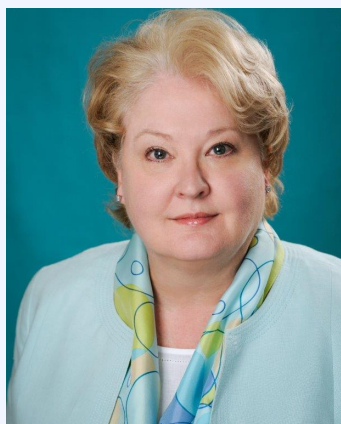




Fair Housing Newsletter

Keeping you current on fair housing news and issues



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Allowing a Patio Grill May Be an Accommodation

A district court in Ohio has refused to dismiss two residents' claims they were not accommodated when their condo association refused to allow them to have grills on their patios.

The condo association had a policy against grills on the patios or balconies. There were grills in the common area for residents to use. Two residents who lived on the ground floor, asked for exceptions to the grill policy based on their disabilities. Their medical conditions made it difficult for them to walk to the grills in the common area which were several hundred feet from their units. Besides, because they were on the ground level, there were no fire codes violations as long as the grills were used at least 10 feet from the building.

The condo association refused the request and the residents sued. The condo association asked the court to dismiss the residents' claims because the residents had not shown they were denied an equal opportunity to use and enjoy their dwellings. No unit owner is permitted to maintain private grills on outdoor patios according to the condo rules. They also argued the accommodation was not necessary. The court refused to dismiss the residents' claims. The fact that all residents were bound by the same rule is no answer to a fair housing claim.

Note From the Editor: Fair housing complaints are on the rise. Perhaps more importantly, more complaints are being found to be discriminatory by state agencies.. What can you do? Be sure you are up-to-date on all fair housing laws and train your employees on fair

LA Landlords Pays \$15,000 for Refusing Assistance Animals

A group of Los Angeles area landlords have agreed to pay a non-profit group \$15,000 after it alleged they had refused to allow residents with disabilities to keep assistance animals. The case started when the non-profit group filed a complaint with the U.S. Department of Housing and Urban Development alleging it had conducted tests of six properties. The tests allegedly revealed that the properties denied assistance animals to disabled residents and failed to give residents with disabilities proper information regarding service animals.

In addition to the \$15,000, the properties will be required to train all employees who interact with current or potential residents on fair housing laws. The landlords will also be required to modify their policies to include information on reasonable accommodations, modifications, and service animals.



Facebook Pledges \$1 Billion to Help Ease CA Housing Crisis

Facebook recently announced it will give \$1 billion in a package of grants, loans and land to help ease California's housing crisis – a housing crisis some would argue technology companies have helped create. The \$1 billion is to help build an estimated 20,000 housing units for middle- and lower-income households in the San Francisco Bay area.

In June, Google pledged \$1 billion for a similar effort and Microsoft pledged \$500 million toward affordable housing in Seattle in January.

Apartments.com Addresses “Source of Income” Discriminatory Ads

The District of Columbia Attorney General announced Apartments.com has launched a new content filter and review process aimed at eliminating ads that discriminate against renters who have a Section 8 voucher or other form of housing assistance. This filter will apply across the country – regardless of whether or not the local/state law prohibits income discrimination. The filter will prohibit landlords from advertising they will not accept Section 8 vouchers.



While accepting a Section 8 voucher is still considered voluntary in most states, some municipalities are passing laws prohibiting source of income discrimination. There is also a movement towards making source of income the next federally protected class. Regardless, lawsuits have been filed alleging that refusing to accept a voucher causes a disparate impact on certain protected classes including women and families with children.



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar Residents Behaving Badly

Wednesday, November 20, 2019

10:00 am to 11:30 am Central

Somehow every property has one or two residents that are always walking-the-line of eviction. These few residents consume most of the manager's time with investigations, inspections, and sending out notices. Everything they do seems to be either a violation of the lease or cause a problem with a neighbor.

