



# Fair Housing Newsletter

*Keeping you current on fair housing news and issues*



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## New TN Domestic Violence Law

Effective July 1, 2021, a new Tennessee law impacting landlords will take effect. The new law will require landlords to allow victims of domestic violence out of their lease without penalty. The law will apply across Tennessee – regardless of where the property is located.

Under the new law, a tenant who is a victim of domestic abuse, sexual assault, or stalking, may terminate a residential rental or lease agreement. It also applies if a household member of the tenant's family is a victim. The lease may be terminated by the tenant without penalty or liability for termination fees.

The tenant will be required to provide the landlord with written notice that the tenant or household member is a domestic abuse victim, sexual assault victim, or stalking victim. It does not matter if the victim is an adult or child. The tenant will also be required to provide a copy of a valid order of protection or documentation evidencing a criminal charge of domestic abuse, sexual assault, or stalking based on a police report reflecting the tenant or household member is a victim. The documentation must be dated no more than 60 days prior to the tenant's notice.



*New Law: Continued on Page 2*

**Note From the Editor:** Summer officially begins this month. Time for vacations and family. It is also time to start thinking about getting employees updated on the latest fair housing changes. Sign up all your employees to receive the free monthly fair housing newsletter to keep them updated with the latest news.



*New Law: Continued from Page 1*

The landlord and tenant will then agree on a release date within the 30 days following the notice. The tenant will still be responsible for a full month of rent for the month he/she terminates the lease. Importantly, the landlord also must keep the information surrounding the notice and move confidential. The law also prohibits landlords from terminating a lease solely because a tenant or household member is a victim of domestic abuse, sexual assault, or stalking.

Keep in mind, if your property is subject to the Violence Against Women Act, you are already required to provide domestic violence victims the ability to terminate their leases – without requiring court documents or criminal charges. The victim can simply complete the certification form. Because VAWA is federal law, it will need to be applied before any state laws. If you have questions, contact your attorney.

## **Kansas HOA in Trouble Over Denied Modification**

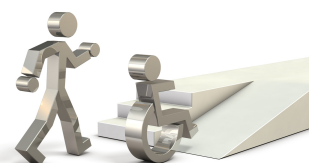
The U.S. Department of Housing and Urban Development is charging a homeowner association in Kansas and its Board President with violating the Fair Housing Act for allegedly refusing to allow a resident with a mobility impairment to expand her own sidewalk at her own expense, and then retaliating against her after she made the modification.

The homeowner was a member of the HOA Board and used a walker for mobility purposes. While a member of the Board, she made a request to build a ramp leading to her front door and fill in the elongated space in her driveway with cement. She also requested she be allowed to expand the driveway and expand her sidewalk. Requests for the ramp and filling in the driveway space were approved, but her requests for a driveway and sidewalk expansion were denied.

Regardless, the homeowner went ahead and expanded the sidewalk while the ramp was being built. As a result, the Board had a contractor remove the expansion, charged the homeowner \$600 for the removal and kicked her off the Board.

The homeowner filed a fair housing complaint with HUD. HUD investigated and found there was evidence that the HOA Board violated the Fair Housing Act by refusing the modification and kicking the homeowner off the Board. In addition, HUD noted that the homeowner was required to use the same process for a modification as homeowners used for changes to the aesthetics of their homes. Requiring the same process, could also violate fair housing laws.

The case will now be heard by a United States Administrative Law Judge unless any party elects for the case to be heard in federal court.





# HOUSING CROSSROADS

WHERE FAIR HOUSING AND  
LANDLORD TENANT LAWS INTERSECT

## Housing Crossroads Webinar

### VIOLENCE AND CRIME ON THE PROPERTY

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

Violence and criminal activity on the property is a serious concern. For liability, for livability, for the sake of your other residents and your staff, these are issues that should be addressed as quickly as possible. But they must be addressed appropriately. As guidance continues to encourage Landlords to provide applicants and tenants a “second chance” and housing advocates strive to prevent eviction, there are more barriers than ever to denying an application or evicting a tenant who may pose a threat to the property.

