

ENFORCING YOUR FAIR HOUSING RIGHTS IN VIRGINIA

A GUIDE FOR VICTIMS
OF HOUSING DISCRIMINATION



HOUSING OPPORTUNITIES MADE EQUAL OF VIRGINIA, INC.

RESOURCES AND ACRONYMS

Department of Housing and Urban Development (**HUD**)
www.hud.gov

Virginia Department of Professional and Occupational
 Regulation (**DPOR**)
www.dpor.virginia.gov

Virginia Fair Housing Board (**VFHB**)
www.dpor.virginia.gov/Boards/Fair-Housing-Board

Virginia Fair Housing Office (**VFHO**)
www.dpor.virginia.gov/FairHousing

Virginia Real Estate Board (**VREB**)
www.dpor.virginia.gov/Boards/Real-Estate

Final Investigative Report (**FI**R)

This guide is meant to help Virginians understand their fair housing rights and learn how to get help if they feel they have been discriminated against. This is not legal advice. For legal advice, please contact an attorney.

HOW HOME CAN HELP

HOME can help you enforce your fair housing rights. When you see HOME's logo, it signifies that HOME may be of assistance.



Some of the practices described in this guide are internal policies of the organizations and subject to change. If you have questions about the process, you should reach out to those agencies directly.

INTRODUCTION

Housing discrimination is a pervasive problem that continues to plague our nation. The U.S. Department of Housing and Urban Development (**HUD**) estimates that more than two million instances of housing discrimination occur each year. Unfortunately, fewer than one percent of those instances are reported. Often, people are unaware that they have even been discriminated against. Even when someone does know they have experienced discrimination, it can be hard to bring and follow through with a fair housing complaint. But without swift enforcement action, discrimination continues unabated.

The Virginia and federal fair housing laws protect individuals from discrimination in housing-related transactions, such as renting an apartment, obtaining a mortgage, or purchasing homeowner's insurance. The requirements under the fair housing laws apply to almost all housing providers, including property managers, owners, landlords, real estate agents, banks, savings institutions, credit unions, insurance companies, mortgage lenders, and appraisers.



If you believe your fair housing rights have been violated, HOME can help investigate your case and educate you about your options for taking action.

YOUR FAIR HOUSING RIGHTS IN VIRGINIA

The Virginia and federal fair housing laws provide protection to groups of persons based on certain characteristics. A group sharing a protected characteristic is described by law as a "protected class." Together, state and federal fair housing laws prohibit discrimination in housing-related transactions (rental, sales, lending, insurance, zoning, and others) based on eight protected classes:

Race (any race)

Color (any color)

Religion (any religion or no religion)

National Origin (any nationality)

Gender (sex)

Familial Status (presence of children under the age of 18 in the family, pregnant women, or adults attempting to secure custody of children)

Disability (mental or physical)

Elderliness (55 years or older, covered only under Virginia law)



TAKING ACTION

The Virginia Fair Housing Board (**VFHB**) administers and enforces the Virginia Fair Housing Law. The Virginia Real Estate Board (**VREB**) is responsible for fair housing cases involving real estate licensees or their employees. Each board investigates housing discrimination through the Virginia Fair Housing Office (**VFHO**), which is a division of the Virginia Department of Professional and Occupational Regulation (**DPOR**). The VFHO is a neutral state government agency that investigates fair housing complaints. Staff who work in the VFHO are neither advocates nor lawyers for victims of housing discrimination. VFHO does not charge a fee to individuals who report housing discrimination for the investigation – it is a free service. HOME is available to answer questions you may have at any point in the process described below.



FILING A FAIR HOUSING COMPLAINT

If you believe your fair housing rights have been violated, the first step you should take is to report the incident by filing a fair housing complaint. You may file an administrative complaint with the Virginia Fair Housing Office (**VFHO**) or with the U.S. Department of Housing and Urban Development (**HUD**) within one year of the last date of the discrimination. Upon request, HOME can provide assistance drafting your complaint. You may also file a lawsuit through the courts within two years of the last discriminatory incident.

Filing Your Complaint With HUD

To file a complaint with HUD, you may do so online at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-complaint. You may also file a complaint by calling HUD's Housing Discrimination Hotline: (800) 669-9777.

Note that HUD is a federal government entity primarily concerned with federally run housing. If your complaint concerns a state or locally managed property, your complaint will likely be forwarded to VFHO. Therefore, the remainder of this guide focuses on the process at VFHO. There are similarities in the process at HUD. Feel free to call HOME if you have any questions about the process at either agency.

Filing Your Complaint With VFHO

Your complaint must be filed in writing within one year after the alleged discriminatory housing practice occurred or terminated. You may file your complaint by downloading and submitting a Housing Discrimination Complaint Form found at: www.dpor.virginia.gov/fairhousing. Click "File a Complaint" and you will find the form under "How to File a Fair Housing Complaint."



