



# Fair Housing Newsletter

*Keeping you current on fair housing news and issues*



 LAW OFFICE OF  
**ANGELITA E. FISHER**

.....  
Angelita Fisher is an attorney in the Nashville, TN area. She has over 14 years experience in representing companies in fair housing law and employment law matters. Angelita is licensed to practice law in Alabama, Texas, Mississippi and Tennessee.  
.....

6688 Nolensville Road  
Suite 108-161  
Brentwood, TN 37027

615-305-2803

[afisher@angelitafisherlaw.com](mailto:afisher@angelitafisherlaw.com)

[www.angelitafisherlaw.com](http://www.angelitafisherlaw.com)

## Federal Court Holds Fair Housing Law Protects LGBT Couple

A Colorado federal judge has ruled fair housing laws protect a LGBT couple even though sexual orientation is not a protected class. The case arose when a landlord denied a couple housing because of their “unique relationship.”

The couple was married and had two children. When they applied for housing, the couple discussed their family, including mentioning that one was transgender, with the landlord. After visiting the home, the landlord emailed the couple telling them they were not welcome to rent the home because the other family was concerned about the children and noise. The landlord also said she and her husband had a “low-profile” and wanted to continue it that way.

The couple emailed the landlord back asking for clarification. The landlord clarified that it was a small town and everyone gossiped. The couple’s unique relationship would be the talk of the town and the landlord would not be able to continue keeping a low profile.

The couple sued and won. The court cited employment law that prohibits discrimination based on sexual stereotypes. It is gender discrimination to refuse to rent to someone because they do not meet the male or female stereotype. The court stopped short of holding fair housing laws protect LGBT persons outside the gender stereotyping argument.

### Note from the Editor:

Everyone is ready for summer - except maybe property managers. For a property manager, summertime brings on a whole new set of problems. Join our May 24 webinar to find out how to handle summertime fair housing issues.



## In the News

### Renovations Do Not Require Accessible Design

A Kentucky resident claims he was discriminated against by his landlord because the apartment complex he lived in did not comply with the Fair Housing Act design and accessibility requirements. The Fair Housing Act requires all multifamily housing built for first occupancy after March 13, 1991, to be accessible to the disabled. The problem in this case was that the apartment complex was built in 1988. The resident argued that since the complex had been renovated post March 13, 1991, it should be compliant with the design requirements of post-1991 housing.

The court disagreed and dismissed the claim. The plain language of the law does not require landlords to apply the Fair Housing Act design and accessibility standards to older buildings that are being renovated.

### Residents' Blog May be Fair Housing Harassment

Ever wonder if you can get sued for things you write on the internet? According to a recent appeals court case, the answer may be yes, if it involves harassment in violation of the Fair Housing Act.

The problem started when two residents obtained service or emotional support dogs in a complex that prohibited animals. The other residents were upset that these two residents had dogs. A couple of residents started blogging about the animals. The blogs contained critical comments about how the dog owners might be “happier in another community rather than ostracized” at the current complex and stated “[i]f you can’t remove the guilty, you can certainly ostracize them.” The bloggers called the dog owners “miscreants” and “totally selfish, spoiled, brats, willing to flaunt their illegality in every one[’]s face.” The blog encouraged others to ostracize the dog owners by writing that their “gall and nerve require full response [sic], with ostracizing the offenders in every manner at our disposal,” including “[i]solat[ing] them completely to their little ‘dog patch’ on the beach and ignor[ing] them at every venue or occasion![]”. They called one owner by name and stated the dog owner claimed to have ‘papers’ that allow her to have it.”

*Continued: Bloggers on Page 3*

### Fair Housing Claims Survive Death

A fair housing claim does not die with the resident according to a recent case decided by the U.S. Court of Appeals for the Third Circuit. In this case, a resident had filed a lawsuit against her Homeowner Association for refusing her request for an accommodation. While the case was pending, the resident died. The lower court dismissed the lawsuit on the grounds that the claim died with the resident.

The appeals court reversed holding there was a viable claim after death in this case. Why? Because there was still a federal interest at stake – to provide for fair housing throughout the United States. Thus, a fair housing claim survived death.

Continued: Bloggers from Page 2.

The bloggers also stated the residents' emotional support animals were "illegal neighborhood puppy dogs" and their certifications were issued by disreputable websites without "verify[ing] either the animal's credentials or the purported disability." These comments and others went on for a period of five months.

