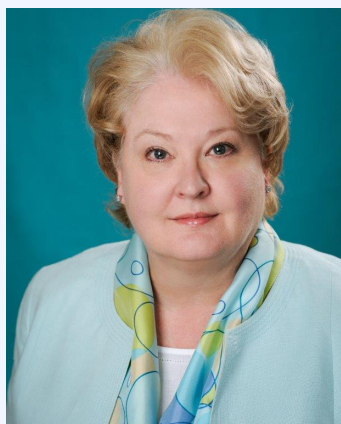




Fair Housing Newsletter

Keeping you current on fair housing news and issues



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DOJ Files Sexual Harassment Lawsuit against Toledo Landlord

The U.S. Department of Justice has filed a lawsuit alleging a Toledo landlord violated the Fair Housing Act by sexually harassing several female residents of rental properties in Toledo, Ohio.

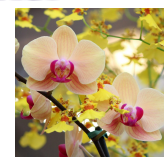
The lawsuit alleges that from 2007 through 2019, the landlord sexually harassed female residents of rental properties that he either owned or co-owned. The allegations include: making unwelcome sexual advances and comments and sending sexual text messages, videos, and photos to female residents; offering to grant benefits — such as reducing security deposits, rent amounts, and waiving late fees — in exchange for sex or sexual acts; refusing to provide maintenance services or taking other adverse housing actions such as eviction against female residents who objected to or refused his sexual advances; entering the homes of female residents without their consent, and expressing a preference for renting to single female residents.



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

According to the press release, this is the 12th lawsuit alleging a pattern or practice of sexual harassment in housing the DOJ has filed since it launched its Sexual Harassment in Housing Initiative in late 2017.

Note From the Editor: Happy New Year! Start the year off right by getting your staff registered for annual fair housing training. We can customize the training to meet your needs. Just give us a call.



DOJ Settles Disability Lawsuit

A Texas apartment developer and engineer have agreed to settle a federal lawsuit alleging they violated the Fair Housing Act and the Americans with Disabilities Act. The lawsuit, filed by the DOJ in February, 2019, alleged the developer and engineer built an eight-building addition and associated rental office in Galveston, Texas, with steps and other features that made them inaccessible to persons with disabilities.

Under the terms of the settlement, the developer and engineer must remove steps, replace steeply-sloped walkways and add accessible parking to make public and common use portions of the property accessible to persons with disabilities. They must also construct a new apartment building with 24 accessible units, as well as a new accessible rental office, and establish a \$75,000 settlement fund for people who suffered harm due to - the lack of accessible features.

When it comes to design, the Fair Housing Act requires all multifamily housing constructed after March 12, 1991, to have basic accessibility features, including accessible routes without steps to all ground-floor units. The Americans with Disabilities Act requires places of public accommodation, such as rental offices at multifamily housing complexes designed and constructed for first occupancy after Jan. 26, 1993, be accessible to persons with disabilities.

Missouri Senior Housing Complex is Under Fire for Restricting Christmas Decorations

A senior housing complex in Independence Missouri, is being investigated by HUD for what has been referred to as a policy banning Christmas lights.



According to the Property's Regional Manager, the problems all started as a dispute between neighbors. One neighbor, who had been putting out a nativity scene in the yard for the past seven years, received a lease violation notice after another neighbor complained about the nativity. As a result of the complaint, management distributed a policy to residents of the federally-funded property on December 20, 2019. The policy stated the residents were allowed to decorate "their front door and porch areas with more overtly religious displays," but "when decorating with yard scenes we must stay neutral within the community so no religion is offended or singled out."

The argument has now escalated into a fair housing complaint being filed with HUD. The complaint alleges the property was restricting residents' religious expression.

In sum, the property is going to spend a lot of time and money testing its decoration policy – regardless of whether or not it violates fair housing laws.



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar **Crime & Eviction: Confronting Criminal Activity On and Off the Property**

Wednesday, January 29, 2020
10:00 am to 11:30 am Central

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 the fight against crime both on and off the property. We will discuss:

- Current Status on the Use of Criminal Records and HUD's Guidance
- Types of Crimes You May Successfully Evict For
- Proof You Will Need
- Criminal Activity by Visitors or Unauthorized Occupants
- Crime Free Neighborhood Initiatives



Nathan Lybarger
Law Office of Hall &
Associates

Speakers



Angelita Fisher
Law Office of Angelita E.
Fisher

HUD's No-Smoking Policy Challenged

An Indiana resident challenged the legality of the U.S. Department of Housing and Urban Development's Rule prohibiting smoking in public house. The challenge failed.

In 2015, HUD proposed the Smoke-Free Rule which it made effective in 2016. The rule requires each public housing authority to implement a policy prohibiting lit tobacco products in all living units, indoor common areas, and in administrative office buildings. The Smoke-Free Rule extends 25 feet outside of housing units and office building.

The resident, a smoker, resided in an Elkhart Housing Authority apartment. When HUD changed their policy on smoking, the resident believed HUD had violated his constitutional rights and his rights under the Americans with Disabilities Act and Fair Housing Act. He sued.

