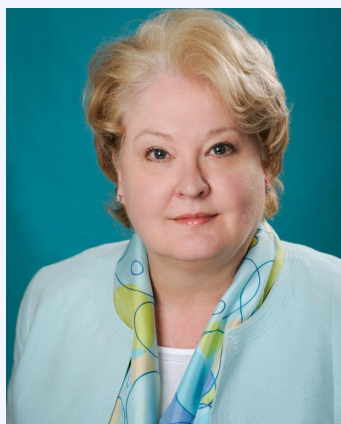




Fair Housing Newsletter

Keeping you current on fair housing news and issues



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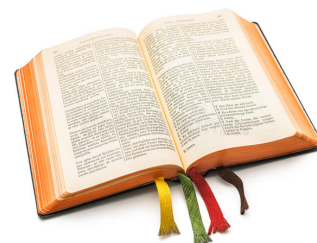
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“No Bibles” Policy Results in HUD Investigating Senior Housing

The Fair Housing Act protects residents from being discriminated against based on religion. This includes protection from policies that prohibit religious expression on the property. So, when the U.S. Department of Housing and Urban Development (HUD) was told an Oklahoma senior property had a no bible policy, Secretary Ben Carson initiated a fair housing Complaint against the owner and manager.

The HUD complaint alleges the senior apartments violated the Fair Housing Act by removing Bibles and Christian reading material from the common areas. This was alleged in a letter Secretary Carson received from a resident at the apartment complex who was upset that the management demanded the removal of religious reading material from the common areas and angel ornaments from the complex’s Christmas tree.



The complaint will now be investigated to determine if HUD has reasonable cause to believe the owner and manager discriminated against the residents based on religion.

Lesson Learned: Do not prohibit religious materials in the common areas of the property.

Note From the Editor: I wish you and yours health and happiness as you celebrate the upcoming holiday season.



Arlington Charged with Fair Housing Violation

The U.S. Department of Housing and Urban Development has filed a charge against the City of Arlington, Texas, for violating the Fair Housing Act. The City allegedly refused to approve proposals for new affordable housing unless the housing was limited to elderly residents.

The complaint was originally filed by a developer who wanted to build close to a hundred affordable housing units for residents of any age. The City turned him down. In addition, the City's policy of only allowing affordable housing for the elderly was adopted after City officials allegedly made statements indicating that affordable housing which allowed children, caused problems.

HUD's charge will be heard by a U.S. Administrative Law Judge unless any party to the charge elects to have the case heard in federal district court or the case is settled.



Condo Association in Trouble Over ESA

A New York condo association is in trouble with the U.S. Department of Housing and Urban Development for accepting an ESA, but denying another dog. The case began with a couple who had two dogs: a pug and a boxer. The boxer had been registered as an ESA, but the pug was just a pet.

The couple bought a condo. The condo association had a policy that allowed only one dog in a condo. The couple moved in with their two dogs. When they received notice they were violating the condo policy, the couple told the management company that the boxer was an ESA and the pug was a pet. As such, they had not violated the condo's policy.

The condo association disagreed. They accepted the boxer as the ESA, but stated the boxer was the only dog allowed in the condo. They would not allow the pug.

The couple responded by also registering the pug as an ESA. The condo association still would not agree to allow the pug to stay based on the one-dog per condo rule. The couple were forced to leave the pug at their Connecticut home with a dog sitter. Eventually, they sold the New York condo and filed a fair housing complaint.

HUD investigated and determined the association had violated fair housing laws. The case will now be heard by a U.S. Administrative Law Judge unless either party elects to move the case to federal court, or the case is settled.





HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar

Addressing Domestic Violence on the Property

Wednesday, December 2, 2020
10:00 a.m. - 11:30 a.m. central

Domestic violence can happen anywhere. More importantly for landlords, when it happens at your property, domestic violence can invoke many different laws. Landlords need to know who is protected and who needs to go.

In this webinar, we will discuss the different laws landlords should consider when dealing with a victim of domestic violence and what to do when the laws overlap. Our discussion will include:

- State Domestic Violence Laws
- Violence Against Women’s Act
- Disparate Impact Claims
- Requesting the “Right” Documentation
- Sending the Right Notice
- Banning the Perpetrator

\$34.99
[Register Now](#)



Nathan Lybarger
Law Office of Hall &
Associates

Speakers



Angelita Fisher
Law Office of Angelita E.
Fisher

Grill On the Patio Is Not A Reasonable Accommodation

An Ohio federal court has evaluated two residents' requests they be allowed to have a grill on their patios as reasonable accommodations for their disabilities. Outcome – the accommodation is not reasonable.

