

Housing Discrimination Still Remains a Reality for Many Women and LGBTQIA+ People

Talia Grossman, Sarah Hassmer, and Kim Johnson

Access to safe, accessible, and affordable housing in neighborhoods of their choice is vital to the well-being of women, LGBTQIA+ people, and families. Where we live is at the very core of our daily lives. And yet, women—and in particular women facing intersecting forms of discrimination—as well as LGBTQIA+ people are significantly more likely than men to face housing instability due to economic inequities (e.g., the gender and racial wage gaps and the lack of a decent minimum wage), discrimination, and challenges in securing a safe, affordable, and accessible place to live in a neighborhood of their choosing.¹

Legacies of Discrimination and Ongoing Inequities Contribute to Housing Insecurity

The founding of the United States is grounded in the colonization and dispossession of Indigenous communities and land, which has led to the continuation of discriminatory policies and practices.² Even after the end of slavery in the United States, Black people were systemically denied the ability to own land and homes, despite the government's promise of giving formerly enslaved families 40 acres and a mule.³ The government even seized land from the few Black landowners. White communities used racially restrictive covenants to prevent integration in white neighborhoods.⁴ Beginning in the Great Depression, lenders—both federal and private—routinely denied home loans to Black families seeking to purchase homes, through a process called “redlining.” The federal government color coded maps according to the “riskiness” of insuring mortgages in particular areas, but assessments of “risk” were based on the racial composition of the neighborhood. Black and integrated neighborhoods were labeled “high risk,” making it impossible for residents to obtain government-insured mortgages and other federally backed loans.⁵

In addition, mortgage lenders often discriminated against women of all races. Lenders blocked countless women from accessing credit because of their marital or maternal status.⁶ In the rare instance that a lender approved a woman's loan application, lenders still discriminated by using more stringent requirements, such as refusing to count sources of income that did not come from employment, like child or marital support, or requiring women to have a higher income than men who also applied.⁷

During the mid-1950s and into the 1960s during the Civil Rights movement, the federal government made progress in dismantling policies that were put in place by de jure (legal) segregation by implementing laws that protected tenants and prospective homeowners against discrimination. Most notably, Congress passed the Fair Housing Act (FHA) of 1968, which banned most housing discrimination based on race, color, religion, and national origin.⁸ Unfortunately, Congress initially did not bar discrimination based on sex under the FHA's protections. In 1974, Congress finally amended the FHA to include sex as a protected trait and passed the Equal Opportunity Credit Act (ECOA) to explicitly prohibit credit discrimination based on sex or marital status. Congress again amended the FHA in 1988 to add disability and familial status as protected traits. Further, after the Supreme Court held in *Bostock v. Clayton County* that sex discrimination in Title VII (employment) includes discrimination based on gender identity and sexual orientation, the U.S. Department of Housing and Urban Development (HUD) applied this reasoning to sex discrimination prohibited under the FHAt.⁹

Discrimination in Housing Further Limits Housing Options for Women, LGBTQIA+ People, and Their Families Still Today

While the FHA and ECOA have played critical roles in helping more people access fair housing, much work remains. For example, sexual harassment in housing—such as a landlord asking a tenant to engage in sexual conduct as a condition of obtaining or maintaining housing—though illegal, is a widespread and underreported problem. Women often either have no other affordable housing options or would be required to list their current landlord as a reference for a new landlord.¹⁰ The National Fair Housing Alliance (NFHA) reported that, from 2021 to 2022, sexual harassment complaints increased by 22.82%.¹¹ Overall, there were 2,940 complaints filed on the basis of sex—the highest number recorded since NFHA started collecting sex complaints data in 2005.¹² More instances of discrimination likely occurred, as many people do not file a complaint out of fear of retaliation by their landlord.

Policies and practices that have discriminatory effects (“disparate impacts”) also make it harder for women and LGBTQIA+ people, especially those facing multiple forms of discrimination, to obtain or maintain housing.

