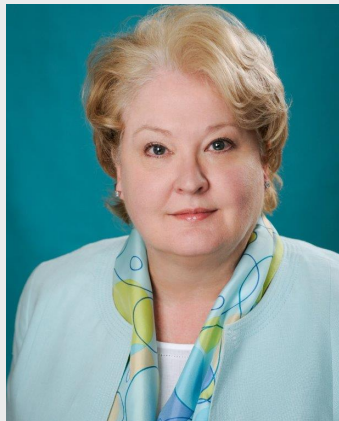




Fair Housing Newsletter

Keeping you current on fair housing news and issues



LAW OFFICE OF
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Board Director May Be Personally Liable for Fair Housing Violations

Unlike many other anti-discrimination laws, the Fair Housing Act provides that an individual may be held personally liable for violations. This may be unfortunate for a Board Director after an Indianapolis Judge recently refused to dismiss claims she rejected an applicant because of a disability.

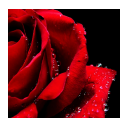
The apartment complex in the middle of this case was a federally funded Project Based Section 8 property with 156 units. Like many properties, it had a separate management company. The management company provided services to the complex and was identified as the property manager. It provided onsite staff to direct the management and direction of the complex. The management company was responsible for ensuring that the Board and staff acted in compliance with fair housing laws. It also provided guidance for screening and selecting prospective residents. So how could anyone but the management company be responsible for fair housing violations? Answer: The Board Director made the decisions.

The problem arose when a family applied for a two-story townhouse with three bedrooms upstairs and the living space downstairs. The mother and children of the family planned to use the bedrooms upstairs and the grandmother would use the downstairs because she was largely confined to a hospital bed due to paralysis. The leasing agent took the application and forwarded it to the Board to make a decision.

The Board scheduled a mandatory New Member Orientation meeting. At the orientation, the mother mentioned the grandmother could not climb stairs. A Board member asked the Mother why and she explained that the grandmother was quadriplegic. The Board members asked several other questions about the grandmother's disability including how she became quadriplegic and how long she had been quadriplegic. The Director then told the mother that the meeting was not a New Member Orientation, but a "Pre-Interview" meeting. The Director circled "rejected" on the application without an explanation.

Board: Continued on Page 2

Note from the Editor: February means spring can't be far away. It also means it is time to plan your company's annual fair housing training. This year, I will again be providing the three-part series on fair housing. Register today for great comprehensive training.



In the News

Insurance Companies Settle Fair Housing Complaint

Two insurance companies have settled allegations the companies violated the Fair Housing Act by denying insurance coverage to properties that contain “subsidized housing” and “low-income housing.” The U.S. Department of Housing and Urban Development filed a Charge based on race and national origin alleging the companies refused to provide umbrella coverage to properties containing subsidized or low-income housing.

Under the agreement, the companies will remove the “subsidized” and “low-income” classifications from its list of prohibited properties, spend \$100,000 each to affirmatively market its services and products to the affordable and low-income housing markets and provide fair housing training for management and staff.

Board: Continued from Page 1.

A few days later, the family received a letter stating the application had been rejected because the unit was not handicap accessible and it would be a liability to offer the family a unit that is not accommodating to everyone in the household.

The Director then took it a step further and discussed the rejection with a staff member. She told the staff member that the family was rejected because the grandmother needed a hospital bed in the living room which she believed would be “tacky.” The Director also discussed the application with a maintenance employee. She asked maintenance what would be required for a quadriplegic person to move in. The maintenance employee stated the family might need wider doorways or a ramp. The Director responded “no, that’s not going to work” and “with her living downstairs in the living room and her daughter upstairs, we don’t want that around here.”

The family contacted the Fair Housing Center of Central Indiana which sued the management company and the Director individually for violations of the Fair Housing Act. The company and the Director asked the court to dismiss the allegations against the Director as an individual. In response, the family argued that the Director personally engaged in discriminatory acts and therefore acted outside the scope of her capacity as a Board Director and thus, could be personally liable. The court agreed with the family.

It was the Director who circled “rejected” on the application without checking any reason on the form. It was the Director who informed the family that the meeting was not a New Member Orientation but rather a Pre-Interview meeting. It was the Director who told the staff that the situation was “tacky” and “not going to work.” These were enough facts to find the Director acted outside the scope of her capacity as Board Director when she engaged in discrimination against the family and may be held individually liable. A jury will get to decide unless the case is settled.

Harassment Claim Fails

Harassment lawsuits are sometimes hard to win. Whether or not someone is unlawfully harassed is based on an analysis of the facts. Even so, an Illinois Judge recently made the decision to dismiss harassment allegations against a homeowner association and management company.

The lawsuit alleged that a mother and her daughter were discriminated against and harassed. Both women were of Indian descent and had a disability. The mother had surgery and needed to walk on a flat surface. The women requested the condominium homeowner association provide an unobstructed path between the front door and the driveway.

The women believed their request for a clear pathway was met with hostility from the HOA because:

- The HOA's management company employees ridiculed people with disabilities and the women’s request for a clear walkway;
- The HOA and the management company demanded the women use the back door so that they would not walk on the shared pathway;
- The HOA demanded medical proof showing why the mother could not use a different route;
- The HOA board told the women they could not speak at Board meetings or communicate with it directly;
- The management company issued parking tickets to the women after they began using the guest parking;
- The HOA installed a lamp-post that shined into the windows of their home; and
- The HOA encouraged residents to install blue lights on their homes.

Harassment: Continued on page 3.

Harassment: continued from page 2.

