



# Fair Housing Newsletter

*Keeping you current on fair housing news and issues*



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## HUD Proposes Rule to Allow Testers with Criminal Convictions

The U.S. Department of Housing and Urban Development (HUD) has published a Notice of Proposed Rulemaking in the Federal Register that would change the requirements for testers. The new rule would eliminate the restriction on the use of fair housing testers with prior felony convictions.

Fair Housing testers are hired by non-profits and government agencies to shop or test properties to see if they are violating fair housing laws. Testers used by the Fair Housing Initiatives Program grantees and the Fair Housing Assistance Program agencies have been required to be felony-free to qualify for the job... until now. If the new rule is implemented, testers may have a felony in their background.

According to HUD, this proposed rule aligns with HUD Secretary Marcia Fudge's April 12, 2022 Memorandum, "Eliminating Barriers That May Unnecessarily Prevent Individuals with Criminal Histories from Participating in HUD Programs." It would also make HUD's programs as inclusive as possible for people with criminal records and consistent with the Biden-Harris Administration's commitment to eliminating barriers to reentry and expanding avenues for employment.

Public comments may be submitted electronically by December 29, through [www.regulations.gov](http://www.regulations.gov).



**Note From the Editor:** November is a time to remember all the things we are thankful for: Family, Friends, Faith, Health and Pets, to name a few. I hope your November is filled with thanks and time spent with loved ones. Happy November!



## DOJ Settles Two Design and Construction Cases

The U.S. Department of Justice announced it has settled two design and construction cases in October. The cases involve a developer from Maryland and another from Hawaii. Both lawsuits alleged the developers, and others involved, failed to build required accessible features for people with disabilities, including those who use wheelchairs, in violation of the Fair Housing Act.



In the Maryland case, the developer has agreed to pay \$475,000 and make extensive retrofits to remove accessibility barriers at three properties it still owns and another three properties it has sold. For the properties it still owns, the developer will, among other things, replace steeply sloped walkways, widen doorways and modify bathrooms so they are accessible for individuals who use wheelchairs. For the properties it has already sold, the developer has agreed to deposit a sum of \$410,000 in an account to be used for retrofitting the properties. In addition, the developer will pay \$60,000 into a settlement fund to compensate individuals who were harmed by the inaccessible conditions and \$5,000 to the government in civil penalties to vindicate the public interest.

The DOJ previously resolved part of this same lawsuit, with other entities involved. In that settlement, the parties agreed to pay \$185,000 to settle claims that they failed to build the required accessibility features in 11 other multi-family housing complexes in Maryland. Extensive retrofits will also be made to those properties.

In the Hawaii case, the developer and architect agreed to pay \$120,000 to settle claims that they violated the Fair Housing Act when they built and designed five multifamily housing complexes in Hawaii. Under the agreement, will make extensive retrofits to the properties, including replacing or modifying steps and overly steep slopes on sidewalks and walkways, lowering mailboxes and modifying doorways, kitchens and bathrooms. In addition, the developer and architect will pay \$200,000 for additional accessibility-related improvements at one of the properties.

## Brokerage Firm Settles Discrimination Complaint

A New York real estate brokerage firm has agreed to pay \$10,000 and make some changes after a complaint was filed by a state housing agency. The complaint accuses the firm of source of income and disability discrimination.



The complaint alleges a tester, posing as a person having a Housing Choice voucher and a disability, was not told about available apartments and was unable to make appointments to see apartments. In comparison, a tester without a disability or an alternative source of income, was able to make an appointment to see the available apartments on site. The different treatment of the testers based on the protected classes of disability and source of income, is illegal housing discrimination protected under federal and state laws.



# HOUSING CROSSROADS

WHERE FAIR HOUSING AND  
LANDLORD TENANT LAWS INTERSECT

## Housing Crossroads Webinar

# 2023 The Year In Review

Wednesday, December 6, 2023  
10:00 a.m. - 11:30 a.m. central

The year 2023 is almost gone. It went by so fast you may have missed a few things. Never fear - we are here to remind you of the 2023 changes you need to remember going into 2024.

