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Fair Housing Newsletter

Keeping you current on fair housing news and issues

LAW OFFICE OF
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Not Reasonable for Walker to Remain in Lobby

The U.S. Court of Appeals for the Third Circuit has affirmed a lower court's dismissal of a resident's fair housing claim that condominium staff would not accommodate her need to leave her walker in the building's lobby.

The resident suffered from pulmonary hypertension (high blood pressure) and other disabilities. She used a rolling walker to get around. She owned a condo in a high-rise building and had reserved a parking space in front of the building. The resident used her walker to get from her condo to the lobby and then used her cane from the lobby to her car. She could not lift or fold her walker to put it in the car. Instead, she left the walker in the lobby of the building.

At one point, a member of the staff took the walker and stored it in a room behind the concierge desk. The next day, the general manager emailed the resident and asked her to give her walker to a front desk staff member when she left the building so it could be stored. She refused stating that storing the walker was unacceptable because she needed it to be available in the lobby upon her return.

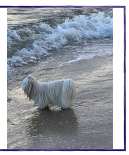
The condo manager made the resident four offers of an accommodation:

(1) The resident could have staff store the walker and then return it to the resident when she returned. She could either phone ahead or sit on a bench to await its retrieval.

(2) The resident could have a staff member deliver the walker to her car before she got out.

Walker: Continued on Page 2

Note From the Editor: Summer is over and the Holidays are just around the corner. It is time to make sure your fair housing to-do list has all the boxes checked off. If you find you still need training, it is not too late. Just give me a call.



Walker: Continued from Page 1.

(3) The resident could have the doorman load the walker into her car and take it out upon her return. or
(4) She could park in the building's indoor valet-parking garage where she could leave her walker near the valet station. The resident refused all four offers.

A year-long battle ensued including a fair housing lawsuit filed by the resident against the condominium association. The federal district court dismissed the lawsuit and the resident appealed. The appeals court affirmed the dismissal. Leaving the walker in the lobby was the resident's preference – but was not necessary. Regardless, the manager had provided the resident with four reasonable alternatives which she refused. The Fair Housing Act guarantees a tenant only a reasonable accommodation that satisfied her needs, not the particular accommodation she wanted. The lawsuit's dismissal was upheld.

Landlord pays $800K in penalties for violations of HUD's Rules on Lead

A New Jersey owner and the managers of a 350-unit federally assisted apartment complex have agreed to settle a claim they violated the Lead Disclosure and Lead Safe Housing regulations. The agreement requires the owner and managers to pay $800,000 in civil penalties for not complying with the HUD regulations.

Why the high settlement amount? HUD alleged it had previously issued notices to the owner and managers informing them that they failed to provide decent, safe, and sanitary housing and failed to comply with the regulations on lead based paint. HUD also alleged that the owners misrepresented their knowledge of lead-based paint and hazards to tenants. In addition, until October 2017, the landlord had failed to conduct required risk assessment re-evaluations of those hazards and annual visual assessments. In sum, HUD claimed that the owners and managers knew that the project contained hazardous physical conditions.

Denial of a Designated Parking Space Costs Landlord Over $20k

The U.S. Department of Housing and Urban Development has announced that it has reached a settlement agreement with an owner and managers of an 84-unit apartment complex in Salt Lake City, Utah. The agreement resolved allegations that the owner and managers refused a resident an assigned parking space as a reasonable accommodation.

Under the terms of the agreement, the owner and managers, will pay the resident $18,000, transfer her to a ground-floor unit, pay moving expenses up to $2,500, and assign her a designated parking space in front of her unit. In addition, the owner and property management company will provide fair housing training for staff, revise their reasonable accommodation policy, and revise their parking policy to include language that informs persons with disabilities about their right to request a designated parking space as a reasonable accommodation.

HOUSING CROSSROADS
WHERE FAIR HOUSING AND LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar

Crime & Eviction: Confronting Criminal Activity on the Property

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

$34.99
Register Now

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Hall & Associates

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Nevada Landlord Settles Sexual Harassment HUD Complaint

The U.S. Department of Housing and Urban Development announced it has approved a Conciliation Agreement between a Reno, Nevada-based management company and a female tenant settling allegations the property manager sexually harassed the female tenant.

The case began when a single mother of six filed a fair housing complaint with HUD alleging that the manager of her building sexually harassed her and created a hostile living environment, including unwanted touching and sexual comments. In addition, the woman alleged that the management company attempted to terminate her tenancy and failed to return a rent overpayment of $1,000 because she was unreceptive to the manager's advances.

Under the terms of the Agreement, the company and the property manager will pay the woman $7,000, and the property manager and another staff member will attend fair housing training. The management company and the property manager will also modify their leases and applications to include a statement notifying applicants and tenants that they do not discriminate on the basis of race, national origin, color, disability, sex, religion or familial status.

Fair Housing Webinar

"You can't ask me that question."

Questions Landlords Cannot or Should Not Ask

Wednesday, November 14, 2018
10:00 am - 11:00 am Central

Every property manager has probably wondered if they violated fair housing laws when they asked an applicant or resident a question. Are you disabled? Do you have any animals? Have you been convicted of a felony?

In this webinar, we will discuss common questions that are off-limits for property staff. Our topics will include questions about:

- Previous residency
- Disabilities
- Animals
- Criminal history
- Family make-up
- And much, much, more.

Register Now

Requiring Proof of Legal Status Disparate Impact Discrimination

The U.S. Court of Appeals for the Fourth Circuit has reversed a lower court's dismissal of a disparate impact case holding that a group of Latino tenants had made out a prima facie case of disparate impact discrimination when they showed statistically that their landlord's neutral policy of requiring proof of legal status impacted Latinos and Hispanics more than other protected classes.

