



Fair Housing Newsletter

Keeping you current on fair housing news and issues



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Federal Judge Orders HUD to Implement Rule

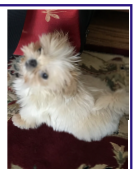
A federal judge has ordered the U.S. Department of Housing and Urban Development (HUD) to implement a rule that will give low-income families more options to live in affluent neighborhoods.

The 2016 Obama-era rule will change how rent voucher subsidies are calculated. The Rule will require subsidy amount calculations to consider rental prices in a specific neighborhood instead of averaging the cost across a metropolitan area. This will allow low-income individuals to rent in more affluent neighborhoods with better schools and lower crime.

Secretary Ben Carson recently delayed implementation of the rule by almost two years so the Trump administration could more closely examine the rule. A coalition of civil rights groups sued and the federal judge ordered the Rule be implemented January 1, 2018. The U.S. District Court for the District of Columbia ruled on Dec. 23, 2017, that HUD's decision to delay implementing the Rule was "arbitrary and capricious" and a delay would irreparably harm the plaintiffs: a mother of five and a mother trying to move her family to a safer suburban community.

Housing agencies in 23 metro areas will now be required to adopt "small area fair market rents," which tie voucher subsidies to specific zip codes. It will, in essence, redistribute the value of Section 8 rental vouchers, providing higher government subsidies for apartments in more expensive communities and lower subsidies for units in poor neighborhoods.

Note from the Editor: Happy New Year! Get those work projects started early this year. If fair housing training is on your list, be sure to check out my upcoming three-part fair housing webinar series. It covers all aspects of fair housing along with updates on current issues.



In the News

Facebook Has Temporarily Disabled Ethnicity Group Option for Advertisers

The social media website Facebook has taken a step to cut down on housing discrimination. It has temporarily disabled the option that allows advertisers to exclude certain racial groups from their target audience. The move comes after a non-profit group purchased discriminatory housing ads while posing as an advertiser. How does this violate fair housing laws? Any advertiser could send an apartment complex ad to only Whites thereby discouraging Blacks and Latinos from applying. Based on previous revisions by Facebook, this type of ad should have been rejected by Facebook and never published. Now the question will be: Will Facebook permanently disable the option to exclude racial groups from ads?

Did You Know?

Any property rule intended to protect children on the property may actually be discriminating against families with children? Check your rules today!



NY Fair Housing Case Settles

After years of legal disputes, New York City has agreed to settle a fair housing case impacting Brooklyn. The original lawsuit alleged a development plan for city-owned land in a triangular area at the border of Williamsburg, Bedford-Stuyvesant and Bushwick, was discriminatory.

The original plan for the largely vacant area called for buildings that were around six or seven stories high and included large apartments, two elements seen by opponents as tailored to the Hasidic



residents, who typically have larger families and for religious reasons cannot operate elevators on the Sabbath. The plan was allegedly unfair to the majority of applicants for public housing, who need one and two-bedroom apartments and are Black and Hispanic.

The settlement will result in the creation of around 375 units of affordable housing for some of the poorest New Yorkers. It gives preference to residents from a broader and more diverse area than originally proposed, and will include investment in counseling and legal representation for local residents who believe they were discriminated against while seeking housing. The city also agreed to give preference to current and some past residents as well as create a wider distribution of apartments, from studios to two-bedrooms and larger. The agreement also expanded the number of sites that are part of the plan, allowing the number of potential new apartments to increase from what had been about 180. The city agreed also to choose new developers through an open bidding process.



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar Residents Behaving Badly

January 31, 2018
10:00 a.m. - 11:30 a.m. Central

Somehow every property has one or two residents that are always walking-the-line of eviction. These few residents consume most of the manager's time with investigations, inspections, and sending out notices. Everything they do seems to be either a violation of the lease or cause a problem with a neighbor.

In this webinar, we will discuss some common problems when residents behave badly and give landlords some guidance on how to address the problems. Our discussion will include:

- Refusal to Allow Access to the Apartment
- Unauthorized Occupants
- Unauthorized Pets
- Damage to the Property
- Bad Housekeeping
- Noise Issues
- Smoking Pot in the Apartment
- and much, much, more

\$34.99
Register
Now



M. Wesley Hall, III
Hall & Associates



Nathan Lybarger
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Broward County Adds Protected Classes

The federal Fair Housing Act protects applicants, residents and employees from discrimination in the sale, rental, and financing of housing based on seven protected classes: race, national origin, color, disability, sex, religion and familial status. States and municipalities are free to pass legislation and/or ordinances to protect others.

Broward County, Florida recently voted to add several new classes. They have passed a law that will prohibit housing discrimination based on military service, source of income and domestic violence victims. The state of Florida already includes protections based on a person's HIV status and Broward County had already passed laws to protect individuals from discrimination based on marital status, political affiliation, sexual orientation, pregnancy and gender identity or expression.

Bottom line: If you are doing business in a city or state you are not familiar with – be sure you know the locally protected classes.



Fair Housing Webinar Step-by-Step Accommodation Process

\$24.99

**Wednesday, January 17, 2018
10:00 a.m. - 11:00 a.m. Central**

Accommodations requests are varied. One resident might need a new toilet while another needs a first-floor unit. While the requests may vary, landlords should be following the same basic steps to handle the request.

In this webinar, we will discuss a step-by-step process landlords can use to handle reasonable accommodation request. Our discussion will include:

- Recognizing a Request
- Asking for the Right Documentation
- Engaging in the Interactive Process
- Choosing the Right Accommodation

[Register
Now](#)

Tennessee Fair Housing Report FY 2016-2017

The Tennessee Human Rights Commission (THRC) has published its FY 2016-2017 Annual Report. This Annual Report examines Tennessee housing discrimination claims accepted from July 1, 2016 through June 30, 2017.

