

515-RICR-10-00-3

TITLE 515 – COMMISSION FOR HUMAN RIGHTS

CHAPTER 10 – OPERATION

SUBCHAPTER 00 – N/A

PART 3 – Fair Housing

3.1 Authorization

The following ~~rules and R~~regulations of the Rhode Island Commission for Human Rights were adopted in accordance with the Administrative Procedures Act, ~~Title 42, Chapter 35 of the General Laws of Rhode Island~~. They were originally filed on February 23, 1993. Amendments were filed on September 16, 1993, and on June 19, 2014. ~~They have been re-filed in compliance with Section 42-35-4.1 of the General Laws of Rhode Island.~~ **The Regulations are promulgated in accordance with R.I. General Laws §§ 28-5-13(4); 34-37-6(j); 40-9.1-4; and 42-87-5(a).**

~~2000. Purpose.~~

~~The purpose of the following rules on the Rhode Island Fair Housing Practices Act is to ensure compliance with Title 34, Chapter of the General Laws of Rhode Island. These rules express the Rhode Island Commission for Human Rights' interpretation of the language in Title 34, Chapter 37 of the General Laws of Rhode Island and indicate factors which the Commission will consider in determining whether or not there has been a violation of the law. These rules also set forth procedures the Commission will use to administer the law.~~

~~2001. Definitions.~~

~~When used in Title 34, Chapter 37 of the General Laws of Rhode Island and in these rules:~~

- ~~A) "Commission" means the Rhode Island Commission for Human Rights.~~
- ~~B) "Charge" means any written statement made under oath alleging that any person has engaged in or is engaging in an unlawful discriminatory housing practice(s) that has been filed pursuant to Rule 4 of the Commission Rules and Regulations.~~
- ~~C) "Owner" means one or more individuals, partnerships, associations, organizations, corporations, mutual companies, joint stock companies, trusts, receivers, legal representatives, trustees, other fiduciaries, or real estate brokers or real estate salespersons as defined in Chapter 20.5 of Title 5 having the right to sell, lease, or manage a housing accommodation. This includes, but is not limited to, property owners, property managers, real estate brokers and agents and state and municipal governments.~~
- ~~D) "Complainant" means an aggrieved individual(s) who, or an organization chartered for the purpose of combating discrimination, racism, or safeguarding civil liberties, which makes a charge, in writing, under oath, to the Commission, or the Commission member(s) or staff member(s) who files a charge on behalf of the Commission.~~
- ~~E) "Respondent" means a person against whom a charge has been filed, or against whom a complaint was issued.~~
- ~~F) "Complaint" means a formal complaint issued by the Commission pursuant to the Rule 7 of the Commission Rules and Regulations.~~
- ~~G) "Housing Accommodation" means any building or structure, or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or is intended, designed or arranged to be occupied, or to be developed for occupancy, as the home or residence of one or more persons.~~

H) "Act" means the ~~Rhode Island Fair Housing Practices Act~~ as amended.

3.2-2002. Processing of Charges under Title 34, Chapter 37. the Fair Housing Practices Act

A. General Procedures. Unless specifically provided otherwise in this Chapter, the following procedures shall apply to all charges filed under the Fair Housing Practices Act:

1. The procedures set forth in ~~the Rules 1—17~~ Part 2 of ~~the Commission Rules and Regulations~~ this Subchapter shall apply with respect to charges filed under ~~Title 34, Chapter 37~~ the Fair Housing Practices Act, R.I. Gen. Laws Chapter 34-37, et seq., ~~as provided in Rules 1—17 of the Commission Rules and Regulations and~~ as applicable.;

Upon the filing of a charge

2. ~~1.~~ Upon the filing of a charge, the Commission will serve notice upon the complainant acknowledging such filing and advising the complainant of the time limits and choice of forums provided in the Fair Housing Practices Act.
3. ~~2.~~ The Commission shall, not later than ten (10) days after such filing, serve on mail to the respondent a copy of the charge together with a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of such respondent under the Fair Housing Practices Act, ~~together with a copy of the original charge;~~
4. ~~3.~~ Each respondent may file, an answer to the charge not later than ten (10) days after receipt. ~~of notice from the Commission, an answer to such charge;~~ General denials are not accepted.;
5. ~~4.~~ The Commission shall commence an investigation before the thirtieth (30th) day after the receipt of the charge ~~of the alleged discriminatory housing practice~~ and complete such investigation within one hundred (100) days after the filing of the charge, unless impracticable to do so.;
6. ~~5.~~ If the Commission is unable to complete the investigation within one hundred (100) days after the filing of the charge, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.;

