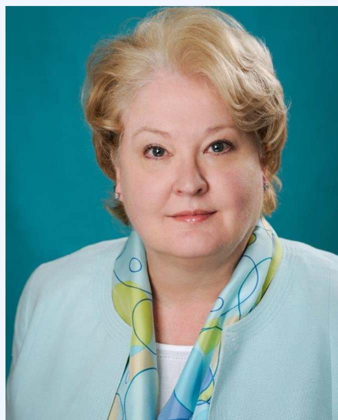
Fair Housing Newsletter

Keeping you current on fair housing news and issues



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Not That Emotional Support Animal

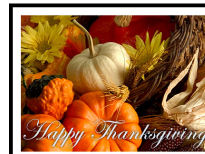
The Vermont Supreme Court has held that while a resident may be entitled to an emotional support animal, they may not be entitled to a specific animal if that animal shows signs of aggression.

In this case, a resident claimed the dog she had in her apartment, despite a no-pet policy, was an emotional support animal. The landlord still denied the dog because it was aggressive. Although the dog never attacked another person or pet, it did display aggressive behavior towards other dogs and people including, lunging, flaring up, rearing on its hind feet, and baring its teeth. Additionally, the dog often went "crazy" when other residents or dogs passed by the apartment. The resident told one neighbor that the dog was trained as a guard dog and asked another neighbor to adjust her dog's walk schedule to avoid the dog. The landlord sent a Notice of Termination of Tenancy and the resident sued alleging fair housing violations.

When the eviction came to trial, the lower court held that the resident was entitled to an emotional support animal. However, she was not entitled to this particular animal. The resident appealed to the Vermont Supreme Court. The Supreme Court agreed with the lower court and the landlord. The dog had exhibited aggressive tendencies and the resident admitted the dog was people and dog aggressive. Additionally, the resident testified she did not know if she could control the dog because of her medical condition.

Emotional Support: Continued on Page 2

Note from the Editor: November is a month to count our blessings. I count each of you as one of my blessings. Thank you for your encouragement, support, and friendship. Happy Thanksgiving!



In the News

One-Person Per Studio Policy Costs Landlord

A Washington landlord who implemented a one-person per studio occupancy standard is now having to pay for a fair housing violation. The Fair Housing Center of Washington sued the Seattle landlord after he allowed only one person in a studio apartment. The claim was that the policy violated fair housing laws by causing a disparate impact on families with children. The court agreed and returned a decision against the landlord.

Now the time to pay-up has come. The court awarded the non-profit $9,267 in actual damages, $18,035 in costs and $100,000 in punitive damages.

DOJ Launches Sexual Harassment Initiative

The U.S. Department of Justice announced it is launching a new initiative to fight sexual harassment in housing. The initiative aims to increase the DOJ's efforts to protect women from harassment by landlords, managers, maintenance, security guards, and others.

The DOJ's Civil Rights Division will launch the program in two areas – Washington, D.C. and Virginia. From there, the DOJ plans to expand their efforts into other areas of the country.

Emotional Support: Continued from Page 1

The court recognized that the resident could obtain another dog as an emotion support animal, but denied the reasonable accommodation for this particular dog because the evidence established that the dog posed a threat to others and that the dog would cause substantial physical damage to the property of others. The resident had not suggested any steps to reduce the dog's aggressive behavior and the court did not have an independent obligation to introduce additional mitigation methods. Plus, since the resident admitted she could not control the dog, any mitigating measures would be limited.

HUD Sued for Fair Housing Violations

The U.S. Department of Housing and Urban Development is on the other side of a fair housing lawsuit. A group of civil rights organizations have sued HUD challenging its decision to suspend a rule that would have assisted low-income families in securing affordable housing.

The Small Area Fair Market rule, enacted by the Obama administration, addressed the high levels of racial and economic segregation in the Housing Choice Voucher program. The rule changed the housing voucher formula for 24 metropolitan areas. In each metro area, the rule would require voucher amounts to be based on the average rent values by zip code. In effect, it raises the allowable rent amount for families and gives them choices to live in more economically prominent areas. Because the voucher users are disproportionately Black and Latino, policies that limit voucher use primarily to low-income neighborhoods, also increase racial segregation and thus, violate fair housing laws.

The rule was set to take effect January 1, 2018. HUD suspended the rule for two years on August 11, 2017, for 23 out of the 24 metropolitan areas. The only area where the rule was not suspended was Dallas. The lawsuit seeks to force HUD to re-instate the rule.