The HOA and management company asked the court to dismiss the case. While some of the women’s claims survived, the harassment part of the lawsuit was dismissed. The court held that the alleged acts do not rise to the level of being “legitimate threatening or violent actions...designed to drive an individual out of his home.”

This case should be viewed with caution. While the court may have decided that the HOA and management company’s actions did not rise to the necessary level this time, any other court could hold differently.

Virginia Developer, Architect and Construction Company Settle Fair Housing Case

Another group of companies have been accused of failing to construct their new properties in accordance with the accessibility requirements for new construction under the federal Fair Housing Act. A Virginia Developer, Architect and Construction Company have agreed to settle the claims by paying \$50,000 plus retro-fit their recently finished complex. The retrofits will include making extensive modifications including alterations to ensure accessible bathrooms and kitchens. They have also agreed to make parking spaces and storage units accessible.



Housing Crossroads Webinar

Understanding the Unique Aspects of a HUD Model Lease

Wednesday, February 22, 2017
10:00 a.m. - 11:30 a.m. Central

HUD leases are unique in many ways. If you manage a Project Based Section 8 property you know that you must use the HUD model lease. But, do you know how the HUD model lease is different than a conventional lease? In this webinar, we will discuss the HUD model lease’s unique aspects. Our discussion will include:

- Lease Updates & Renewals
- Rent Changes
- Termination for Material Non-Compliance
- Tenants' Right to Organize

And much, much, more.

Join us for what is sure to be a lively discussion with three of Nashville's leading attorneys on the subject.

\$34.99
Register
[Click Here](#)



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In the News

Denial of Affordable Housing Results in Fair Housing Settlement

The U.S. Department of Housing and Urban Development has settled a fair housing claim between a town in Pennsylvania and a real estate development corporation. The corporation alleged the town denied its request to build affordable multifamily housing because of zoning. This resulted in discrimination based on race, national origin, familial status, and disability. Under the settlement agreement, the town will pay the corporation \$375,000 and provide the necessary permits for the project as well as actively promote the project on its website and newsletters.

Motor Home Parking May Be an Accommodation

An Oregon Homeowner Association has been sued for refusing to accommodate a homeowner by allowing an exception to their restrictive parking covenant. The residents sought an exception to the HOA policy by requesting they be allowed to park a motor home in the front driveway of their home because it was necessary for their disabled daughter.

There was no argument the residents' daughter was disabled and had numerous health issues. She was non-verbal and could not bathe or groom herself. The daughter could not use a toilet without assistance and had severe bladder and bowel incontinence. After consulting with doctors, the family decided to purchase a small motor home equipped with a toilet and shower. This would assist them in moving their daughter because she could lie down. It would also ensure she was always close to a toilet and would permit her parents to use the shower to clean her up in the case of accidents while away from home.

Since the HOA covenants did not allow residents to park large vehicles, including motor homes, in their front driveways, the family requested an exception so they could park the motor home in their driveway as an accommodation for their daughter's disability. The HOA Board did not immediately agree and instead suggested two alternatives: park the motor home at an offsite facility or install a chemical toilet in a smaller van. Neither of these alternatives worked for the family. Parking the motor home offsite would leave the mother with no way to get the daughter to the motor home during the day and would include the risk of the daughter having an accident on the way to the motor home. Also, a converted van would not have a shower for the parents to use to clean up their daughter after accidents and would not have the space for her to lie down.

The HOA eventually denied the family's request citing safety issues for neighbors whose site was blocked by the motor home while they were using their own driveways. The family eventually moved because of the HOA's delay in providing a decision and their neighbors' growing hostility. After moving, the family sued the HOA for fair housing violations.

The HOA asked the court to dismiss the case. The court refused. It held that the accommodation of allowing the motor home to be parked in the driveway was necessary and a jury could decide if the accommodation was reasonable.

Familial Status Case Filed

The U.S. Department of Housing and Urban Development has filed a Charge against a Kansas landlord. The case started when a female resident filed a fair housing complaint alleging that the owners of a Wichita apartment complex terminated her lease when she asked if she could add her granddaughter to the her lease. The property manager told her it "may be a problem" because the owner "doesn't want kids on the property." The case will be heard in federal court unless it is settled or dismissed.

Support Animal Lawsuit Filed

Yet another support animal lawsuit has been filed. In this case, a 22-year old resident was diagnosed with a general anxiety disorder. She resided with her fiancé at a property with a no-pet policy. The resident provided the property with a letter from her health care provider stating she was disabled and prescribing an emotion support animal.

The landlord denied her request for an animal stating she had not demonstrated that the “emotional impediments and environmental stressors impacting on [her] are not or cannot be adequately addressed based upon the existence of [her] relationship with her significant other with whom [she is] living.” The resident eventually moved to another property managed by the same company which allowed pets. However, because her service animal request had been denied, her support animal was considered a pet and she was not allowed to have the animal accompany her in the common areas of the property.

The resident has now sued.

Fair Housing Three-Part Series Webinars

March 1, 2017 - Fair Housing Fundamentals

March 8, 2017 - Frequent Fair Housing Issues

March 15, 2017 - Understanding Accommodations & Modifications

\$64.99
Register for All Three

Fair Housing Fundamentals

March 1, 2017

10:00 a.m. - 11:00 a.m. CST



Knowing the fundamentals of fair housing laws will assist owners, managers, and staff in making better decisions on what law may apply to their residents and what actions may violate fair housing laws. In this webinar, we will discuss the basic fair housing laws and the process by which residents may make complaints. Our discussion will include:

- What law applies
- The Protected Classes
- Types of Discrimination/Harassment
- The Complaint Process
- Retaliation
- Websites and Advertising

\$24.99
Register Now