



Fair Housing Newsletter

Keeping you current on fair housing news and issues



 LAW OFFICE OF
ANGELITA E. FISHER

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Angelita Fisher is an attorney in the Nashville, TN area. She has over 19 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.
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6688 Nolensville Road
Suite 108-161
Brentwood, TN 37027
615-305-2803
afisher@angelitafisherlaw.com

PA Landlord Pays \$75,000 to Settle Pregnancy and Alcohol Addiction Case

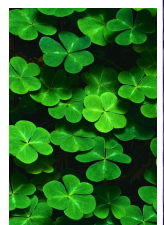
Some landlords may not realize a recovering alcoholic and a pregnant individual are protected by the Fair Housing Act. While neither of these classes are specifically listed in the Act, they have long been interpreted to fall into the disability and familial status classes. Both of these classes were added by Congress in 1988. Not knowing, or ignoring, this information resulted in a Pennsylvania landlord being sued by the U.S. Department of Justice for fair housing law violations.

The case started when a resident and his nine year-old daughter moved into a two-bedroom apartment. The resident told the landlord he was recovering from alcohol addiction. The resident had successfully completed an alcohol treatment program before moving into the apartment. After recovering for approximately nine months, the resident requested his pregnant girlfriend be allowed to move into his apartment. The resident told his landlord he “would like everyone to get comfortable with each other before the baby comes. It is very important to me we are together.”

The landlord refused to allow the pregnant girlfriend and her daughter to move into the apartment. The landlord stated the lease only allowed two people and five people did not fit in the property. He threatened to evict the resident if his girlfriend and her daughter moved in.

Alcohol Addiction: Continued on Page 2

Note From the Editor: March is the month for our annual Fair Housing Three-Part Webinar Series. Check it out on page six. It is a great way for employees to get their fair housing training early. Register one property and all the employees on the property can attend.



Alcohol Addiction: Continued from Page 1

In addition to the threats, the landlord and owner sent multiple messages addressing the resident's girlfriend and his alcohol addiction, including:

“You have alcoholic thinking. Its [sic] not enough to stop drinking. You have to alter your mind which has been altered by the narcotic alcohol (See Websters). I will never rent an apartment to a drunk again with less than 1 yr in recovery... Your number is blocked[.]” and “Apparently, you are not working a program for your recovery [sic] and now have yourself in a situation of having a pregnant girlfriend of what seems to be maybe 6 months +/-, who is mother of another child, who got pregnant by you around December 2019; and with whom you wish to cohabitate. Your lease is ending as according to the contract.”

The resident eventually moved of his apartment, but had to pay higher rent at his new apartment. He filed a fair housing complaint with the U.S. Department of Housing and Urban Development alleging the landlord discriminated against him based on disability and familial status. When HUD investigated the complaint, it found evidence of discrimination. The Justice Department then filed a lawsuit.

The lawsuit was settled in February, 2022. Under the settlement, the landlord will pay \$75,000 to the resident and his child. The settlement agreement also requires the landlord undergo training and implement nondiscrimination policies on the Fair Housing Act.

In sum, being unaware of the law is not a defense. In this case, it ended up costing the landlord a lot of money.



Muriel Nolen Named as Interim Executive Director of THRC

The Tennessee Human Rights Commission (THRC) Board Chair Robin Derryberry, has named Muriel Malone Nolen to serve in the capacity of interim executive director effective February 15, 2022. Nolen joined the THRC in April 2021, as the deputy director. Prior to joining THRC, Nolen served as an Assistant District Attorney General in Shelby County Tennessee for 18-years.

Nolen's appointment follows the retirement of Beverly Watts who served as the THRC's Executive Director for over 14 years. We wish Ms. Watts good luck in her new endeavors.

Denial of ESA Costs Landlord \$6,500



A Las Vegas landlord has agreed to pay \$6,500 to settle a case where an applicant was denied an emotional support animal. The problem started when the landlord found out an applicant had a dog who served as an ESA. When the landlord found out, he refused to rent the house because of the dog. The applicant filed a fair housing complaint with the U.S. Department of Housing and Urban Development. HUD investigated and has agreed to settle the case. In addition to paying \$6,500, the owner and property manager will attend fair housing training and comply with fair housing requirements for reasonable accommodations.