In this webinar, we will review some of the cases, legislation and trends that got our attention. Our discussion will include:

- The Battle Against Junk Fees
- The White House Blueprint for Rents Bill of Rights
- Ongoing Rental Assistance
- Legal Representation for Tenants
- New Accommodation Requests
- The War on Selection Criteria
- And much, much, more

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Nathan Lybarger  
Law Office of Hall &  
Associates

### Speakers



Angelita Fisher  
Law Office of Angelita E.  
Fisher

## Management Co. Settles Servicemembers' Case for Lease Termination Fees

The U.S. Department of Justice announced it has settled a lawsuit against a property management company alleging violation of the Servicemembers Civil Relief Act (SCRA). The complaint alleged the management company imposed illegal fees on at least nine servicemembers who had exercised their right under the SCRA to terminate their leases after receiving qualifying military orders.



More specifically, the complaint alleges a Coast Guard Lieutenant sought to terminate his apartment lease after he received permanent change of station orders transferring him from Philadelphia to Connecticut. The Lieutenant gave the management company written notice and a copy of his transfer orders before vacating his apartment. However, two months after moving, the Lieutenant was notified that the management company was demanding that he repay a \$2,100 rent concession he received when he signed his lease. Despite efforts to resolve the matter, the management company reported the debt to credit reporting agencies and the Lieutenant's credit score was downgraded. The complaint also alleges the management company charged illegal fees to at least eight other servicemembers.

Under the terms of the settlement agreement, the management company will pay a total of \$41,581 in damages to the nine servicemembers and a civil penalty of \$20,000 to the federal government.

Since 2011, the DOJ has obtained over \$481 million in monetary relief for over 146,000 servicemembers through its enforcement of the SCRA.

## Did You Know?

*The Federal Fair Housing Act makes it unlawful to retaliate against an employee who helps a resident file a fair housing complaint.*

## GA Man Charged with Racially-Motivated Threats



A Georgia man was arrested for making racially-motivated threats and shooting at his neighbor, a Black man, in violation of the criminal provision of the Fair Housing Act, and for brandishing and using a firearm. According to court documents, the 73 year-old man, shot a .22 caliber revolver in the direction of his neighbor's home while yelling racial slurs.

If convicted, the man faces a maximum penalty of 10 years in prison and a \$250,000 fine for both the civil rights and firearm charges. A federal district court judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

## New Orleans Landlord Charged with Discrimination

The U.S. Department of Housing and Urban Development (HUD) has charged a New Orleans apartment community's owner and manager with discriminating against Blacks and families with children. According to the charge, the landlord screened potential tenants by allowing their calls to go to voicemail. She then failed to negotiate the rental with black testers while negotiating the rental with white testers. The charge also alleges the landlord steered testers with children away from the property by repeatedly highlighting aspects of the property that made it unsuitable for families and made discriminatory statements indicating a preference for renters without children.



A United States Administrative Law Judge will hear HUD's charge unless any party to the charge elects to have the case heard in federal district court or the case is settled.

## Fair Housing Webinar

### Bad Rules

*Identifying Which Rules May Violate Fair Housing Laws*

Wednesday, November 8, 2023  
10:00 a.m. - 11:00 a.m. Central



Every property has a set of rules by which they operate. Without those rules, the property would fall into chaos. But, do you know which of those rules are land mines for claims of discrimination? Are you confident when you send out a lease violation notice that you have done the right thing?

In this webinar, we will discuss some of the likely fair housing problems with common property rules. Our discussion will include:

- Two-Person per bedroom.
- Children must be supervised.
- ESAs cannot come in here.
- You need to be in the U.S. legally.
- You are denied because of your criminal background.
- If you can't speak English, you can't sign the lease.
- I can't designate a parking space.
- Your ESA must have a certificate.

All this and much more!

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