In this webinar, we will discuss some common problems when residents behave badly and give landlords some guidance on how to address the problems. Our discussion will include:

- Refusal to Allow Access to the Apartment;
- Unauthorized Occupants;
- Unauthorized Pets;
- Damage to the Property;
- Bad Housekeeping;



Nathan Lybarger
Law Office of Hall &
Associates

Speakers



Angelita Fisher
Law Office of Angelita E.
Fisher

Montana Landlord Charged with Familial Status Discrimination

The U.S. Department of Housing and Urban Development has charged a landlord in Billings, Montana, with violating the Fair Housing Act by refusing to rent to and making discriminatory statements about a family with children.



HUD alleges that the owners of a rental home refused to rent the home to a mother because she had two daughters aged 13 and 17. In addition, the owners' agent allegedly made oral and written statements with respect to the children. For example, the agent stated the owner was worried about the girls being home alone and stated that the owner was looking for just two people or maybe a couple with one child because of noise issues. Regardless, the home was eventually rented to a couple with no children.

HUD's charge will be heard by a United States Administrative Law Judge unless any party elects for the case to be heard in federal court or the case is settled.



Fair Housing Webinar Disparate Impact Update

Wednesday, December 11, 2019
10:00 a.m. - 11:00 a.m. Central

HUD has proposed a new rule for analyzing disparate impact claims which will impact how landlords are defending these cases. Additionally, non-profits and others have been busy filing disparate impact lawsuits all over the country. In this webinar, we will discuss some of the recent disparate impact cases as well as HUD's new rule. Our discussion will include:

- HUD Proposed Rule;
- Source of Income;
- Criminal Background Criteria;
- Domestic Violence; and
- Occupancy Standards

\$24.99
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State Law Claims Dismissed Against TN Landlord

A Tennessee landlord who has been sued for sexual harassment of his tenants had a small victory in court. The state law claims have been dismissed.

This case began when a resident claimed the landlord offered to waive her rent in exchange for sex or sexually explicit photographs and videos of the resident and her girlfriend. When the residents refused, the landlord allegedly raised their rent, attempted to illegally evict them, and physically severed the water connection to their home. The residents sued.

As part of the suit, the residents claimed the landlord breached their quiet enjoyment and breached the lease contract. The landlord asked the court to dismiss the quiet enjoyment and contract claims. The court agreed and dismissed the two claims.

Nearly two years ago, the residents had filed similar claims in state court against the same landlord. The federal court refused to hear claims on a state court's docket. In sum, you can't litigate the same claims in two different courts.

The landlord's sexual harassment claims remain.



Sober Homes Must Comply with Sprinkler Requirement

The U.S. Court of Appeals for the First Circuit has upheld a lower court's decision to dismiss a fair housing complaint alleging a City failed to accommodate sober homes.

The case began when the City attempted to enforce local codes which required all homes with six or more unrelated adults to have sprinkler systems in case of fire. A non-profit which had six sober homes, was given six months to comply with the sprinkler requirement. They did not comply. The City fined the homes \$1,000 and began an enforcement action in the local housing court.

At the hearing, the non-profit offered to reduce the number of occupants to five until the issue could be resolved. The City agreed if the non-profit would allow periodic visits to the homes for compliance. The non-profit disagreed with the inspections claiming the inspections would disrupt the residents and the cost of the sprinklers was prohibitive.

Instead, the non-profit asked the City to accommodate the houses, which were occupied by disabled residents, by foregoing the requirement. The City disagreed and the case ended up in federal court with allegations that the City had not accommodated the sober homes in violation of the Fair Housing Act.

The lower court dismissed the fair housing claim. The non-profit appealed. The 1st Circuit agreed with the lower court. The requested accommodation posed a threat to public safety. Plus, there was no evidence that the \$35,000 to \$40,000 per house was financially prohibitive. Finally, the City had attempted to work with the non-profit by allowing them six months to comply and conditionally agreeing to the proposal of lowering the occupancy of each house. Bottom line: safety trumps accommodation requests in most cases.