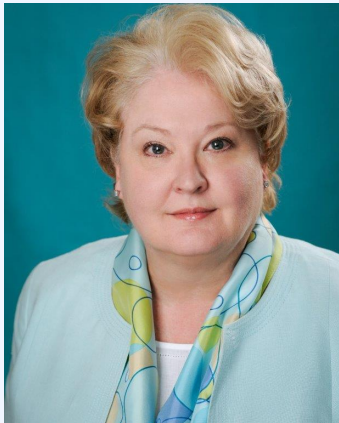




Fair Housing Newsletter

Keeping you current on fair housing news and issues



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Missouri Landlord in Hot Water over Pet Deposit for Assistance Animal

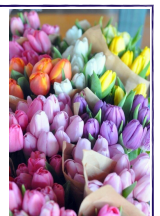
The U.S. Department of Housing and Urban Development has charged the owner of apartments in Hamilton, Missouri, and their property manager, with violating the Fair Housing Act by refusing to grant a disabled applicant a reasonable accommodation. The accommodation: waiving the required pet deposit for the applicant's assistance animal.

The problem began when the applicant was filling out a rental application. When the applicant came to the part of the application that asked about pets, the applicant told the manager that she had an assistance animal. The manager told the applicant that the property would require an additional \$400 deposit for the animal. The applicant told the manager she could not require a deposit for an assistance animal and volunteered to provide a letter from her physician recommending the assistance animal. The manager continued to insist there would be a \$400 pet deposit.

The manager and applicant spoke again about the issue later that same day. This time the manager told the applicant that assistance animal rules only apply to blind and deaf people or people with another disability. The applicant responded that the manager did not know whether or not she had a disability to which the manager replied that the applicant did not look like she had a disability.

Deposit: Continued on Page 2

Note From the Editor: Get a jump on your 2021 To-Do List. Register your properties for this month's Fair Housing Three-Part Webinar Series. Just one registration for each property and everyone can get three hours of training. Click on the button at the bottom of page four to register for all three webinars.



Deposit: Continued from Page 1

A fair housing complaint was filed with HUD. After an investigation, HUD determined a violation of the Fair Housing Act had occurred and issued the charge. HUD's charge will now be heard by a United States Administrative Law Judge unless a party elects for the case to be heard in federal court.

Lesson Learned: Regardless of whether the animal is an assistance animal, service animal, or emotional support animal, a landlord cannot charge additional fees. A landlord may, however, collect for any damages caused by the animal.

Indiana Man Pleads Guilty to Hate Crime and Fair Housing Violation

The U.S. Department of Justice has announced that Shepherd Hoehn, of Indiana pleaded guilty in federal court to making threats to intimidate and interfere with his Black neighbor, who is Black, because of the neighbor's race and because the neighbor was exercising his right to fair housing. Hoehn has also pleaded guilty to unlawfully possessing firearms.

According to the DOJ's press release, Hoehn became upset after his neighbor started removing a tree. The tree was on the neighbor's property - not Hoehn's property. However, Hoehn became angry about the tree removal and threaten, intimidate and interfere with his neighbor and the construction workers who were removing the tree. More specifically, Hoehn:

- Placed and burned a cross above the fence line facing his neighbor's property;
- Created and displayed a swastika on the outer side of his fence, facing his neighbor's property;
- Created and displayed a large sign containing a variety of anti-Black racial slurs next to the swastika;
- Visibly displayed a machete near the sign with the racial slurs;
- Loudly played the song "Dixie" on repeat; and
- Threw eggs at his neighbor's house.



Hoehn's sentencing date has not yet been set. Hoehn faces a maximum sentence of 10 years in prison and a fine of up to \$250,000 for each of the charged offenses.

Did You Know?
April is Fair Housing Month



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar

Death of a Resident

Wednesday, April 28, 2021
10:00 a.m. - 11:30 a.m. central

It is inevitable – residents pass away and landlords are left with the daunting task of navigating the triangle of problems: protecting the former resident’s personal property, addressing the immediate needs of heirs and children and getting the property ready to rent again. It is never an easy situation for any of the parties involved. In this webinar, we will discuss the common issues that arise for landlords when a resident passes away including best practices for addressing certain issues before they arise and legally protecting the landlord from liability afterwards. Our discussion will include:

- Power of Attorney
- Next of Kin
- Personal Property
- Minor Children
- Opening an Estate

\$34.99
[Register Now](#)



Nathan Lybarger
Law Office of Hall &
Associates

Speakers



Angelita Fisher
Law Office of Angelita E.
Fisher

2021 Fair Housing Three-Part Webinar Series



Fair Housing Fundamentals

March 10, 2021

[Register for Fair Housing Fundamental Webinar Only](#)
[\\$24.99](#)



Common Fair Housing Issues

March 17, 2021

[Register for Common Fair Housing Issues Webinar Only](#)
[\\$24.99](#)



What is Reasonable? Understanding Accommodations and Modifications

March 24, 2021

[Register for Accommodation / Modification Webinar Only](#)
[\\$24.99](#)

Register for All Three Webinars

[REGISTER FOR ALL THREE WEBINARS: \\$64.99](#)

HUD Will Now Enforce the Fair Housing Act to Prohibit Discrimination Based on Sexual Orientation and Gender Identity

On February 11, 2021, the Acting Assistant Secretary for Fair Housing & Equal Opportunity issued a memorandum stating the U.S. Department of Housing and Urban Development will now interpret the Fair Housing Act to bar discrimination based on sexual orientation and gender identity. This memorandum begins implementation of the policy set out in President Biden's January, 2021, Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation.

