

NOTES FROM THE LEGAL HOTLINE

Massachusetts Association of Realtors®

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Q. Is a landlord required to accept a rental application from someone who receives Section 8?

- A.** Massachusetts landlords may not deny housing based on an individual's race, color, national origin, gender, gender identity, sexual orientation, disability, ancestry, genetic information, marital status, military status, age, familial status, or source of income. Source of income includes receipt of any type of public or rental assistance, including Section 8. A landlord also may not refuse to rent to an individual because of any of the requirements of these programs, such as the requirement to have an inspection or lease agreement.

While a landlord may not screen out prospective tenants *because* they receive housing assistance, a landlord may apply other legitimate screening criteria. For example, a landlord may reject an applicant with poor credit, or a history of non-payment of rent or eviction. Landlords must use consistent, non-discriminatory screening criteria that are applied to all applicants when making their decisions.

Q. What do I do if I receive a letter that says my website is not accessible?

- A.** Over the last several weeks a number of MAR members have received demand letters from the Portell Law Group alleging that brokerage websites are not fully accessible to visually impaired and blind individuals. These demands are requesting that the websites be fixed to make them accessible and that the brokerage pay attorney's fees and expenses to the Portell Law Group. If you receive a demand letter of this nature, you should contact your errors and omissions insurance carrier, work with an attorney to draft an appropriate response, and work with your website vendor to ensure your website is accessible.

The current claims allege that websites that are wholly or partially inaccessible to visually impaired or blind individuals violate the Fair Housing Act (FHA) because individuals with a disability are being denied equal access to housing-related services. Historically, we have seen similar claims raised in the context of the Americans with Disability Act (ADA), but the current claims under the FHA raise a novel question. While the statute these allegations cite is novel, the question of accessibility can be analyzed similarly under both the ADA and FHA. In the ADA website accessibility arena, the courts have widely cited the Website Content Accessibility Guidelines (WCAG) as the standard for websites to be fully accessible. Although we lack federal guidelines, regulations, or even court rulings on the question of website accessibility under the

FHA, MAR recommends consulting with your website vendor to bring your website into WCAG compliance. For more information on website accessibility claims, please visit www.marealtor.com/members/legal.

While the current scenario deals particularly with accessibility issues for visually impaired and blind individuals, website accessibility goes beyond that. Websites should not only be accessible to visually impaired and blind individuals, but also to those who may have auditory, cognitive, neurological, physical, and speech disabilities. For accessibility compliance tips, take a look at [MAR's recent blog post](#) on this topic.

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