Housing Crossroads

Where Fair Housing and Landlord Tenant Laws Intersect

Housing Crossroads Webinar

Navigating the Bermuda Triangle of Animal Laws:

Fair Housing, Landlord Tenant & Premise Liability Laws

November 29, 2017

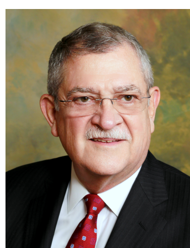
10:00 a.m. - 11:30 a.m. Central

Landlords are expected to apply three different laws to the animals on the property. While pets and companion animals look the same – they are very different when it comes to the laws that apply. It is very confusing when you have both on the property. Knowing which rules you can use and knowing when you can and should say no is important when balancing the three laws.

In this webinar, we will discuss the laws plus give landlords some practical examples of how to handle animals on the property – both pets and companion animals. Our discussion will include:

- Understanding your legal obligations to allow animals;
- Evicting for an aggressive animal;
- Applying the rules;
- Deciding which addendum needs to be signed;
- Asking the right questions;
- And much, much more

$34.99
Register Now



M. Wesley Hall, III
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Nathan Lybarger
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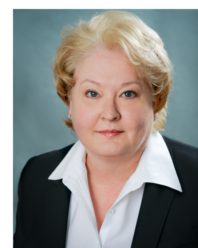


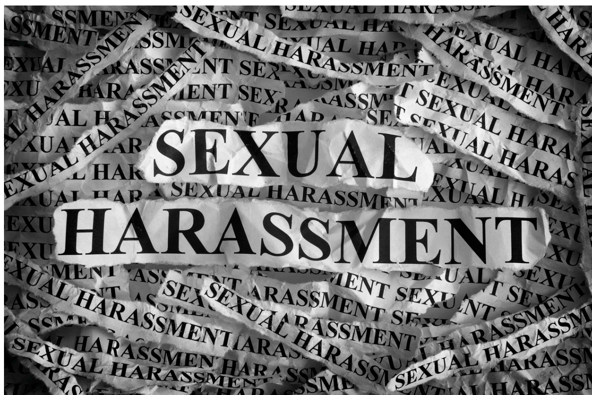
Angelita Fisher
Law Office of AEF

Maryland and HUD Settle Fair Housing Case

The U.S. Department of Housing and Urban Development and the Maryland Department of Housing and Community Development have settled a case which challenged Maryland's Low-Income Housing Tax Credit Program.

The case began in 2011 when the Baltimore Regional Housing Campaign alleged the state maintained a policy requiring local jurisdictions to approve proposed affordable housing projects prior to the consideration or allocation of Low-Income Housing Tax credits. The complaint further alleged that requiring local jurisdictions' pre-approval, prevented the placement of Low-Income Tax Credit units in predominately White areas. This limited housing opportunities for Blacks and Hispanics.

The settlement agreement establishes policies, incentives, and more flexible program rules that will streamline the creation of affordable housing in higher opportunity neighborhoods in the Baltimore region. It will increase the number of affordable housing units in the region by around 1,500. Developers of affordable housing will no longer have to satisfy previously required local scoring or approval criteria before applying for state-allocated tax credits. Additionally, the state of Maryland will pay $225,000 to the Baltimore Regional Housing Campaign, a coalition of housing and civil rights organizations, to increase choice, educational opportunities and social equality for low-income families.



Fair Housing Webinar

Recognizing and Responding to Harassment on the Property

$24.99

Wednesday, November 15, 2017
10:00 a.m. - 11:00 a.m. Central

In September, 2016, the U.S. Department of Housing and Urban Development published a final rule on harassment. In October, 2017, the U.S. Department of Justice launched an initiative to fight sexual harassment in housing. What does this mean for landlords? Time to brush up on harassment because HUD and human rights agencies will be looking closely at these allegations and you could be held personally liable.

In this webinar, we will discuss the HUD guidance and DOJ initiative along with practical steps to take if you receive a harassment complaint. Our discussion will include:

- HUD's Final Rule on Harassment
- DOJ's New Initiative on Sexual Harassment in Housing
- Recognizing Harassment that May Violate Fair Housing Laws
- Investigating the Complaint
- Stopping the Harassment

Register Now

Discriminatory Ads Land Landlord in Trouble

The U.S. Department of Housing and Urban Development has filed a charge against the owners and operators of two apartment complexes in Pennsylvania alleging fair housing violations based on advertisements they placed on-line.