The memorandum relies on HUD's and the Executive Branch's legal conclusion that the Fair Housing Act's sex discrimination provisions are comparable in text and purpose to those of Title VII of the Civil Rights Act, which bars sex discrimination in the workplace. Last year in a case titled *Bostock v Clayton County*, the U.S. Supreme Court held that workplace prohibitions under Title VII based on sex discrimination include discrimination because of sexual orientation and gender identity. Therefore, according to HUD, if Title VII's interpretation includes sexual orientation and gender identity, the Fair Housing Act's Title VIII similar language should also include protections for sexual orientation and gender identity.

This is not the first time HUD has taken action to include these protections. Over the past 10 years, HUD has taken several actions to address housing discrimination on the basis of sexual orientation and gender identity. In 2012, HUD published a series of rules to ensure that every person has equal access to HUD programs without being arbitrarily excluded, regardless of their sexual orientation, gender identity, or marital status. Additionally, in the 2016 harassment rule, HUD stated the Fair Housing Act's protection from discrimination because of sex included discrimination because of gender identity.

The February memorandum directs HUD's Office of Fair Housing and Equal Opportunity and HUD-funded fair housing partners to enforce the Fair Housing Act to prohibit discrimination on the basis of gender identity or sexual orientation. More specifically, the memorandum directs the following:

- HUD will accept and investigate all jurisdictional complaints of sex discrimination, including discrimination because of gender identity or sexual orientation, and enforce the Fair Housing Act where it finds such discrimination occurred.
- HUD will conduct all activities involving the application, interpretation, and enforcement of the Fair Housing Act's prohibition on sex discrimination consistent with its conclusion that sex discrimination includes discrimination because of sexual orientation and gender identity.
- State and local jurisdictions funded by HUD's Fair Housing Assistance Program that enforce the Fair Housing Act through their HUD-certified substantially equivalent laws will be required to administer those laws to prohibit discrimination because of gender identity and sexual orientation.
- Organizations and agencies that receive grants through the Department's Fair Housing Initiative Program must carry out their funded activities to also prevent and combat discrimination because of sexual orientation and gender identity.

HUD's regional offices, Fair Housing Assistance Program and Fair Housing Initiative Program grantees have been instructed to review, within 30 days, all records of allegations of discrimination (inquiries, complaints, phone logs, etc.) received since January 20, 2020, and notify anyone who alleged discrimination because of gender identity or sexual orientation that their claims may be timely and jurisdictional for filing under this memorandum.

Student Housing Not Available to Children

The Fair Housing Act prohibits discrimination against families with children. There is an exception for housing for older persons, but many conditions must be met before the exception may be applied. So what about student housing? For a long time, management companies have rented rooms and apartments to students while prohibiting those students from having a child living in the home or apartment. For many student housing landlords, those times are over. Such is the case for a Rhode Island property owner and manager of student housing.



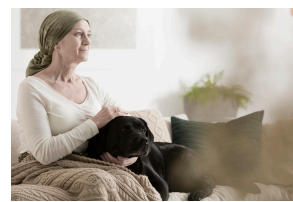
The case started with a Facebook advertisement for remodeled student apartments. A fair housing non-profit group saw the advertisement and decided to send testers to see if the landlord would allow children. Each time a tester asked about renting an available room in a three-bedroom unit, the tester was told the unit was available and could be rented. However, when the tester mentioned he/she had a child, they were told the property would not rent to children.

Testers Find Evidence Pennsylvania Landlord Denied Emotional Support Animals

“Do you accept emotional support animals?” is a question commonly asked by fair housing testers. For one Pennsylvania landlord, the answer to the question, landed him in trouble with HUD.

The term “testing” refers to the use of individuals who, without any real intent to rent an apartment, pose as prospective renters for the purpose of gathering information. This information may show whether a housing provider is or is not complying with fair housing laws. It also may be used to file fair housing complaints and lawsuits.

In this case, the Southwestern Pennsylvania Legal Services, a HUD Fair Housing Initiatives Program agency began conducting testing in the Harmony, Cranberry Township, and Zelienople, Pennsylvania areas. As part of the testing,



staff at apartment complexes were asked about allowing disabled residents to have emotional support animals. The answers were not good.

At least six testers contacted multiple properties belonging to one management company. Each time the testers were told there was a “no-pet” policy. When the testers inquired about emotional support animals, they were told the property only made an exception to its policy for trained service animals. When the testers offered to provide paperwork from a healthcare provider, the response was still that the animal must be a trained service animal in order to obtain an exception to the policy.



The testing information was used to file a complaint of discrimination with the U.S. Department of Housing and Urban Development. After conducting an investigation, HUD has now filed a complaint which will be heard by an administrative law judge unless either party decides to take the case to federal court.