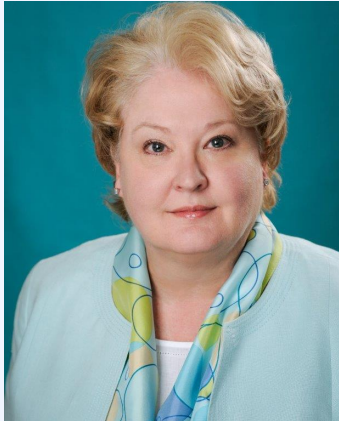




Fair Housing Newsletter

Keeping you current on fair housing news and issues



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Bad Policies Result in \$450,000 Settlement

While everyone needs written policies, having the wrong policies can get you in trouble. In a recent case out of Pennsylvania, the landlord had three policies that ended up costing him \$450,000.

The first policy in question involved social security numbers. The property required all adult members of the household provide a social security number. When the wife of an applicant did not have a social security number, the application was denied. The family filed a complaint with The Housing Equity Center of Pennsylvania alleging discrimination based on National Origin.

During the investigation, there were two other property policies that came into question. The property had a blanket “No Felony” policy which HUD and fair housing advocates believe has a discriminatory effect on certain races. In addition, the property had an occupancy standards policy that restricted the number of people who could live in a unit beyond the restrictions in local ordinances. This policy likely violated fair housing laws based on familial status.

After the investigation, the property decided to settle the case. The owner and manager agreed to pay \$450,000 ... and change their policies.

Note From the Editor: Happy Thanksgiving! In 1863 President Lincoln declared Thanksgiving a national holiday and urged the nation to heal its wounds and restore “peace, harmony, tranquility and Union.”



Paying Rent Late May Be an Accommodation

The U.S. Department of Housing and Urban Development is charging owners and operators of single-family rental homes in the Dallas metropolitan area, with discriminating against tenants with disabilities by not allowing them to pay rent late. HUD alleges the housing providers refused to modify the monthly payment date and waive late fees for two tenants who use Social Security Disability Income to pay their rent in violation of the Fair Housing Act.

HUD's Charge alleges the tenants receive their Social Security Disability payments on or about the second day of the month, making it impossible for them to use that payment to pay rent on the first of the month, as the housing provider generally requires. For seven years this was not a problem. The previous property manager had allowed them to pay their rent before the fifth day of the month without penalty. However, the new property manager refused to continue the accommodation and charged the tenants late fees. The new manager also issued the tenants notices terminating their tenancy, after they repeatedly asked that the accommodation be reinstated and threatened to file a fair housing complaint if they were not allowed to pay late.



The Fair Housing Act requires landlords to provide reasonable accommodations to residents and applicants with disabilities. According to HUD, this includes modifying the rent due date and/or waiving late fees for individuals receiving disability-based income.

A United States Administrative Law Judge will hear HUD's Charge unless any party to the Charge elects to have the case heard in federal district court or the case is settled.

Did you Know? The Fair Housing Act was signed in 1968?

Mississippi Landlord Settles Fair Housing Lawsuit

A property management company, along with the owners of several apartment complexes in Mississippi, have agreed to settle a claim their former agent discriminated against applicants based on race. The cost of settlement? \$123,000.



The case began when the Louisiana Fair Housing Action Center conducted fair housing testing. The testing resulted in a fair housing complaint being filed with the U.S. Department of Housing and Urban Development alleging Black testers who inquired about applying for an apartment were treated less favorably than White testers. After an investigation, HUD also believed discrimination had occurred and referred the case to the U.S. Department of Justice. The DOJ then filed a lawsuit.

Under the terms of the settlement, the owners will pay \$110,000 in monetary damages and attorneys' fees to four Black testers and all of the defendants will pay civil penalties totaling \$13,000 to the federal government. The agent will also be prohibited from working at any residential rental properties in the future.



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar

2022 In Review

Wednesday, December 14, 2022
10:00 a.m. - 11:30 a.m. central

The year 2022 is almost gone. It went by so fast you may have missed a few things. Never fear - we are here to remind you of the 2022 changes you need to remember going into 2023.

In this webinar, we will review some of the cases, legislation and trends that got our attention. Our discussion will include:

- HUD and Criminal Background Checks
- On-Line ESA Documentation
- Harassment Cases
- Changes to Tennessee State Law
- COVID's Short-Term and Long-Term Impact

\$34.99
[Register Now](#)



Nathan Lybarger
Law Office of Hall &
Associates

Speakers



Angelita Fisher
Law Office of Angelita E.
Fisher

Child Restrictive Rules Cost Florida Landlord \$265,000

Have you had a fair housing attorney review your rules lately? It might be worth the money. An Orlando, Florida property found out recently they had some outdated policies. Now they are talking to HUD.

The property in this case is a Low-Income Housing Tax Credit development with more than 250 market-rate and affordable units. The property staff have been accused of refusing to issue building access devices to minor residents, prohibiting children from common areas and amenities unless supervised by adults and misrepresenting the availability of units to families with children. If true, all of these rules may violate the Fair Housing Act.

