



Fair Housing Newsletter

Keeping you current on fair housing news and issues



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\$3M Settlement for Child Restrictive Rules

The State of California Civil Rights Department and Project Sentinel, a non-profit organization, have settled a complaint against a California property Management Company and the owners of apartment complexes. The complaint alleged that more than 40 apartment complexes in the Bay Area discriminated against families with children by prohibiting any outdoor play activities and requiring parents to supervise children under the age of 14 in all common areas.

Under the Fair Housing Act, and similar California laws, it is unlawful for housing providers to discriminate because of familial status, including families with children under the age of 18. This includes imposing different terms or conditions on families because they have children under the age of 18, making discriminatory statements, and enforcing overly restrictive rules and policies that discourage or prohibit families with children from enjoying their homes.



Under the consent decree resolving this case, the Management Company and owners will pay \$3 million dollars to aggrieved families and will implement corrective measures over five years. These measures include public interest relief to help prevent future discrimination, including revising its rules and procedures, distributing brochures to tenants about their rights and creating policies to prevent and report discrimination.

Note From the Editor: May brings flowers, warmer weather and children on the property. School is out! Want to know which policies you can enforce against children and which are a fair housing landmine? Give me a call or send me an email.



HUD Outlines Plan to Remove Barriers for People with Criminal Records in Federally Funded Housing

The U.S. Department of Housing and Urban Development announced on April 24, 2023, it will take steps to ensure that qualified housing applicants are not denied the opportunity to access housing solely due to a criminal history record. Over the coming weeks, HUD plans to introduce rulemaking, establish a process for individualized assessments, and outline guidelines for public housing authorities and HUD-subsidized housing providers when making decisions based on criminal background of applicants and residents.



According to HUD's press release, its Notice of Proposed Rule Making will propose to change its regulations governing public housing agencies and HUD-subsidized housing providers to prevent unnecessary denials of housing assistance to people with criminal history records.

HUD's new guidance and technical assistance will assist PHAs and HUD-affiliated owners in determining what convictions are relevant to health and safety and how to conduct an individualized assessment when reviewing criminal history records. HUD will also provide technical assistance to encourage grantees, PHAs, and housing owners to use HUD programs to provide housing and services that support people's successful reentry from prisons and jails to the community, which HUD believes enhances public safety.

HUD's also intends to help PHAs and HUD-affiliated owners comply with the Fair Housing Act. According to HUD, Black and Brown people, other people of color, and people with disabilities are disproportionately involved in the criminal justice system. As a result, policies that unnecessarily deny housing because of a criminal history disproportionately affect these groups. HUD plans to step up Fair Housing investigations and enforcement in this area.

Stay tuned for more information.

DOJ Files Sexual Harassment Lawsuit Against KY Owner

The Justice Department announced it has filed a federal lawsuit against the owner and operator of rental properties in Pulaski County, Kentucky, for engaging in sexual harassment and retaliation in violation of the Fair Housing Act.

The lawsuit alleges an apartment complex owner sexually harassed numerous female tenants since at least 2010. According to the complaint, the owner made repeated and unwelcome sexual comments to female tenants, entered the homes of female tenants without their consent, touched female tenants' bodies without their consent, offered reduced or free rent in exchange for sexual contact and took adverse housing-related actions against female tenants who refused his sexual advances.



The lawsuit seeks monetary damages to compensate residents harmed by the alleged harassment and a civil penalty to vindicate the public interest.



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar

Six Common Areas Where Landlord/Tenant and Fair Housing Laws Overlap

Wednesday, May 24, 2023
10:00 a.m. - 11:30 a.m. central

Every Property Manager knows that under Landlord/Tenant laws they may non-renew a lease without giving the resident a reason. But do you know that a non-renewal may land you in trouble under Fair Housing Laws unless you can show you have a well-documented reason? With every decision they make, Property Managers must keep both Fair Housing laws and Landlord/Tenant laws in mind.

In this webinar, we will discuss six common areas where these laws intersect. We will provide you with real-life scenarios and give you practical examples how to approach these situations. Please join us for all this and more.

1. Non-Renewals
2. Domestic Violence
3. Animals
4. Housekeeping
5. Criminal Activity
6. Late Payment of Rent

\$34.99
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Nathan Lybarger
Law Office of Hall &
Associates

Speakers



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Multiple ESAs Need Multiple Disability-Related Reasons

The question of whether a resident can have more than one emotional support animal (ESA) for the same reason was answered in a recent fair housing complaint filed jointly with the Tennessee Human Rights Commission (THRC) and the U.S. Department of Housing and Urban Development (HUD). The investigation resulted in a holding by the THRC that a resident with multiple animals needs independent disability-related reasons for each animal.

In this case, the landlord had an ESA form for healthcare providers to complete. If there was a request for multiple ESAs, the form specifically asked the healthcare provider how animal #1 ameliorates symptoms of the resident's disability and how animal #2 ameliorates symptoms of the resident's disability. These were two separate questions on the form.



The healthcare provider in this case gave the same response to both questions. He wrote, “provides a source of stress relief, reduction in anxiety, decreases propensity for self-isolation, acts as a source of calm, aiding in concentration and focus in his job and personal life, as well as being able to function in daily life skills in a greater capacity.”

Because both answers were exactly the same, the landlord granted the request for the first animal and denied the request for the second animal. The property considered the second animal a pet which meant there was a pet fee and pet rent. The resident filed a fair housing complaint arguing he was unlawfully denied the second ESA, in violation of fair housing laws.

After an investigation, the THRC determined the landlord had not violated fair housing laws. Multiple animals need independent disability-related reasons. Both animals cannot serve the same function.

While fair housing attorneys have long held this position, there was no case law, HUD guidance, or published HUD decisions to specifically support this argument. With this case, landlords should feel more secure in insisting the healthcare provider give independent reasons for the multiple ESAs.

You May Want to Rethink Your Spay/Neuter Policy



Until recently, landlords could feel comfortable enforcing their spay/neuter policy with emotional support animals (ESAs). However, recently, one investigator with the U.S. Department of Housing and Urban Development (HUD) voiced opposition to a spay/neuter ESA policy. The investigator believed it may be a violation of fair housing laws.

Remember, this is not a court decision. There are none to be found on this topic. This is not a HUD finding or guidance. Again, there are none to be found. It is one investigator's opinion.

HUD Charges Apartment Owners with Familial Status Discrimination

The U.S. Department of Housing and Urban Development (HUD) announced it has filed a Charge of Discrimination against the owners of an apartment building in Burlingame, California. HUD's Charge alleges that a couple who rented an apartment were discriminated against beginning when the owner found out the wife was pregnant. The owner expressed displeasure that a child would be living in the unit and suggested the couple rent a larger, more expensive unit instead. The family refused. After learning the couple was expecting a second child, the owner increased her efforts to have the family move by repeatedly telling the couple that their children would cause damage to the apartment. The family eventually moved out of the apartment and filed a HUD complaint alleging familial status discrimination. After an investigation, HUD found evidence of discrimination and filed a Charge.



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.



Fair Housing Webinar

Disparate Impact Update

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

Since June, 2015, when the Supreme Court held landlords could be sued using a fair housing disparate impact theory, landlords have been faced with a wave of lawsuits.

As a result, the courts have been busy interpreting the Supreme Court's case. In this webinar, we will discuss the latest cases being filed using the disparate impact theory as well as possible issues on the horizon. We will discuss cases involving:

- The Use of Criminal Convictions
- Occupancy Standards
- Domestic Violence
- Source of Income
- Possible Issues on the Horizon

\$24.99

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