Whether you file a complaint with HUD or the VFHO, your complaint should be detailed and contain as much information as possible. It is important that all facts and pertinent details are included so that your case can be properly investigated. A good complaint will include:

- Your contact information, including name, telephone number, and address.
- A description of the event(s) that led you to file the complaint, including:
 - ◇ Full names of all persons involved, including landlords, property managers, and other employees
 - ◇ Name and address of the housing property concerned
 - ◇ Date(s) on which discriminatory events occurred
- Information regarding why you believe you were discriminated against because of your membership in a protected class. Note that while you are a member of more than one class, the discrimination might be based on only one class. Describe the adverse treatment you received and explain why you think it happened because of your race, color, religion, national origin, gender, familial status, disability or elderliness (or a combination thereof).
- Description of how you were harmed as a result of the discrimination. (Examples: Felt humiliated, or had to find more expensive housing)

INTAKE

An intake specialist from VFHO may contact you with some additional questions regarding your complaint. This may be by phone or mail (note that you will get mail on DPOR letterhead). Before moving your complaint forward to formal investigation, the intake specialist must determine whether your complaint meets the basic requirements discussed previously. Call HOME if you need help responding to these questions.



While it is important to include all of the pertinent details in your complaint, avoid extraneous details or information that are not relevant to your complaint. If the intake specialist finds that your complaint meets the necessary standards, the intake specialist may mail you a modified version of your complaint for your signature. If you get this new version, it's imperative that you sign it and send it back as soon as possible. Your complaint is not deemed filed until DPOR receives a signed complaint that meets all of their requirements.

The intake specialist will also send a final copy of the complaint to the housing provider you have made the complaint against. This will notify them that the complaint has been made and who made it. Both of you will be informed that the VA Fair Housing Law makes it illegal to retaliate against someone because they have exercised their rights under the Law. If you feel that the housing provider retaliates against you (takes an action such as raising your rent, giving you an eviction notice, turning off your water, etc.) for filing a fair housing complaint, notify VFHO immediately. Retaliation is considered a separate violation of the VA Fair Housing Law.



CONCILIATION

Upon the official acceptance of your complaint at VFHO, a professional trained in Alternative Dispute Resolution from DPOR will contact you and offer access to the conciliation, or settlement, process.

Conciliation is a voluntary process in which the parties attempt to resolve the complaint by agreeing to mutually acceptable terms. Conciliation can take place in three ways: an in-person meeting of the parties and the DPOR conciliator, with the conciliator performing “shuttle diplomacy” (back-and-forth individually) remotely between the parties, or via teleconference. Some conciliations use a combination of methods

There is no set formula for what either party can demand in conciliation. You should be prepared to make an offer that is in line with the harm caused by the discrimination. Sometimes it is helpful to review similar cases from the past to see how judges and juries have valued certain injuries. HOME can help you think about what you might ask for in conciliation. A HOME staff member may also be available to attend a conciliation meeting with you.



If conciliation is successful and the language is approved by the Virginia Fair Housing Board or Real Estate Board, the complaint will be dismissed. A conciliation agreement executed by DPOR will continue to be monitored by VFHO. If either party breaches the agreement, the Board can refer the matter to the attorney general to ask for help enforcing the original contract.

Note that the investigation of your complaint is simultaneous to the conciliation process. So if conciliation is not used or if the discussions fail, the investigation is still ongoing.

Sometimes, the parties are given another option to conciliate after the investigation concludes and the Virginia Fair Housing Board or Real Estate Board finds cause to believe discrimination occurred. Just remember that the Alternative Dispute Resolution team handles conciliation, not the VFHO staff.

INVESTIGATION

Once VFHO accepts your complaint, the case is assigned to an investigator. The purpose of the investigation is to gather facts about your complaint. The investigator will generally start by interviewing the parties: you (the complainant), the housing provider (the respondent), and any relevant witnesses. The investigator will ask you to describe what happened and how the alleged discrimination affected you. The investigator may also review any pertinent documents and records. VFHO staff have subpoena power to force production of relevant records. Remember that VFHO staff are neutral parties that are not representing either side of the dispute. HOME sometimes advocates on behalf of fair housing complainants and participates in the investigation.

You should cooperate fully with the investigator. This means being available when you are called upon to provide information, as well as relaying any new developments in your case. You should be sure to notify your investigator if your contact information changes.

Sometimes the investigator will audio record your interview. You should always be completely honest in



these interactions, as you are under oath. Even if you are worried about sharing personal information, it is imperative that the investigator has all of the facts in order to determine what happened in your case.