After 10 families with children complained to the U.S. Department of Housing and Urban Development, the case was referred to the U.S. Department of Justice.

The DOJ and the landlord have agreed to settle the case. The landlord will pay \$260,000 to residents who were harmed by their practices and a \$5,000 civil penalty to the government. The settlement also requires the landlord to implement nondiscrimination policies and provide fair housing training to employees with management or leasing responsibilities at over 80 residential rental properties they own or operate in Florida.



Design Case Costs Developers \$250K Plus Retrofits

The Housing Authority of New Orleans and seven private developers have agreed to settle claims they violated the Fair Housing Act and the Americans with Disabilities Act by failing to design and construct eight multifamily residential properties to comply with the law.

The accessibility barriers alleged to exist at the eight properties include: steps and excessive slopes leading to unit entry doors or building entrances from sidewalks and other public areas; common areas and amenities that are not usable by persons with disabilities, such as mailboxes mounted too high for persons using wheelchairs to reach; insufficiently wide openings at interior doors that make them inaccessible for many persons with mobility impairments; inadequate interior space to maneuver a wheelchair; and inaccessible parking.



The settlement requires the Housing Authority and Developers to pay all costs related to the retrofits, provide \$200,000 for a settlement fund to compensate individuals harmed by the inaccessible housing, and pay a civil penalty of \$50,000 to the federal government.

HUD Charge Filed in ESA Case

A New York landlord who terminated an application after finding out about the applicant's emotional support animals is in hot water with HUD. The U.S. Department of Housing and Urban Development announced it has charged the owners of the apartment with housing discrimination for allegedly refusing to rent to a person with disabilities because he requires assistance animals.



According to the Charge, a prospective tenant attempted to sublease a unit for himself and his partner. When the prospective tenant requested he be permitted to live with his assistance animals, the owners terminated his application, stating that one of the owners had allergies and they needed to protect their new floors. After investigating, HUD found evidence of discrimination and has now filed a Charge.

The Charge will be heard by a United States Administrative Law Judge or it will go to federal court. Either way, it will be hard to explain the comment about protecting the new floors.



Fair Housing Webinar

Reviewing Your Documents for Fair Housing Missteps

Wednesday, November 16, 2022
10:00 a.m. - 11:00 a.m. Central

Every communication has the potential of violating fair housing laws. Whether it is a policy, email, notice, or text – managers must keep fair housing laws in mind. Poorly written documents can be used as proof of discrimination. In this webinar, we will discuss some of the common fair housing mistakes property staff make when drafting documents by showing examples of good and bad documents.

Our discussion will include:

- Policies
- Interoffice emails
- Notices
- Emails and Text Messages to Residents
- Note Taking for the File

\$24.99

[Register Now](#)

Denial of Accessible Parking Space Lands CA HOA in Trouble with HUD

The U.S. Department of Housing and Urban Development is charging a Homeowner Association, Management Company, two Management Company employees, and a maintenance company, with violations of the Fair Housing Act. The violation – refusing to provide a homeowner with a permanent van accessible parking space.

The property at issue is a 556-unit, high-rise condominium tower located in Long Beach, CA. One of the homeowners depends on a wheelchair for mobility, and her modified van requires an eight-foot clearance on the passenger side so that a ramp can extend. According to HUD, the homeowner’s designated parking space does not have the necessary clearance for her van’s ramp to extend. She allegedly made multiple requests for a parking spot to accommodate her van and disability, but was denied a bigger space. As a result, she has routinely been forced to drive around looking in the parking garage for a space that has sufficient passenger-side clearance.



After an investigation, HUD has filed a Charge of discrimination. A United States Administrative Law Judge will hear HUD’s Charge unless any party to the Charge elects to have the case heard in federal district court or the case is settled.

TN Public Housing Authorities May Not Ban Guns

As we all learned in school, the Second Amendment of the Constitution protects the right of law-abiding citizens to use arms in defense of hearth and home. What we didn’t know is whether or not a landlord must allow a resident to have a gun in their home. We found out recently that in Tennessee, a public housing landlord cannot ban guns in a resident’s home.

The case originated in Clarksville, TN, when a resident of the public Housing Authority was evicted because he had a gun in his apartment. The Housing Authority had a policy prohibiting tenants from having guns as a condition of their lease.



When the case made it to the Tennessee Court of Appeals, the court held that because the Housing Authority is considered a government entity, the Second Amendment applies. Therefore, the Housing Authority could not ban guns.

The Housing Authority argued the resident had signed a lease agreement which prohibited guns and therefore, he gave up his right to have a gun on the property. Although the lower court agreed, the Court of Appeals held, “The doctrine of unconstitutional conditions provides that a government agency may not deny an individual an advantage on a basis that violates his or her constitutionally protected interests.” “Therefore, it is an unconstitutional condition to require Mr. Braden to relinquish the central component of his Second Amendment rights in favor of public housing, unless an exception applies.”

The result: Public housing authorities across the state may no longer prohibit tenants from having guns as a condition of their lease. It is unclear if the case will be appealed.