- **Women of color:** City zoning laws limiting the construction of affordable housing, such as multi-family dwellings, often have a disparate impact on people of color.¹³ Some cities also refuse to build affordable housing units in predominantly white areas, which blocks access for people of color to well-resourced communities with quality jobs and/or good schools and perpetuates racial segregation.¹⁴ Redevelopment plans can displace low-income renters, who, depending on the proposed area for redevelopment, may be disproportionately people of color.¹⁵ In addition, some landlords engage in practices such as dramatically raising rents, creating new rental criteria, and discontinuing participation in the Housing Choice Voucher rental assistance program that can disproportionately displace renters of color.¹⁶ Landlords refusing to accept rental assistance—a form of discrimination based on source of income—can also have a disparate impact on women of color.¹⁷ Furthermore, several lending policies and algorithmic models used in both the rental and homeownership markets can lead to costlier loans for people of color, making it harder for women of color to become homeowners and perpetuating gender and racial homeownership and wealth gaps.¹⁸ Black women, and particularly Black mothers, are more likely to experience an eviction filing.¹⁹ Even if the eviction was wrongfully filed or ultimately dismissed, the filing can show up on background checks that landlords use to screen prospective tenants, impacting the ability to find quality, affordable housing well into the future.²⁰
- **Pregnant people and families with children:** In 2022, there were 2,147 complaints filed based on familial status, which accounted for 6.50% of all complaints and was the fourth largest type of discrimination complaint filed.²¹ Policies that impose overly restrictive occupancy requirements disproportionately harm families with children and often have the harshest consequences for women of color with low incomes.²² Some landlords who implement these policies issue vacate notices to pregnant people or parents who do not have multiple bedrooms.²³ These policies likely have a disparate impact on pregnant Black and Latina women because they are disproportionately represented in underpaid jobs and likely cannot afford larger apartments.²⁴
- **Disabled women:** Overall, there were 17,580 disability-based discrimination complaints filed in 2022, which accounted for just over half (53.26%) of complaints

filed.²⁵ Disability-based discrimination is often easier to detect because of the severe shortage of accessible housing,²⁶ and housing providers far too often deny disabled people a reasonable accommodation or reasonable modification request.²⁷ It is also incredibly difficult for disabled women to find housing that they can afford if they are receiving Social Security Income (SSI), which provides a maximum of \$943 per month in 2024.²⁸ Comparatively, in 2023 the average Fair Market Rent for a one-bedroom apartment was \$1,231 per month.²⁹ Additionally, landlords engaging in source of income discrimination by refusing to accept disability benefits and/or rental assistance as proof of income can have a disparate impact on disabled people.³⁰

- **Survivors:** Housing discrimination against domestic violence and sexual assault survivors is a significant fair housing issue. Cities across the United States enforce nuisance and crime-free ordinances that encourage or require landlords to punish tenants when alleged nuisance conduct (including assault, harassment, stalking, and disorderly conduct) or a certain number of calls for police occur at a property.³¹ Because these ordinances do not provide exceptions to emergency service calls made as a result of domestic abuse, women experiencing domestic violence often must make a choice between seeking safety or remaining housed.³² Domestic violence survivors can also face obstacles to safe housing from property owners and housing providers when they request emergency transfers within housing units to escape their abusers and are denied.³³
- **Households headed by women:** Some lenders create and implement policies against originating loans under \$150,000.³⁴ This restricts homeownership access and has a disparate impact on households headed by women, who are more likely to have lower incomes and thus lower loan amounts. Landlords in the private market may also refuse to accept housing vouchers, a practice that has a disproportionate impact on households headed by women, who make up 75% of households that use HUD’s rental assistance programs, including Housing Choice Vouchers.³⁵
- **Women with a conviction record:** Women who have been involved with the criminal or juvenile system face tremendous barriers to successfully reintegrating into their communities, including experiencing profound housing insecurity. The Thurmond Amendment, included in the Fair Housing Amendments Act of 1988,

excludes people convicted of drug crimes from fair housing protections.³⁶ As a result, these women—who, because of racism in the criminal legal system, are disproportionately Black or Latina—face an increased risk of homelessness or recidivism.³⁷ Federally, there are relatively few mandated screening restrictions owners and operators of HUD-assisted housing must abide by, giving them broad discretion in developing their own screening criteria. Overly broad tenant screening policies and “one strike” or “no fault” eviction policies can create de facto bans on people with a conviction history from accessing safe, stable housing.³⁸