In the FY 2016-2017, the THRC handled 520 housing discrimination inquiries and accepted 107 housing complaints. During the year, the THRC found 6 complaints where there was cause to believe discrimination occurred and resolved 46 complaints through the conciliation process. Of the 46 conciliated complaints, the Complainants were awarded \$63,322 in monetary benefits. The conciliation agreements also resulted in non-monetary benefits to the Complainants including: accommodations; modifications; removal of eviction records; fair housing training; policy revisions; third-party monitoring; and housing opportunities.

An overwhelming 53% of the housing complaints in the FY 2016-2017, were based on disability. Coming in second were race claims at 28%. The remaining claims were: 9% based on familial status; 7% based on gender; 2% based on religion; and 1% based on national origin. Keep in mind, these numbers do not include the complaints filed exclusively with the U.S. Department of Housing and Urban Development (HUD).

Although the goal is to complete the investigation of at least 50% of the fair housing complaints within 100 days, the THRC closed only 34% of the cases within 100 days or less. It appears much of the problem has involved staffing issues. The THRC had multiple vacant positions in the FY 2017-2018 should be completed quicker with the recent hiring of new investigators.



complete the investigation of housing complaints within 34% of the cases within 100 days or less. The problem has involved multiple vacant positions in the FY 2017-2018 should be completed quicker with the recent hiring of new investigators.

The THRC highlighted two housing discrimination cases in the Annual Report – both based on disability. In the first case, the landlord failed to respond to a resident after the resident requested an accommodation. The failure resulted in the landlord paying \$750 to the THRC for Education and Outreach and training for the landlord's staff. The second case involved a landlord's refusal to allow two emotional support animals which served different purposes. One was a dog, the other a snake. The denial resulted in the THRC receiving \$2,000 for Education and Outreach and fair housing training for the landlord. The resident gets to keep her apartment and her snake.

The report serves as a guide when conducting training for staff. Be sure disability accommodations are a high-priority topic. It also gives landlords some idea as to the monetary cost of a fair housing complaint – which in the business world is sometimes less than the cost of lost work time for staff involved with the complaint. In sum, the lesson best learned is that it is better to focus on ways to avoid future claims rather than ways to defend them after the fact.

Bay Area Landlord Settles Disability Discrimination Complaints

The U.S. Department of Housing and Urban Development has entered into a conciliation agreement with a California landlord and manager to settle two fair housing complaints. The complaints allege the manager and landlord denied accommodations to a disabled resident.

The case began when a mobility impaired resident filed complaints alleging she was denied a live-in caregiver and a key to a locked gate near her unit that would make it easier for her to come and go. In both cases, the landlord asked intrusive questions about her disability, challenged whether she was disabled and told her the development was for individuals who could live independently. They eventually denied both her requests.

As part of the settlement, the landlord agreed to pay the resident \$4,000 and pay the non-profit who helped the resident \$7,000. The agreement requires the owner to keep the gate near the resident's unit unlocked or provide her with a key. The landlord will also allow the resident to have a live-in caregiver. Finally, the owner and manager will take fair housing training.

Fair Housing 2018 Three-Part Webinar Series

Fair Housing Fundamentals

Wednesday, March 7, 2018

10:00 a.m. - 11:00 a.m. Central Time

[Register Now](#)
\$24.99

Common Fair Housing Problems

Wednesday, March 14, 2018

10:00 a.m. - 11:00 a.m. Central Time

[Register Now](#)
\$24.99

Making an Accommodation

Wednesday, March 21, 2018

10:00 a.m. - 11:00 a.m. Central Time

[Register Now](#)
\$24.99

All Three Webinars in Series

March 7, 2018 - Fair Housing Fundamentals

March 14, 2018 - Common Fair Housing Problems

March 21, 2018 - Making an Accommodation

[Register Now](#)
\$64.99

Memphis Based Landlord Sued Over Use of Criminal Records

Memphis based Mid-America Apartments was sued in December for allegedly refusing to accept applicants with a criminal record.

The complaint was filed in the U.S. District Court for the District of Columbia, by a non-profit group. It alleges Mid-America has a policy of categorically forbidding anyone from renting an apartment who has a “felony conviction or pending felony charge as well as certain misdemeanors or pending misdemeanor charges.” According to the Complaint, the blanket No-Felony policy violates the Fair Housing Act because it disproportionately impacts African Americans and Latinos. The company allegedly enforces this policy on 55 housing complexes containing over 20,000 units.

The No-Felony policies were the topic of two HUD Guidance on the use of criminal records. According to the HUD Guidance, landlords should consider factors such as the type of crime, the length of time since the conviction and any mitigating circumstances. Additionally, landlords should not consider arrests without a conviction.



DOJ Files Sexual Harassment Lawsuit Against Kansas Landlord

The U.S. Department of Justice has filed a lawsuit alleging female residents at rental properties in Kansas were subjected to sexual harassment and retaliation.

The lawsuit started with two complaints that former residents filed with the U.S. Department of Housing and Urban Development (HUD). The lawsuit alleges that the landlord sexually harassed female residents at the rental properties from 2010 to 2014. According to the complaint, the landlord made unwelcome sexual advances and comments, engaging in unwanted sexual touching, and evicted tenants who refused to engage in sexual conduct with him.



In October, the Justice Department's Civil Rights Division announced the Sex Harassment Initiative (SHI). The initiative specifically seeks to increase the Department's efforts to protect individuals from harassment by landlords, property managers, maintenance workers, security guards, and other employees and representatives of rental property owners.

Based on the press release, the DOJ has filed or settled six sexual harassment cases since January 20, 2017, and has recovered over \$1 million for victims of sexual harassment in housing.