7. ~~6. The Commission shall make final administrative disposition of a charge within one (1) year of the filing of the charge, unless impracticable to do so;~~
8. ~~7. If the Commission is unable to make final administrative disposition of a charge within one (1) year of the filing of the charge, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so;~~
9. ~~8. If the Commission, after investigation, determines that probable cause exists, it shall have the power to issue and cause to be served upon every party person or respondent a complaint stating the charges, in that respect;~~
10. ~~9. The Commission's probable cause determination shall have the same meaning as reasonable cause as defined in the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., as amended, Section 810(g)(1)&(2);~~
11. ~~10. In addition to the right to sue procedures set forth in Rule 17 § 2.7 A and B of the Commission Rules and these Regulations this Subchapter, when a complaint issues after a finding of probable cause, any party may elect to have the claims asserted in that complaint decided in a civil action in lieu of an administrative hearing. The election must be made in writing not later than twenty (20) days after the receipt by the electing person of service of the complaint by the electing party. The person party making such election shall give notice of doing so to the Commission, the attorney general, and to all other complainants and respondents parties to whom the charge relates; and~~
12. ~~11. If an election is made as discussed provided above in Rule 2002 (B) (8) 3.2(A)(11) of this Part of the Commission Rules and Regulations:~~

 - a. the complainant, the Commission or the attorney general may commence and maintain a civil action on behalf of the aggrieved person in the Superior Court as provided in R.I. Gen. Laws § 28-5-28 within ninety (90) days after receipt of notice of an election. The Commission shall commence and maintain an action seeking appropriate relief for an the aggrieved party and vindication of the public interest, if neither the attorney general nor the complainant has commenced a civil action on behalf of the aggrieved person. If the complainant commences a civil action on behalf of the aggrieved person, the Commission shall intervene in the case on behalf of the public interest. If the attorney general commences a civil action on behalf of the aggrieved person, the Commission may

shall have the right to intervene on behalf of the public interest;
and,

- b. any party may claim a trial by jury. Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action;
- e. ~~the Superior Court may make orders consistent with Section 34-37-5(H) of the General Laws of Rhode Island and may also award (1) punitive damages and (2) such damages as the court deems just and proper;~~

13. ~~12.~~ If none of the parties makes an election as provided above, a Commission attorney, acting as the Civil Prosecutor, shall either maintain the administrative action seeking appropriate relief for an aggrieved party and vindication of the public interest, or, if the complainant is represented by an attorney or proceeds *pro se*, participate in the administrative action on behalf of the public interest.

3.3 ~~2003. Housing for Older Persons — Exemptions Related to from Prohibitions Against Discrimination on the Basis of~~ Familial Status

- A. Criteria for Exemptions. A respondent may claim an exemption from the provisions of the Fair Housing Practices Act prohibiting discrimination on the basis of familial status by proving that:
- 1. ~~a~~ the housing accommodation is provided under any state or federal program which is designed and operated to assist elderly persons and is designated as such by the Secretary of the Department of Housing and Urban Development under section 807(2)(A) of the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., as amended; or
 - 2. ~~a~~ the housing accommodation is of four (4) units or less, the owner actually maintains and occupies one (1) of such living quarters as ~~his or her~~ their residence and one (1) of those units is already occupied by a ~~senior citizen person~~ sixty-two (62) years of age or older or infirm person for whom the presence of children would constitute a demonstrated hardship; ~~or. To claim the exemption the owner must prove that: the housing unit contains four (4) units or less and that one of the units is already occupied by a senior citizen or infirm person for whom the presence of children would constitute a demonstrated hardship. The hardship may be proven with a submission of two (2) physicians'~~

~~certificates attesting to anticipated or past physical or psychological impairment caused by the presence of children; or,~~

3. ~~a~~ the housing accommodation is intended for and solely occupied by persons sixty-two (62) years of age or older; or,

4. ~~a~~ the housing accommodation is intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit, ~~P~~ provided that:

a. at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

b. the owner or manager has published and adhered to policies and procedures which demonstrate an intent to provide housing for persons fifty-five (55) years of age or older; and,

c. ~~b.~~ the housing accommodation has significant facilities and services designed to meet the physical and social needs of older persons. ~~Significant facilities and services include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational services, homemaker services, outside maintenance and referral services, accessible physical environment, emergency and preventive health care programs, congregate dining facilities, transportation to facilitate access to social services; and~~ if the provision of significant services and facilities is not practicable, it must be demonstrated that such housing provides important opportunities for older persons.