- **Immigrant women:** Unfortunately, many housing providers still discriminate on the basis of national origin.³⁹ For example, the DOJ brought and settled a case in 2022 under the FHA and ECOA, alleging that the defendant bank “fail[ed] to provide mortgage lending services to Black and Hispanic neighborhoods in the Newark, New Jersey metropolitan area.”⁴⁰ Additionally, while some immigrant women are eligible for some housing benefits, depending on their immigration status, many low-income immigrant women may avoid applying for assistance out of fear it will affect their future immigration status. A report from the Urban Institute revealed that 9.8% of low-income immigrant families avoided applying for emergency rental assistance and other housing subsidies in 2020 for this reason.⁴¹
- **LGBTQIA+ people:** In 2020, HUD received 197 housing discrimination claims based on sexual orientation and gender identity, and the number increased to 232 in 2021.⁴² Even though HUD applies the *Bostock* rationale to the FHA and includes discrimination based on sexual orientation or gender identity as a type of sex discrimination claim,⁴³ an ongoing general lack of awareness contributes to continued discrimination.⁴⁴ Transgender individuals, especially transgender women and transgender women of color, face high levels of housing discrimination.⁴⁵ The 2022 U.S. Trans Survey reported that 30% of respondents experienced homelessness at some point,⁴⁶ often due to family rejection, discrimination, and violence.⁴⁷ Many homeless shelters discriminate against transgender people, often placing them in a gendered space that does not match their gender identity.⁴⁸

We need increased protections and stronger fair housing enforcement so all women, LGBTQIA+ people, and families can live in safe, accessible, and affordable housing free of discrimination.

The FHA includes a provision known as “affirmatively furthering fair housing” (AFFH), which “requires HUD and recipients of federal funds from HUD to affirmatively further the policies and purposes of the Fair Housing Act.”⁴⁹ The AFFH mandate was never defined until HUD released a rule in 2015 under President Obama, which the Trump administration attempted to revise and weaken during its tenure. President Biden’s administration released a proposed rule in 2023 expanding on the 2015 rule to require states, localities, and public housing agencies to identify and address fair housing issues through Equity Plans, among other provisions to actively encourage housing equity.⁵⁰ The Biden administration should swiftly finalize a strong AFFH rule for programs to start implementing.

In addition, Congress should strengthen the FHA to explicitly cover more types of discrimination. For example, Congress should amend the FHA to add survivor status and source of income as protected traits, which would increase housing access for survivors and for people who rely on financial assistance to keep a roof over their heads. Congress should make HUD’s application of the Bostock rationale to the FHA more concrete by amending the FHA to explicitly include sexual orientation and gender identity as protected traits as well. In addition, protections against sexual harassment in housing should be strengthened; Congress should increase funding for fair housing enforcement, including testing to detect discrimination; and policymakers should institute changes to improve fair housing access for people with disabilities and people with criminal legal system involvement.



Any fair housing complaints can be made by contacting HUD's Office of **Fair Housing and Equal Opportunity** by phone at (800) 880-9777 or online at https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint. You can also contact your local **Fair Housing and Equal Opportunity (FHEO) office**.