The case involved a Virginia mobile home park that required all residents to provide documentation they were legally in the United States in order to renew their leases. Prior to 2015, the landlord only enforced this policy against the leaseholder. However, in mid-2015, the landlord started requiring the documentation for all occupants over the age of 18. If the residents did not comply, the landlord would begin eviction proceedings.

A group of Latino residents sued claiming the policy violated the Fair Housing Act because it caused a disproportionate impact on Hispanics or Latino families. They claimed that Latinos constituted 64.6% of the total undocumented immigrant population in Virginia and that Latinos were 10 times more likely than non-Latinos to be adversely affected by the policy as undocumented immigrants constituted 36.4% of the Latino population compared with only 3.6% of the non-Latino population.

The lower district court dismissed the fair housing claim holding that it failed to state a claim under the Fair Housing Act. The Appeals court reversed. The statistics provided were enough to make out a prima facie case for disparate impact discrimination. The case was sent back to the lower court for trial.

Did You Know?

The protected class of familial status was not added to the Fair Housing Act until 1988. Before 1988, there was an abundance of "adult only" housing where children were prohibited.

Miami Law Firm Accused of Predatory Mortgage Modification Scheme

The U.S. Department of Housing and Urban Development has charged a Miami law firm with violating fair housing laws by targeting Hispanic homeowners in a predatory mortgage modification scheme that increased their risk of foreclosure. HUD claims the law firm violated the Fair Housing Act by intentionally targeting Hispanic families through a deceptive advertising campaign that aired on Spanish-language radio and television stations throughout Florida. The radio and television commercials promised Hispanic homeowners the law firm could cut their mortgage payments in half and even offered $500 gift cards to entice them to sign up for loan modification assistance.

Three Orlando-area Hispanic families, allege that at initial client meetings, Spanish-speaking employees made false promises to entice families into paying significant upfront fees and to sign contracts that were predominantly, if not entirely, written in English. After being retained, the firm knowingly placed their clients' homes at imminent risk of foreclosure by instructing homeowners to stop making mortgage payments and to cease communicating with their mortgage lenders or servicers.

In addition, HUD's charge alleges that the law firm neglected their clients' cases and ignored bank requests for information. When homeowners complained about their mistreatment, the firm threatened them with increased mortgage payments, fines, or foreclosure if they sought to terminate their relationship. The firm ultimately failed to obtain favorable mortgage modifications for their clients, while charging them thousands of dollars in up-front and recurring monthly fees.

"No Teenagers Please"

The Department of Housing and Urban Development has filed a new charge against a landlord for discriminatory advertising which discouraged families with teenagers. The charge has been filed against a New Orleans landlord for publishing an advertisement that included the phrase "No Teenagers Please."

The case came to HUD through the Greater New Orleans Fair Housing Action Center, a HUD Fair Housing Initiatives Program agency. The New Orleans group filed the complaint based on fair housing tests it conducted after seeing the ad on Craigslist that prohibited teenagers. When testers contacted the owner to inquire about the unit, the owner said, "I don't want any children." "I don't want teenaged children."

HUD's charge will be heard by a United States Administrative Law Judge unless any party to the charge elects to have the case heard in federal district court.

DOJ Settles Two Cases for Violation of the SCRA

The U.S. Department of Justice has announced agreements to settle two different lawsuits filed by the DOJ against landlords who allegedly violated the Servicemembers Civil Relief Act. The Act provides protections to service members who must terminate their residential leases in order to comply with military orders for a permanent change of station, deployment, or retirement.

In the first case, a Nebraska landlord charged 65 service members fees that ranged from $72 - $1,498 per service member. Under the settlement agreement, the landlord will pay $76,516 in damages to the 65 service members and in addition, pay a $20,000 penalty to the United States government.

In the second case, a New Jersey company that manages military housing has agreed to pay $62,501.78 to resolve allegations that it imposed early termination charges on 12 service members who had exercised their right to terminate their residential leases upon receipt of military orders. The early termination charges ranged from $138 to $3,100. The investigation was launched after the DOJ received a report that the company had required a service member who received orders to deploy to Qatar, to pay back the $899.20 lease incentive he received when he signed his 24-month lease. Under the settlement terms, the company will pay a total of $45,001.78 in damages to the 13 service members and a will pay a civil penalty of $17,500 to the government.

DOJ Files New Sexual Harassment Lawsuit

The U.S. Department of Justice announced it has filed a sexual harassment lawsuit against owners and trustees of multiple Oklahoma rental properties. The lawsuit alleges female tenants and applicants were subjected to sexual harassment, coercion, intimidation, and threats in violation of fair housing laws. More specifically, the lawsuit claims a now deceased owner sexually harassed female tenants and applicants of rental properties from 2001 to 2017. He allegedly engaged in harassment that included:

- Making unwelcome sexual advances and comments;
- Engaging in unwanted sexual touching;
- Demanding or pressuring female applicants to engage in sexual acts to obtain rental housing;
- Offering to reduce rent and overlook or excusing late or unpaid rent in exchange for sex;
- Evicting or threatening to evict female tenants who objected to or refused sexual advances; and
- Entering the homes of female tenants without their consent.

This lawsuit is just the latest in a long line of sexual harassment lawsuits filed by the DOJ. In October, 2017, the DOJ launched an initiative to combat sexual harassment in housing. Since the launching of the initiative, the DOJ has filed six lawsuits alleging a pattern or practice of sexual harassment in housing – more than it has filed in any previous fiscal year. It has also filed or settled 11 sexual harassment cases since January, 2017 and has recovered over $1.6 million for victims of sexual harassment...proof that the DOJ takes these complaints seriously.