~~d. — the owner or manager has published and adhered to policies and procedures which demonstrate an intent to provide housing for persons fifty five (55) years of age or older. The Commission will look at the following factors in evaluating this requirement: the manner in which the housing facility is described to prospective residents; the nature of any advertising designed to attract prospective residents; age verification procedures; lease provisions; written rules and regulations; and actual practices of the owner or manager; and~~

~~B. — An exemption under Rule 2003(A)(3) or (A)(4) of the Commission Rules and Regulations can be claimed if the housing did not meet the requirements of Rule 2003(A)(3) or (A)(4) of the Commission Rules and Regulations as of September 13, 1988 only if:~~

~~1. new occupants of such housing met the age requirements of Rule 2003(A)(3) or (A)(4) of the Commission Rules and Regulations after September 13, 1988; or~~

~~2. unoccupied units were reserved for occupancy by persons who met the age requirements of Rule 2003(A)(3) or (A)(4) of the Commission Rules and Regulations after September 13, 1988.~~

B. Verification. In order for a housing facility to qualify as housing under § 3.3(A)(3) or (4) of this Part, the housing provider must be able to produce, in response to a charge filed under the Fair Housing Practices Act, verification of compliance with state law. To prove compliance, a facility shall develop procedures for routinely determining whether the occupant of each unit is age compliant.

3.4 2004.—Accessibility ~~to~~ and Accommodations For Persons With Disabilities¹

A. Design and Construction. Any housing accommodation of four (4) units or more constructed for first occupancy after March 13, 1991 shall be designed and constructed in ~~such a manner that~~ compliance with the requirements of the Fair Housing Practices Act.

~~1. the public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities.² This includes, but is not limited to, at least one (1) accessible building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual characteristics of the site;~~

B. 2. Reasonable Modifications. ~~An~~ owner cannot refuse to allow a person with disabilities³ to make, at ~~his or her~~ their expense, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

1. Reasonable modifications typically include, but are not limited to, installation of grab bars in a bathroom, widening a doorway to permit a wheelchair to pass and installation of lower sinks, toilets or environmental controls;

~~1 The Commission Rules and Regulations as originally filed used the word "handicap" or "handicapped persons" as that was the language in the Fair Housing Practices Act at the time. The Fair Housing Practices Act has been amended since the Commission Rules and Regulations were filed to use the word "disability" instead of "handicap" and the words "persons with disabilities" instead of "handicapped persons".~~

~~2 Refer to Footnote 1 above.~~

~~3 Refer to Footnote 1 above.~~

2. ~~a~~An owner can, where ~~it is~~ reasonable ~~to do so~~, condition permission for the reasonable modification on the ~~renter~~ tenant agreeing to restore the interior of the premises to the condition that existed before the modification. ~~Modifications which can require restoration can include, but are not limited to, grab bars and reinstallation of sinks and toilets.~~ Modifications which would not interfere with a future tenant's enjoyment of the premises and which do not have to be restored could include, but are not limited to, widening a doorway, studs installed to hold grab bars or the lowering of environmental controls;
3. ~~a~~An owner can require, where reasonable, ~~that a tenant pay~~ for the payment of a reasonable restoration deposit. This deposit shall be placed in an interest-bearing escrow account and the interest shall accrue to the benefit of the tenant. Factors to be considered in the reasonableness of a restoration deposit can include, but are not limited to, the cost to restore the premises, the income of the tenant and the length of the tenancy.

C. Other Accommodations. An owner may not refuse to make reasonable accommodations to rules, policies, practices or services, when those accommodations may be necessary to afford an occupant or prospective occupant with a disability equal opportunity to use and enjoy a dwelling and its facilities. This includes, but is not limited to, making reasonable accommodations to pet policies.

1. There must be an identifiable relationship, or nexus, between the requested accommodation and the person's disability.
2. Housing providers are entitled to verify the existence of the disability, and the need for the accommodation—if either is not readily apparent.
3. Housing providers are not required to provide any reasonable accommodation that would pose a direct threat to the health or safety of others.
4. A housing provider is not required to make an accommodation for an assistance animal if the presence of such animal would:
 - a. result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by a reasonable accommodation;
 - b. pose an undue financial and administrative burden; or,
 - c. fundamentally alter the nature of the housing provider's operations.

5. Not all animals necessary as a reasonable accommodation need to have specialized training.