- 1 Talia Grossman, Sarah Hassmer, and Sarah Javid, "The Continuing Need for Gender, Racial, and Disability Justice in the Rental System" (National Women's Law Center, February 8, 2024), <https://nwlc.org/resource/the-continuing-need-for-gender-racial-and-disability-justice-in-the-rental-system/>; Sarah Javid and Talia Grossman, "Homeownership—A Pathway to Wealth Building—Is Still Out of Reach For Many Women of Color" (National Women's Law Center, November 8, 2023), <https://nwlc.org/resource/homeownership-a-pathway-to-wealth-building-is-still-out-of-reach-for-many-women-of-color/>.
- 2 Sammi Aibinder, Andrea Flynn, Richelle German, Sarah Hassmer, and Rakeen Mabud, "The Roots of Discriminatory Housing Policy: Moving Toward Gender Justice in Our Economy" (National Women's Law Center, Insight Center, & The Groundwork Collaborative, August 2, 2022), <https://nwlc.org/resource/the-roots-of-discriminatory-housing-policy-moving-towards-gender-justice-in-our-economy/>, 11.
- 3 Aibinder, et al. "The Roots of Discriminatory Housing Policy," 11.
- 4 Aibinder, et al. "The Roots of Discriminatory Housing Policy," 11.
- 5 Aibinder, et al. "The Roots of Discriminatory Housing Policy," 11; Terry Gross, "A 'Forgotten History' Of How The U.S. Government Segregated America," May 3, 2017, NPR, <https://www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america>.
- 6 Aibinder, et al. "The Roots of Discriminatory Housing Policy," 13.
- 7 Aibinder, et al. "The Roots of Discriminatory Housing Policy," 13.
- 8 The Fair Housing Act does not apply to owner-occupied buildings that do not have more than four units, single family houses sold or rented by the owner without the help of an agent, and housing that is operated by religious organizations and private clubs that limit occupancy to members only. 42 U.S.C. §§ 3603, 3607.
- 9 Jeanine M. Worden, "Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act" (U.S. Department of Housing and Urban Development, February 11, 2021), https://www.hud.gov/sites/dfiles/PA/documents/HUD_Memo_EO13988.pdf.
- 10 Kate Scott and Aastha Uprety, "Combating Sexual Harassment in Housing Requires Prioritizing the Safety of Survivors," Equal Rights Center, June 24, 2019, <https://equalrightscenter.org/sexual-harassment-housing/>.
- 11 Lindsay Augustine, Nikitra Bailey, Sherrill Frost Brown, Scott Chang, Lisa Rice, and Morgan Williams, "2023 Fair Housing Trends Report" (National Fair Housing Alliance, August 7, 2023) <https://nationalfairhousing.org/resource/2023-fair-housing-trends-report/>, 17. Complaints included in the analysis were filed with the Department of Housing and Urban Development (HUD), the Department of Justice (DOJ), local Fair Housing Assistance Program agencies, and private, nonprofit fair housing organizations.
- 12 Augustine, et al. "2023 Fair Housing Trends," 5.
- 13 Sarah Hassmer and Amy Matsui, "Comments in Response to HUD's Reinstatement of Discriminatory Effects Standard Proposed Rule, HUD Docket No. FR-6251-P-01" (National Women's Law Center, August 24, 2021), <https://nwlc.org/resource/nwlc-comment-to-hud-on-disparate-impact-2021-proposed-rule/>, 13.
- 14 Hassmer and Matsui, "Disparate Impact Rule Comment," 14.
- 15 Hassmer and Matsui, "Disparate Impact Rule Comment," 14.
- 16 Hassmer and Matsui, "Disparate Impact Rule Comment," 14.
- 17 Hassmer and Matsui, "Disparate Impact Rule Comment," 11.
- 18 Emmanuel Martinez and Lauren Kirchner, "The Secret Bias Hidden in Mortgage-Approval Algorithms," The Markup and NPR, August 25, 2021, <https://themarkup.org/denied/2021/08/25/the-secret-bias-hidden-in-mortgage-approval-algorithms>.
- 19 Peter Hepburn, Renee Louis, and Matthew Desmond, "Racial and Gender Disparities among Evicted Americans" (Sociological Science, December 16, 2020), https://sociologicalscience.com/download/vol-7/december/SocSci_v7_649to662.pdf.
- 20 Sandra Park, "Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women," ACLU, March 30, 2017, <https://www.aclu.org/news/womens-rights/unfair-eviction-screening-policies-are-disproportionately>.
- 21 Augustine, et al. "2023 Fair Housing Trends," 12.
- 22 Hassmer and Matsui, "Disparate Impact Rule Comment," 12.
- 23 Hassmer and Matsui, "Disparate Impact Rule Comment," 12.
- 24 Morgan Harwood and Sarah David Heydemann, "By the Numbers: Where Do Pregnant Women Work?" (National Women's Law Center, August 12, 2019), <https://nwlc.org/resource/by-the-numbers-where-do-pregnant-women-work/>.
- 25 Augustine, et al. "2023 Fair Housing Trends," 12.
- 26 Aibinder, et al. "The Roots of Discriminatory Housing Policy." Federal regulations have a very minimal threshold for accessibility requirements in federally assisted housing—only 5% of units must be accessible for people with mobility related disabilities and only 2% of units must be accessible for people with hearing and/or vision disabilities. Marissa Ditekowsky, "Systems Transformation Guide to Disability Economic Justice: Food Insecurity, Housing and Transportation" (National Partnership for Women and Families, November 2023), <https://nationalpartnership.org/wp-content/uploads/systems-transformation-disability-economic-justice-food-housing-transportation.pdf>, 14.
