owe back rent to other public entities or have a record of non-compliance with program rules. Still, some housing providers who are ignorant to the law blatantly advertise "No Section 8" while others simply deny housing after finding out a potential tenant has Section 8. Either way, denial on the basis of receiving this public assistance is unlawful and would constitute a complaint of discrimination.

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RESOURCES

[Vermont Human Rights Commission](#)

[U.S. Department of Housing and Urban Development \(HUD\)](#)

[Vermont Legal Aid, Inc.](#)

[Champlain Valley Office of Economic Opportunity \(CVOEO\)](#)

LAWS

[9 V.S.A. § 4503 Unfair Housing Practices](#)

[42 U.S.C. 3601 et seq. Fair Housing Act](#)