The Indiana federal court dismissed the lawsuit. Smoking is not a disability. Addiction to nicotine is not a disability. As such, the resident's ADA and fair housing allegations were dismissed. The court also dismissed all constitutional claims. HUD's Smoke-Free Rule has this court's stamp of approval.



Fair Housing Webinar Step-by-Step Accommodation Process

Wednesday, February 12, 2020
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
- Documentation Needed to Defend Your Decision

\$24.99
[Register Now](#)

California City and Sheriff’s Department Sued for Fair Housing Violations Related to a Rental Ordinance

The U.S. Department of Justice has filed a lawsuit alleging the City of Hesperia, California, and the San Bernardino County Sheriff’s Department discriminated against African American and Latino renters in violation of the Fair Housing Act. The lawsuit alleges the City, with support from the Sheriff’s Department, enacted a rental ordinance with the intent of addressing a “demographical problem.” This ordinance has resulted in the evictions of African American and Latino renters.

The ordinance required all landlords to evict tenants upon notice by the Sheriff’s Department the tenants had engaged in any alleged criminal activity on or near the property. The complaint further alleges the Sheriff’s Department exercised its discretion in enforcement to target African American and Latino renters and majority-minority areas of Hesperia. Moreover, the Sheriff’s Department notified landlords to begin evictions of entire families including children for conduct involving one tenant or even non-tenants, evictions of victims of domestic violence, and evictions based on mere allegations and without evidence of criminal activity.

The lawsuit further alleges City officials enacted the ordinance to drive African American and Latino renters out of Hesperia. During City Council hearings, City officials and others made numerous statements that demonstrate the City enacted the ordinance to reverse “demographic” changes in Hesperia, including focusing on purported newcomers from predominantly minority Los Angeles County. City officials expressed a desire for the ordinance to drive supposed newcomers “the hell out of our town.”

The complaint also alleges that, in addition to the eviction mandate, the ordinance required all rental property owners to register their properties and pay an annual fee; submit the names of all adult applicants to the Sheriff’s Department for a background screening, and use a commercially available service to conduct a criminal background check of their tenants; and subject their rental properties to annual inspections by police. Failure to comply with the rules subjected owners to fines.

The lawsuit is based on an investigation and charge of discrimination by HUD, which found African American and Latino renters were significantly more likely to be evicted under the ordinance than white renters, and evictions disproportionately occurred in majority-minority parts of Hesperia. According to the complaint, HUD determined African American renters were almost four times as likely as non-Hispanic white renters to be evicted because of the ordinance, and Latino renters were 29 % more likely than non-Hispanic white renters to be evicted. In sum, the ordinance caused a disparate impact on African Americans and Latinos.



Changing Condo's Smoking Policy is Not Reasonable

The U.S. Court of Appeals for the Sixth Circuit has ruled a condominium owner's request for the accommodation of banning smoking is not reasonable. The Sixth Circuit is the federal appeals court over Tennessee, Michigan, Kentucky, and Ohio federal courts.

This case began in a Michigan district court. A condominium owner with asthma filed a lawsuit alleging, among other things, a fair housing violation. She wanted her condo association to ban smoking in her building because she could smell smoke in her unit and it aggravated her asthma. The condo association refused to alter its policy of allowing owners/residents to smoke in their homes.

The Michigan court dismissed the owner's lawsuit holding that changing the smoking policy was a fundamental change and was not reasonable. The owner appealed.

The Sixth Circuit court upheld the lower court's decision. The owner's request was not reasonable. A "reasonable accommodation" means a moderate adjustment to a challenged policy; not a fundamental change in the policy. The owner's request for a no-smoking building was not a moderate change to the policy – it was a fundamental change.



The court used the example of pet policies. If a resident needed a Seeing Eye dog, it would be reasonable to allow an exception to a no-pet policy. However, if the landlord allowed pets and someone wanted all dogs banned on the property because he/she was allergic to dogs, that would be a fundamental change in the policy and unreasonable. The same held true with the Smoking policy.

In addition, the court held that a smoking ban would sacrifice others' rights. Others bought or rented condos with the smoking policy in place. To change the policy would alter the other residents' rights. This again, was not reasonable.

The dismissal was upheld.

Did You Know?

A former resident has two years from the time of the alleged discrimination to file a federal fair housing lawsuit?

Fair Housing Webinar: Three Part Series: March 11, 18 & 25, 2020

[Register for All Three Webinars: \\$64,99](#)

Fair Housing Fundamentals:

Wednesday, March 11, 2020 from 10:00 a.m. -11:00 a.m. central

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, the protected classes, the process by which residents may make complaints and retaliation.

[Register for March 11, 2020 Webinar Only \\$24.99](#)

Common Fair Housing Complaints:

Wednesday, March 18, 2020 from 10:00 a.m. - 11:00 a.m. central

Certain issues in fair housing arise time and again. It is important for managers and staff to know the correct steps to take before the problem arises. In this webinar, we will discuss the current status of the law on common fair housing complaints.

[Register for March 18, 2020 Webinar Only \\$24.99](#)

Understanding Accommodations & Modifications:

Wednesday, March 25, 2020 from 10:00 a.m. - 11:00 a.m. central

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, documentation and some of the most common accommodation requests including animals, hoarders and parking.

[Register for March 25, 2020 Webinar Only \\$24.99](#)