The residents with the dogs sued claiming they were being harassed based on their disability in violation of the Fair Housing Act. The lower court dismissed the claims but the U.S. Court of Appeals for the Third Circuit reversed and sent the claims back for a trial. A jury could find the harassment was sufficiently severe or pervasive as to interfere with the residents' fair housing rights.



# HOUSING CROSSROADS

WHERE FAIR HOUSING AND  
LANDLORD TENANT LAWS INTERSECT

## Housing Crossroads Webinar

### Roadmap to Managing Difficult Residents

Wednesday, May 31, 2017

10:00 a.m. - 11:30 a.m. Central

Managing residents who are threatening, belligerent and just down-right hateful is difficult. Maneuvering the landmines of landlord tenant law and fair housing law while dealing with these same residents is even more of a challenge. What should you do first?

In this webinar, we will walk through different scenarios dealing with difficult residents. We will give you a practical roadmap of how to navigate the landmines. Specifically, we will discuss:

- What behavior violates the lease?
- What notice is appropriate?
- What to do if the behavior is caused by a disability.
- When you can evict.

**\$34.99**  
**Register**



M. Wesley Hall, III  
Hall & Associates



Nathan Lybarger  
Hall & Associates



Angelita Fisher  
Law Office of AEF

## University Health Services Not Allowed to Write Letters for Support Animal

San Francisco State University has implemented a new policy that prevents Student Health Services therapists and doctors from writing letters of support for students to acquire and/or keep an emotional support animal. Doctors are still allowed to prescribe psychotropic medication, just not an animal. Instead, doctors will be referring students to off-campus health care providers when they need or want an emotional support animal.

The new policy will not prevent students from obtaining or keeping an emotional support animal, even in the dorms. The school believes the level of care and type of relationship a patient needs to have with a health care provider to support and understand the impact of an emotional support animal is beyond the general practice of the student health center.



## Fair Housing Webinar Summertime Fun...Or Not



Wednesday, May 24m 2017  
10:00 a.m. - 11:00 a.m. Central

**\$24.99**

Summertime means the kids are out of school, the pool is open, and the flowerbeds are in full bloom. Everyone is enjoying the great outdoors...expect maybe the property manager.

In this webinar, we will discuss some fair housing issues that arise most often in the summer. Our discussion will include:

- Pool Rules
- Children Playing in the Common Areas
- Outdoor Parties
- Dress Codes
- Animals in the Common Areas
- And much, much more.

[Register  
Now](#)

## Condo Owner Loses Fair Housing Lawsuit

A Chicago condo owner, who also happens to be the wife of a prominent Chicago bankruptcy attorney, lost her battle to keep dogs off the elevator of her condominium building. The owner sued her condo association claiming she was disabled and needed the accommodation of having a dog-free elevator. The jury disagreed and found in favor of the condo association.

The owner had argued her fear of dogs amounted to post-traumatic stress disorder after she was attacked by a German Shepherd when she was a child. However, her fear was of large dogs only. She owned a Cairn Terrier which weighed 10 pounds and had even petitioned the Board to accept her dog when she moved in because the condo association had a no-animal policy at the time. It was not until the association opened the door for all dogs that the problem arose.

After the door was opened to all dogs, the condo owner got into a physical altercation in an elevator with a dog walker. The incident resulted in four lawsuits. The accommodation lawsuit was not the only one the condo owner lost. She also had to pay the dog walker \$275,000 in damages.



## NFHA Report Released

The National Fair Housing Alliance released its 2017 Fair Housing Trends Report. According to this year's report, in 2016 the number of fair housing complaints reached 25,181. Private fair housing organizations, as opposed to government agencies, dealt with 70% of the fair housing complaints. Approximately 55% of the claims contained an allegation of disability discrimination while 19.6% were based on race discrimination.

## California Watching Airbnb Hosts for Discrimination

The California Department of Fair Employment and Housing and Airbnb have agreed California officials will be allowed to test Airbnb hosts for discriminatory practices. The Agreement followed a 10-month investigation by the California DFEH into Airbnb host practices.

Under the Agreement, if a host has three or more listings and has had discrimination complaints filed against them in the past, the DFEH can send testers. The testers are trained individuals posing as potential renters, or creating renter profiles with characteristics to signify a particular protected class. If the hosts reject the tester based on the protected class, he/she has violated fair housing laws.

Airbnb has been criticized in the past for discriminatory hosts. One example was when an Asian guest was turned away from a Big Bear California rental because of his race. The host has since been banned.