Crime on or near the property is one of the most serious issues any landlord will face. Landlords are being pressured from tenants and cities to eliminate crime, while encountering roadblocks from courts and fair housing advocates. In light of HUD’s Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions, what can you do?

In this webinar, we will discuss the issues faced by landlords in their effort to eliminate violence and criminal activity on the property. We will discuss:

- \* Current Status on the Use of Criminal Records and HUD’s Guidance
- \* Criminal Activity that May be the Basis for Eviction
- \* How to Prove an Eviction Case Based on Criminal Activity
- \* Criminal Activity by Visitors or Unauthorized Occupants
- \* Crime Free Neighborhood Initiatives

**\$34.99**  
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Nathan Lybarger  
Law Office of Hall &  
Associates

### Speakers



Angelita Fisher  
Law Office of Angelita E.  
Fisher

## Strict Application of “No Pet” Policy Violates Fair Housing Act

Every landlord should remember: emotional support animals are not pets. Even after all the guidance and publications on the subject, some landlords are still confusing an ESA with a pet and enforcing their pet policies. A pet policy does not apply to ESAs.

This was a problem recently for an Indiana landlord who insisted on enforcing his “No Pet” policy when an applicant had an ESA. The applicant, a student, was disabled. She had PTSD and depression. The applicant used the assistance animal, a cat, to ameliorate her symptoms instead of using medication which caused her side effects. When she applied for an apartment, she submitted a letter from her doctor stating she was disabled and needed the cat for support.



When she inquired about her application, she was told numerous times that her application was denied because she had the cat. The apartment complex staff consistently stated it had a “No Pet” policy. When the applicant and her father continued to call in an attempt to convince the landlord the cat was not a pet, the landlord blocked the calls. So, the applicant went to the U.S. Department of Housing and Urban Development for help.

HUD has investigated the applicant’s case and has determined the landlord violated the Fair Housing Act by enforcing his “No Pet” policy and denying the applicant and her ESA cat. Now, the case will be heard by an Administrative Law Judge unless either party decides to send the case to federal court. Either way, the landlord is sure to end up paying a high cost for enforcing his policy.

## Landlord Pays for Failure to Provide Translation Services and Firing Employee

Under the Fair Housing Act, employees who assist or advocate on behalf of residents in fair housing violations, are protected from retaliation. In other words, if an employee assists a resident with filing a fair housing complaint against the landlord, the landlord may not terminate the employee for his/her actions. If the landlord does terminate the employee, he/she may be entitled to damages. This was the case in a recent California complaint before the U.S. Department of Housing and Urban Development.



In the California case, the landlord allegedly failed to provide language access services to Vietnamese residents. One employee began advocating for the residents with limited English proficiency. She wanted oral interpretation services and translation of vital documents. In response, the landlord fired the employee. The employee filed a fair housing complaint with HUD.

The landlord has made the decision to settle the complaint. Among other things, the landlord agreed to pay \$10,000 to the former employee who filed the complaint. The landlord also agreed to provide \$20,075 in compensation to residents of the property, with each household receiving \$275 as either a check or as a rent credit. In addition, a notification letter was sent to each household in their primary language notifying them of the agreement, including that the landlord will provide applicants with limited English proficiency with free oral interpretation services and translate documents when

## Failure to Transfer Case Costs Landlord over \$15,000

A Las Vegas mother and daughter have agreed to settle their Fair Housing Act claim after their landlord failed to transfer them to a new unit. Mother and daughter had requested the transfer as an accommodation because their old unit had mold and bulging carpeting which made it difficult for the daughter to use her walker.

Under the agreement, the landlord has agreed to pay the mother and daughter \$5,984 which includes \$984 for storage fees. In addition, the landlord has agreed to forgive \$8,812 in past rent, \$310 in water damage repair costs; and \$364 in late fees. The landlord will also provide Fair Housing training for staff. The U.S. Department of Housing and Urban Development has approved the settlement.



## Did You Know?

*Landlords must accommodate visitors with emotional support animals.*



### Fair Housing Webinar

## Disparate Impact Update

Wednesday, June 16, 2021  
10:00 a.m. - 11:00 a.m. Central

**\$24.99**

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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