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar

Watch Out for These “Magic Words”

Wednesday, April 27, 2022
10:00 a.m. - 11:30 a.m. central

We communicate with our residents constantly – it’s a daily, fundamental part of property management. But all communications are not created equal. Sometimes – whether your resident knows it or not – these communications trigger legal remedies to which the resident may be entitled. In this webinar, we’ll help identify key words, phrases, and topics to watch out for and best practices to resolve those issues with limited exposure. We’ll discuss landlord (and tenant) obligations regarding:

- Essential services
- The right to peaceful and quiet enjoyment
- Maintaining the premises
- Allegations of discrimination
- Requests for reasonable accommodations
- And much more

\$34.99
[Register Now](#)



Nathan Lybarger
Law Office of Hall &
Associates

Speakers



Angelita Fisher
Law Office of Angelita E.
Fisher

Blanket Criminal Background Policy Results in \$35,000 Settlement

A New Orleans area landlord has agreed to settle a complaint filed by the Louisiana Fair Housing Action Center (LaFHAC) with the U.S. Department of Housing and Urban Development (HUD). The complaint alleged race discrimination based on the landlord's criminal background selection criteria.



The case arose out of testing conducted by the LaFHAC. The testing involved Black and White mystery shoppers posing as prospective tenants. Each had records of arrests, misdemeanor convictions, or felony convictions. They each asked about the property's criminal background selection criteria policy and were told, "anything on a criminal background check would automatically disqualify" and "if you've been arrested, you're going to be denied."

This is considered a Fair Housing Act violation under HUD's 2016 Guidance. The Guidance states that a blanket ban on people with arrests or convictions impacts African Americans and Latinos, who are disproportionately arrested, convicted, and incarcerated, compared to whites.

In addition to finding the property had a criminal background selection criteria policy that allegedly violate the Fair Housing Act and HUD's guidance on criminal background screening, the testers also found that the property had stricter or more discouraging policies for Black applicants with arrests or convictions than to White applicants with the same arrests or convictions.

To resolve the HUD complaint, the landlord has agreed to pay \$35,000 and to follow to a new admissions policy drafted by HUD and LaFHAC. Under the new policy, arrests, charges, expunged or vacated convictions and misdemeanor convictions will not be considered. Additionally, any felony convictions that took place more than five years ago, will not be considered.

The LaFHAC has a similar case pending against another New Orleans area landlord.

Judge Refuses to Dismiss Accommodation Claims Where Resident is Required to Pay Premium for Downstairs Apt.

A New York federal judge has refused to dismiss residents' claims that an accommodation which required residents to pay extra rent violated the Fair Housing Act.

The case involved housing for older persons. All residents had at least one member of the household who was 55 or older. The buildings were usually three-story with elevators. The parking was on a first-come / first-serve basis. Many residents had to park a long distance from the elevators which caused problems for those with mobility disabilities.

Several residents requested a first-floor unit as an accommodation for their disabilities. The landlord provided those accommodations, but required the residents to pay a rent premium of \$25 a month extra for any first floor units or units close to the elevators. The residents filed a lawsuit with the assistance of several local fair housing advocacy groups alleging the additional rent violated the Act.

The landlord asked the judge to dismiss the allegations that the \$25 premium violated the Fair Housing Act. The landlord argued that waiving the fee would be an economic accommodation which was not required under the Act. The judge disagreed and refused to dismiss the claims. The residents' accommodation request was that they be able to transfer and pay the same price. This was an accommodation directly related to their disability and thus, was actionable under the Act.

Spouse May Be Live-In Aide

An Oregon federal judge has held that a wife may be her husband's live-in aide and thus, her income cannot be considered when calculating the household income and rent.

Under the Section 8 low income housing assistance program through the U.S. Department of Housing and Urban Development, residents qualify based on income. Since the income of a household may go up and down, the family's qualification and rent calculation must be evaluated annually.