The case began when the Fair Housing Partnership of Greater Pittsburgh, filed a complaint alleging that the owners and managers repeatedly ran ads on Craigslist that discriminated against families with children. One ad for a two-bedroom apartment read: "Not suitable for children/ pets."

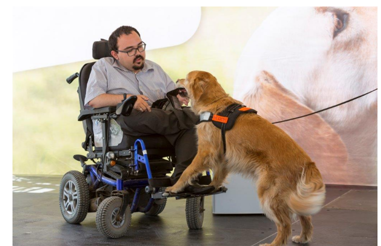
After finding the ads, the Fair Housing Partnership of Greater Pittsburgh conducted testing at the complexes. One tester posing as a married man with a pregnant wife and three-year old child was told by the owner that he would not show the unit because it "wouldn't work out for either of us." A second tester who posed as having no children, was told by the owner that the unit would be available the following week. A third tester posing as a married woman with a child, was told that having children was a problem because the unit was located above the leasing office and the children would make noise. Also, the tester was told it was not suitable because there was no yard.

Now what? The case will be heard by an administrative law judge or a federal judge if either party elects to have the case moved to federal court.

Denying Veteran's Service Animal Results in HUD Charge

The U.S. Department of Housing and Urban Development has filed a charge against a Minnesota landlord for refusing to allow a resident to keep his emotional support dog.

The case began when an Army veteran filed a fair housing complaint alleging that the owner and manager of his apartment complex denied his request to keep an assistance animal. The veteran had already explained his right to have the animal. He had provided a copy of the dog's license, a certificate of training, and additional information about the animal. The landlord still refused because the dog exceeded the landlord's 12-pound weight restriction. Instead, the landlord suggested the veteran get a cat instead.



HUD's charge will be heard by a United States Administrative Law Judge unless any party elects for the case to be heard in federal court. If the administrative law judge finds after a hearing that discrimination has occurred, he may award damages to the complainant for his loss as a result of the discrimination. The judge may also order injunctive relief and other equitable relief, as well as payment of attorney fee and civil penalties in order to vindicate the public interest.

Lack of Verifiable Rental History is a Good Reason for Denial of Applicant

Former landlords are notorious for refusing to or forgetting to respond to landlord verification forms. What are the consequences? It may be that the applicant is not approved for housing. According to the U.S. District Court in the Western District of New York, refusing an applicant because of a former landlord's delay is okay.

The case started when a married Muslim couple applied for an apartment. The application process did not progress quickly and eventually the couple's application was denied because the property had not heard back from some of the previous landlords and one previous landlord had stated that if the couple moved, they would be breaking their current lease. The couple sued claiming the apartment complex had discriminated against them based on their Muslim beliefs.

At trial, the court dismissed the couple's claims of religious discrimination. It appeared that the criteria used by the landlord was unfair to all applicants who had previous landlords who did not respond to requests for information – not just this particular couple. Even though the apartment complex had no "standard procedure" on how to verify landlord history, no uniform requirement of how many letters to send out, when to follow up with a phone call, and when to contact the applicant to let them know that a landlord was unresponsive or unreachable, the process was not discriminatory. Bottom line, it had nothing to do with the applicants' religion. Case dismissed.

Lawsuit Filed Against a New York Landlord Claiming Race Discrimination

The Fair Housing Justice Center, a New York non-profit, has filed a lawsuit alleging a landlord discriminated against blacks and families with children after it conducted testing on the property.

According to the lawsuit, black testers were told there were no apartments available and quoted higher rents while white testers were given information and welcomed inside to see apartments. One white tester was even told about another building the landlord owned and described it as "super, super Jewish." In another instance, a black tester was turned away after she told the landlord she relied on federal assistance to pay her rent.

After further investigation, the testers were told the landlord required families with children younger than seven to get blood tests before moving into an apartment to prove that they did not have problems with lead. The results of the medical tests had to be shared with the landlord. These medical tests were considered to be invasive, unnecessary, and discriminatory.

The landlord has had multiple lawsuits filed against him over the years. In another case, a group of tenants claimed the landlord overcharged them for rent and illegally deregulated units in Manhattan and the Bronx. The company was also sued in 1991 alleging it would not allow Hispanics and Blacks to rent apartments in eight of the company's buildings.