Virginia law requires the investigation to be initiated within 30 days of receipt of the complaint and completed within 100 days “unless it is impracticable to do so.” Based on caseload and complexities of cases, it may take longer than 100 days to complete an investigation. If it will take longer, you and the respondent will be notified by mail of the delay.

After the investigator completes the investigation, he or she will write a Final Investigative Report (**FIR**). This report summarizes the information gathered during the investigation. The FIR is available upon request to any parties, and is subject to Freedom of Information Act requests from the general public. Most importantly, the FIR is presented to the Fair Housing Board or the Real Estate Board at one of their regularly-scheduled meetings. Board members use the facts in the FIR to decide whether there might have been discrimination in your case.



PRESENTING BEFORE THE FAIR HOUSING OR REAL ESTATE BOARD

The Virginia Fair Housing Board is comprised of 12 members from various sectors of the housing and related industries. The Virginia Real Estate Board is composed of seven real estate brokers or salespersons and two citizen members. All board members are appointed by the governor and serve four-year terms. Upon completion of the investigation in your case, the VFHB or VREB will hear your case. You can find out when the boards meet and read minutes from previous meetings online through the Virginia Regulatory Town Hall at www.townhall.virginia.gov.

You will also receive a letter noting that your case has been scheduled. If you would like to speak to the board about your case, you will be given five minutes to do so, and you should call in advance to make an appointment to appear before the board.

At the board meeting, the members will proceed through the agenda. Once your case is up, if you have made an appointment to speak, the investigator will call you to a table to sit before a microphone. You will have five minutes to share your story, and there will be a device in front of you indicating when your time is up (yellow light when one minute remains, red light when your time has expired). In your oral statement, you should focus on the key details that might prove that the respondent discriminated against you because of your membership in a protected class. It is also helpful to share how the

discrimination has affected your life. Nothing you say should be a surprise to the board, because they will have the facts before them in the FIR. The other party or their attorney will also be given the same opportunity to speak before the board if they have an appointment.

After the parties have presented, the VFHO investigator will come back to the table to answer questions from the board. You will not be permitted to participate in this conversation. The board may need to discuss legal issues in the case in private with their attorney, from the Office of the Attorney General. That neither the public nor the investigators are allowed to hear. In that case, everyone but the board members and investigator will be asked to leave the room temporarily for executive session. These conversations can last from five minutes to as long as an hour.

At the end of the discussion, one of the board members will make a motion, usually to find either cause or no cause to believe discrimination occurred in your case. The cause standard in fair housing cases is less than probable cause. Reasonable cause exists when the board can conclude based on all relevant evidence, viewed not as an advocate for either complainant or respondent but rather objectively in light of the Law, that a violation may have occurred. All of the members (except anyone who is recused) vote on the motion, and the majority rules. If there are separate claims or multiple respondents in your case, the board may take separate votes on each.

AFTER THE BOARD'S DETERMINATION

No Cause

If the board finds no cause, this means your case has been dismissed, and both parties will be notified in writing that no further action will be taken.



If you are not satisfied with the disposition of your case by the administrative process, you may elect to take your case to the courts by filing a lawsuit. Call HOME or a lawyer to further explore this option.

Cause

If the board finds there is cause to believe discrimination occurred, it will issue a charge to the Attorney General's Office for further action, and both parties will be notified in writing. Note that the board cannot award relief to a complainant. In other words, it cannot tell the respondent how they must compensate you. That is the job of the court system.

The board-issued charge gives the attorney general 30 days to bring a civil action in state court against the respondent on behalf of the commonwealth. This action starts the case in court. The attorney general has the power to seek relief on your behalf. You will not be charged for this representation.

At this point, you can intervene in the case on your behalf. HOME recommends consulting an attorney if you get to this point in the process. Call HOME if you need assistance connecting with counsel.



The court will decide whether discrimination has occurred and if it finds that it has, the court will award appropriate relief to you and/or the commonwealth. Relief can include monetary damages, punitive damages, injunctions (making the respondent do something or refrain from doing something), attorney's fees, and civil penalties.



Enforcing your fair housing rights can take a long time and requires significant energy. While deciding to file a complaint should not be taken lightly, it is imperative that people who are discriminated against take a stand to prevent such discrimination from happening again. Remember that you can always call HOME with questions about the process.

We admire your courage and determination!



Housing Opportunities Made Equal of Virginia, Inc. (HOME) was founded in 1971 to fight discrimination in housing. HOME's mission is to ensure equal access to housing for all.

Our services include:

- Assistance to victims of housing discrimination
- Investigations of systemic housing discrimination
- Downpayment assistance in the Richmond metro region
- Foreclosure prevention
- Rental assistance to home seekers using Housing Choice Vouchers in the Richmond metro region
- Housing policy and research

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