In this case, the landlord participated in a Section 8 project based assistance program. One resident qualified with his income but married while living in the unit. His wife was in the Philippines and she did not intend to live in the U.S. That changed when the resident had a cardiac arrest. The resident's wife quit her job in the Philippines and moved in with her husband to care for him. She was making approximate \$25,000 a year as her husband's live-in aide. If her income was counted, the resident's rent would triple.



Live-In Aide: Continued on Page Seven

EVICTION NOTICE



Fair Housing Webinar

Fair Housing Pitfalls When Terminating the Lease Agreement

Wednesday, April 13, 2022
10:00 a.m. - 11:00 a.m. Central

All good things must come to an end and so must a lease. How and why you terminate a resident's lease may land you in trouble with HUD. Terminating a lease may violate fair housing laws. In this webinar, we will discuss a variety of reasons landlords terminate leases and what fair housing consequences you should consider. Our discussion will include:

- Non- Renewals
- Violence on Property
- Housekeeping
- Complaints from Neighbors
- Retaliation

\$24.99
[Register Now](#)

Annual Three-Part Webinar Series



Part One **March 9, 2022** **Fair Housing Fundamentals**

[Register for Part One Only](#)

Knowing the basic 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 basics of fair housing laws and the process by which residents may make complaints. Our discussion will include: What Law Applies to Your Property; The Protected Classes; Two Types of Discrimination; Two Types of Harassment; The Complaint Process; and Retaliation.



Part Two **March 16, 2022** **Common Fair Housing Issues**

[Register for Part Two Only](#)

Certain issues in fair housing arise time and again. It is important for managers and staff to know the answers before they make common mistakes. In this webinar, we will discuss the current status of the law on common fair housing issues. Our discussion will include common issues for the protected classes of: Familial Status; Sex / Gender; Race / National Origin; and Religion.



Part Three **March 23, 2022** **Making Reasonable Accommodations and Modifications**

[Register for Part Three Only](#)

Residents who are disabled file more fair housing complaints than all other protected classes combined. Why? Maybe because the accommodation process is easy to mess up. In this webinar, we will talk about a landlord's requirement to reasonably accommodate as well as some of the most common accommodation requests. Our discussion will include: Knowing the Difference between an Accommodation and Modification; Paying for the Accommodation/Modification; Getting the Paperwork Right; and Common Accommodations.



[Register for All Three Webinars](#)
\$69.99

Live-In Aide: Continued from Page Five

The landlord did not believe the wife was a qualified and denied the accommodation of the resident's wife acting as his live-in aide. A lawsuit followed.

The landlord asked the judge to dismiss the lawsuit, arguing the wife was not a qualified live-in aide. In order to qualify, she would need to: (1) be essential to the care and well-being of her husband; (2) not obligated to support her husband; and (3) not be living in the unit expect to provide necessary supportive care. In this case, the wife and husband were engaging in activities outside of his care. As such, her income should be counted.

The judge disagreed. A spouse may be a live-in aide and the spouse's income may not be counted for Section 8 purposes. In this case, because the landlord never raised the rent and did not evict the resident, there was no fair housing law violations.

Did You Know?

A former drug addict is considered to be disabled under fair housing laws.

Judge Rules Management Co. Not Liable for Tenant-on-Tenant Harassment

A North Carolina judge has ruled a management company is not liable for one tenant of a duplex harassing another tenant. The reason – one tenant was not renting through the management company.

Under fair housing laws, landlords may be held liable if one tenant harasses another tenant, unless the management company takes action to stop the harassment, once they know about the behavior. Landlords may also be liable if a third party is harassing a resident based on a protected class and they have knowledge, but do not take action.

In this case, only one tenant rented through the management company. The property was a duplex. The owner rented half of the duplex to her nephew. The other half she assigned to a management company for rental. When the nephew started harassing the other residents based on race, the residents complained to the management company. However, the management company could not evict the nephew or even reprimand him in any way.

The management company residents moved and filed a fair housing lawsuit against the management company and the owner. The management company asked the judge to dismiss it from the lawsuit. The judge agreed. In this case, the management company had no control over the nephew. They could not stop the nephew's behavior.

What was not answered in this case was whether or not the residents argued that they management company still had liability because the nephew's behavior could have been considered third-party harassment.