- 27 Augustine, et al. "2023 Fair Housing Trends," 12.
- 28 Social Security Administration, "SSI Federal Payment Amounts for 2024," last visited March 6, 2024, [SSI Federal Payment Amounts for 2024 \(ssa.gov\)](https://ssa.gov).
- 29 Andrew Aurand, Mackenzie Pish, Ikra Rafi, and Diane Yentel, "Out of Reach" (National Low Income Housing Coalition, 2023), <https://nlhc.org/oor>, 4.
- 30 Melissa Boteach, Amy Matsui, and Sarah Hassmer, "Comments in Response to HUD's Implementation of Fair Housing Act's Disparate Impact Standard, HUD Docket No. FR-6111-P-02" (National Women's Law Center, October 18, 2019), <https://nwlc.org/wp-content/uploads/2019/10/NWLC-Disparate-Impact-Comment-HUD-2019-0067-0001.pdf>, 38.
- 31 ACLU, "I Am Not a Nuisance: Local Ordinances Punish Victims of Crime," October 6, 2020, <https://www.aclu.org/documents/i-am-not-nuisance-local-ordinances-punish-victims-crime?redirect=notanuisance>.
- 32 ACLU, "I Am Not a Nuisance."
- 33 Hassmer and Matsui, "Disparate Impact Rule Comment," 13.
- 34 Daniel De Vise, "Banks are bailing on small mortgages, driving buyers to risky alternatives," The Hill, August, 13 2023, <https://thehill.com/business/housing/4093645-banks-are-bailing-on-small-mortgages-driving-buyers-to-risky-alternatives/>.
- 35 Talia Grossman, Sarah Hassmer, and Kim Johnson, "Cutting Rental Assistance Is Harmful for Women, LGBTQIA+ People, and Families" (National Women's Law Center and National Low Income Housing Coalition, January 30, 2024), <https://nwlc.org/resource/cutting-rental-assistance-is-harmful-for-women-lgbtq-people-and-families/>, 2.
- 36 Opportunity Without Exclusion, "Another Shade of House Arrest: Amending Fair Housing Protections to Include Drug Distribution Offenses," last visited March 6, 2024, <https://static.squarespace.com/static/649922f9f7408c5de121a5fd/t/64a4cdd65379a1d525f7347/1688522207781/Copy+of+POLICY+BRIEF+AMENDING+FEDERAL+FAIR+HOUSING+PROTECTIONS+TO+INCLUDE+DRUG+DISTRIBUTION+OFFENSES+OVERVIEW-2.pdf>.
- 37 Richard R. Peterson, "Re-Arrests of Homeless Defendants in New York City" (New York City Criminal Justice Agency, February 2016), <https://www.nycja.org/assets/ResearchBrief39.pdf>.
- 38 Kim Johnson, "Housing Access for People Impacted by the Criminal Legal System," National Low Income Housing Coalition, last visited April 10, 2024, https://nlhc.org/sites/default/files/AG-2024/6-7_Housing-Access-for-People-Impacted-by-the-Criminal-Legal-System.pdf, 36.
- 39 Augustine, et al. "2023 Fair Housing Trends," 25.
- 40 Civil Rights Division, "Recent Accomplishments of the Housing and Civil Enforcement Section," U.S. Department of Justice, last updated March 14, 2024, <https://www.justice.gov/crt/recent-accomplishments-housing-and-civil-enforcement-section>.
- 41 Hamutal Bernstein, Dulce Gonzalez, and Michael Karpman, "Adults in Low-Income Immigrant Families Were Deeply Affected by the COVID-19 Crisis yet Avoided Safety Net Programs in 2020" (Urban Institute, May 26, 2021), <https://www.urban.org/research/publication/adults-low-income-immigrant-families-were-deeply-affected-covid-19-crisis-yet-avoided-safety-net-programs-2020>, 11.
- 42 Rachel M. Cohen, "The good and bad news about housing for LGBTQ Americans," Vox, May 11, 2022, <https://www.vox.com/23046516/trans-lgbtq-housing-affordable-rent>.
- 43 Worden, "Implementation of Executive Order 13988."
- 44 National Center for Transgender Equality, "Housing & Homelessness," last visited March 6, 2024, <https://transequality.org/issues/housing-homelessness>.

- 45 Adam P. Romero, Shoshana K. Goldberg, and Luis A. Vasquez, "LGBT People and Housing Affordability, Discrimination, and Homelessness" (The Williams Institute, UCLA School of Law, April 2020) <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>, 20.
- 46 Sandy E. James, Jody L. Herman, Laura E. Durso, and Rodrigo Heng-Lehtinen, "Early Insights: A Report of the 22 U.S. Transgender Survey" (National Center for Transgender Equality, February 2024), https://transequality.org/sites/default/files/2024-02/2022%20USTS%20Early%20Insights%20Report_FINAL.pdf, 21.
- 47 National Center for Transgender Equality, "Housing & Homelessness."
- 48 National Center for Transgender Equality, "Housing & Homelessness."
- 49 U.S. Department of Housing and Urban Development, "Affirmatively Furthering Fair Housing (AFFH)," last visited March 7, 2024, <https://www.hud.gov/AFFH>.
- 50 U.S. Department of Housing and Urban Development, "HUD Fact Sheet and Frequently Asked Questions: Affirmatively Furthering Fair Housing, Notice of Proposed Rulemaking," last visited March 6, 2024, <https://www.hud.gov/sites/dfiles/FHEO/documents/AFFH%20Fact%20Sheet.pdf>.