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**FAIR HOUSING:
IT'S THE LAW!**

A nonprofit organization protecting and advancing the legal rights of people with mental disabilities.

Fair Housing Tip of the Month – November 2020

Housing Discrimination against Veterans Based on Perceived Disability

TENANT: *“I’m a veteran living in transitional housing in Long Beach, California. I’m looking for an apartment of my own, and I have a Veterans Affairs Supportive Housing (VASH) voucher that will subsidize my rent. I called a rental listing and told the landlord I have a VASH voucher. The landlord said they don’t rent to veterans because some are “crazy” and came back from the Middle East “all messed up.” I was too shocked to respond at the time, but I feel it was wrong for the landlord to say that. Can a landlord discriminate against veterans? What can I do?”*

The law says: No, in California, veterans and military personnel are included as a protected class under California’s Fair Employment and Housing Act. As of January 1, 2020, housing providers in California are prohibited from engaging in discrimination against tenants on the basis of veteran or military status. “Military or veteran status” includes being a member or former member of the U.S. Armed Forces, U.S. Armed Forces Reserve, U.S. National Guard or California National Guard, regardless of duty status or discharge status.

In your case, both federal and state law may apply. Both the federal Fair Housing Act and California law prohibit housing discrimination based on disability, including perceived disability. Perceived disability is when a housing provider thinks someone may have a disability, even if they do not. Perceived disability is often based on stereotypes.

Furthermore, VASH vouchers are now explicitly included in California’s “source of income” protections, making it unlawful for landlords to refuse to rent to a tenant merely because the tenant proposes to pay part or all of the rent through use of a VASH voucher. The inclusion of protections for VASH participants is important because some housing providers have been unwilling to accept VASH vouchers due to discriminatory attitudes regarding participants’ actual or perceived mental health disabilities, particularly post-traumatic stress disorder (PTSD), even when those same providers were willing to accept other types of housing subsidies.

The federal Fair Housing Act (FHA) differs from California law in that the FHA does not explicitly include protections for veterans or military personnel. However, housing discrimination based on veteran or military status might violate the FHA if it has a disparate impact on a federally protected category of individuals. For example, if refusal to rent to veterans with VASH vouchers disproportionately excludes individuals with disabilities from housing, that practice would violate federal fair housing laws.

What to do: If a housing provider discriminates against a current or prospective tenant based on military or veteran status, that individual can file a complaint with the California Department of Fair Employment and Housing (DFEH). Similarly, complaints based on source of income discrimination (including VASH vouchers) that occurred in California also can be filed with DFEH. Although military or veteran status is not protected under federal law, if a housing provider’s rental policies towards veterans or military personnel have a disparate impact on a federally protected category (e.g., race, color, national origin, religion, sex, familial status, disability), then the practice may be a violation of the FHA, and the affected individual can file a complaint with the U.S. Department of Housing and Urban Development (HUD). For housing discrimination based on perceived disability, both federal and state law apply, so individuals who experience this type of discrimination may file a complaint with DFEH and/or HUD.

NOTE: Other states that currently have some form of fair housing protection based on military or veteran status include Connecticut, Illinois, Massachusetts, New Jersey, New York, Ohio, Rhode Island and Washington.

To file a complaint with HUD, call 800-669-9777, or visit www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

To file a complaint with DFEH, call 800-884-1684, or visit www.dfeh.ca.gov/complaint-process/file-a-complaint/

Fair housing laws prohibit discrimination in housing based on the following characteristics: race, religion, national origin, color, sex, familial status, disability, marital status,* ancestry,* sexual orientation,* gender identity,* gender expression,* genetic information,* and source of income.*

*Covered under California law, but not federal law. (For most housing, California laws also prohibit discrimination on the basis of citizenship, immigration status and primary language.)

Disclaimer: *The Fair Housing Tip of the Month is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact MHAS, your local fair housing council or another attorney of your choice.*

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