



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 18 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

www.angelitafisherlaw.com

Disability Income Accommodation Case Settled

An owner and manager of an apartment complex in Albany Georgia, has agreed to pay \$34,900 to resolve allegations he discriminated against a tenant with disabilities. The case arose when a long-time resident was charged late fees by a new owner when he paid his rent late. The resident's reason for the late payment? His disability income arrived each month after rent was due.

The resident had no problems for a long time. His disability benefits were paid to him by the government on or after the second Wednesday of every month. He paid his rent when his disability payment was deposited. The management company at his apartment complex did not charge him a late fee because they knew he was disabled and his income was solely derived from disability benefits.

However, a new owner bought the apartment complex. The new owner charged the resident late fees for paying his rent after the due date.

The resident verbally requested an accommodation that he be allowed to pay his rent late because of the timing of his disability benefit payments. The new owner denied the accommodation and the resident filed a complaint with HUD.

HUD investigated and found evidence the new owner had failed to accommodate the resident's disability. Now the new owner will pay \$34,900 to resolve the HUD complaint and participate in fair housing training.



Note From the Editor: The U.S. Transportation Department has changed its ESA rules. ESAs will no longer be allowed on planes. The rule takes effect in 30 days. If you have an ESA question, give me a call.



DOJ Sues Mississippi Apartment Owners and Agent

The U.S. Department of Justice has filed a federal lawsuit against the owners of three Mississippi apartment complexes and their agent for allegedly violating of the Fair Housing Act. The lawsuit alleges the apartment complexes discriminated against African Americans based on their race.

The lawsuit was filed after a series of tests were conducted by the Louisiana Fair Housing Action Center. The LFHAC filed a complaint with the U.S. Department of Housing and Urban Development which, after an investigation, found evidence of discrimination. The tests had allegedly revealed that African Americans who inquired about available apartments were treated differently and less favorably than similarly-situated white persons.

According to the lawsuit, the owners and/or agent encouraged white testers to rent an apartment but discouraged African-American testers from renting. The agent allegedly told one African-American tester that if he rented to her at the complex, the residents would think he had “let the zoo out.” In addition, African-American testers were allegedly told about fewer rental units than white testers, white testers were allowed to view certain apartments while not offering or allowing African-American testers the same opportunity, and African American were subjected to more stringent financial and employment criteria than white testers.

The lawsuit seeks monetary damages to compensate victims, civil penalties against the owners to vindicate the public interest, and a court order barring future discrimination.



Disabled Homeowner Wins \$25,000 Over Carport

A City in South Carolina has decided to settle a lawsuit filed by the U.S. Department of Justice for Fair Housing Act violations. The lawsuit was filed over the construction of a carport on private property.

The homeowner in this case was disabled. After falling and suffering injuries on several occasions outside her home, the homeowner applied to the City for a zoning variance to build a carport to protect her driveway and mobility ramp from inclement weather and prevent future falls. The City refused. The homeowner filed a complaint with the U.S. Department of Housing and Urban Development which investigated the complaint and referred it to the DOJ. The DOJ filed a lawsuit claiming the City violated the Fair Housing Act by refusing the accommodation request.



After several years, the case has been settled. The City has agreed to pay the homeowner \$25,000 and allow the carport to be built. The City has also adopted an ordinance allowing disabled residents to request an accommodation in the rules, policies, practices or services of the City.



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar

Residents Behaving Badly

Wednesday, January 27, 2021
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
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Nathan Lybarger
Law Office of Hall &
Associates

Speakers



Angelita Fisher
Law Office of Angelita E.
Fisher

Testing Reveals Disability Discrimination

The U.S. Department of Housing and Urban Development has charged the owner and manager of apartments in Philadelphia, with disability discrimination. According to the charge, the Housing Equality Center of Pennsylvania conducted testing showing the owner and management company were denying accommodation requests for waivers of pet fees for assistance animals and for designated parking spaces.

The case began when a tenant reached out to HUD alleging she had been denied a reasonable accommodation request to have pet fees waived for an emotional support animal. The tenant had received an email from her landlord's attorney stating "a landlord is entitled to charge pet fees for an emotional support animal which is considered a pet unlike a service animal."



Based on the email, HUD requested the Housing Equality Center of Pennsylvania conduct a series of test at the property. The tests focused on reasonable accommodations relating to designated accessible parking and emotional support animals for prospective tenants with disabilities.

In the first test, the tester told the apartment staff she was looking for an apartment for her niece, who had an emotional support dog. The staff member told the tester there was a \$250 deposit for any dog and a \$25 monthly pet fee. The tester later visited the property and was again told there was a \$250 deposit and \$25 monthly pet fee for emotional support animals.

The tester then called and asked a member of staff if the security deposit and monthly fee could be waived because her niece's dog was prescribed by a medical professional for emotional support. The staff member stated management would not waive the deposit or monthly fee. The staff member further stated that there is a difference between an emotional support dog and a service dog, because a service dog has papers to prove its training. The tester reiterated that the dog was prescribed by a medical professional. The staff member replied that the issue had arisen before and that management was firm on that policy.

Months later, another tester called the property and spoke with another staff member. The tester stated she was helping her nephew find an apartment, and that he had an emotional support dog. The staff member stated there were no restrictions on pets, but emotional support animals would not be exempt from the pet fees - only service animals were exempt. The landlord's Leasing Director also confirmed the landlord had a policy that it would not waive pet deposits and monthly pet fees for tenants with emotional support animals.

In addition to the emotional support animal testing, the property was also visited by testers who asked about designated accessible parking. On one occasion, a member of the staff gave a tour of the



property to a tester who told the staff member that he was seeking an apartment for his brother with a mobility impairment. The tester asked if his brother could have a designated parking space with his unit number on it. The staff member checked with management. Later, the tester emailed and again asked for a designated parking space for his brother. This time, the staff member responded that the property did not offer assigned handicapped spots.

Based on the tests, HUD found there was evidence of discrimination in violation of the Fair Housing Act. HUD's charge will now be heard by a United States Administrative Law Judge or transferred to federal court if either party chooses.

N.C. Man Sentenced to 28 Months for Fair Housing Violations

Violations of the Fair Housing act may carry a criminal penalty. This was the case when a North Carolina man violated the Fair Housing Act by using threats of force against an African American family based on their race.

The man pleaded guilty to one count of criminal interference with the Fair Housing Act. At his guilty plea hearing, the man admitted he drove to the home of an African American family and yelled racial slurs at the family. The man told the family that they did not belong in their home and then threatened to shoot the family, including four minor children, along with any other African American that came onto the property. After making this threat, the man brandished a metal rod in a threatening manner. The family moved out of the neighborhood a few days after this incident.



For his actions, the man was sentenced to 28 months in prison, followed by three years

Fair Housing Webinar

Asked and Answered: Eight Common Fair Housing Questions

Wednesday, December 16, 2020
10:00 a.m. - 11:00 a.m. Central

\$24.99



As an attorney, I receive calls and emails daily asking questions about how to handle a particular situation with a resident or applicant. Many of the questions relate to the same issues over and over again. In this webinar, we will discuss eight of the most common fair housing questions asked by landlords. The questions are:

1. May I still refuse a Section 8 voucher?
2. May I non-renew a problem resident?
3. Can I refuse an applicant with a felony?
4. What can I do about an ESA that threatens to bite another animal?
5. Should I accept a letter for a companion animal if it was purchased from an on-line therapist?
6. Is the two-person per bedroom occupancy standard still enforceable?
7. May we enforce a “no playing in the common area” policy?
8. How long to I need to give a hoarder to clean up the apartment?

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