The Michigan condo complex had a policy – “No Grills on the Patio.” The condo board had provided grills in the common area which any resident was allowed to use. However, two residents asked the condo board to approve them having a grill on their patio as accommodations for their disabilities.

The first resident had mobility issues, but admitted she walked almost daily to the pool, which was next to the pavilion where the community grills were located. The board denied her request for a grill on her patio, but offered to bring her a shopping cart anytime she would like to use the common area grills as an alternative accommodation. The cart would allow her to bring her food to and from the pavilion. If she could not push the cart, a member of the condo staff would assist. The resident did not believe this alternative offer was reasonable since she would still have to walk to the pavilion.

The second resident had lymphoma which periodically caused him to be too exhausted to leave his apartment. Otherwise, he could walk to the parking garage which was approximately the same distance from his condo as the pavilion with the community grills. The board denied his request for a grill.

Both residents sued alleging violations of fair housing laws. The condo board argued the residents could not show their requested accommodations were necessary and that without the accommodation, they would be denied an equal opportunity to enjoy the housing of their choice. The residents could also not show the grills on the patio would ameliorate the effects of their disabilities.

The Michigan federal court agreed with the condo board stating that the accommodation must be needed, not merely desired by the resident. It must also be effective in ameliorating the effects of the person's disability.

The court noted the first resident was not unable to walk to the common grilling area. Instead, she just preferred not to walk that distance to the pavilion. Therefore, having a personal grill was not necessary. While the resident rejected the condo's offer of an alternative accommodation, her preference does not entitle her to have a grill on her patio.

As for the second resident, when he was not experiencing the exhaustion, he could clearly walk to the pavilion. In addition, because of fire codes, the grill would need to be kept at least 10 feet from the building. As such, when he was experiencing exhaustion, he would not be able to walk the distance to his patio grill. Having a grill on his patio would not ameliorate the effects of the resident's disability when he is experiencing extreme exhaustion. The accommodation is not reasonable.

Both residents' cases were dismissed. Landlord won!

Unsubstantiated Complaints Are A Legitimate Reason for Non-Renewal

Every property manager has at least one resident who always complains. Sometimes the complaints are substantiated and sometimes they are not. In one case, the landlord's decision to non-renew a chronic complainer was upheld after the resident claimed discrimination.

The case arose in Washington. At move-in the resident signed a one-year lease with a provision that either party could give 20-days' notice the lease would not renew at the end of the year. Soon after moving in, the resident began complaining – a lot.

Complaints: Continued on Page 5

Complaints: Continued from Page 4.

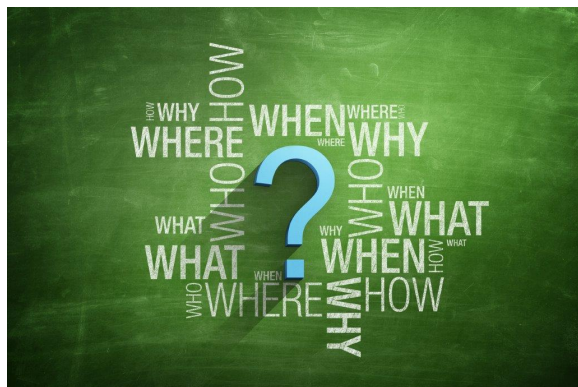
Emails showed the resident contacted management about "very loud volatile nuisance noise" coming from the unit above her, claimed drug fumes coming from that apartment into her own, and stated her belief that the noise and harassment were an attempt to "harass us out of our apartment." She further claimed the residents "use noise to harass us" by "stomping and jumping around the apartment [which] caused the paint dust particles to fall from the ceiling, which is a health hazard."

The landlord investigated the resident's complaints and in one instance issued a Notice of Disturbance based on a noise complaint. But, management found no evidence of either drug use or drug making. The resident then contacted her Congresspersons, the DEA, and ICE about her neighbors. As a result of what management believed was harassment against the neighbors, it chose to not renew the resident's lease at the end of its term.

The resident filed a fair housing lawsuit alleging she was discriminated against based on her race, Black. In defense, the landlord claimed the decision not to extend the resident's lease was made because of her "pattern of excessive and unsubstantiated complaints against her neighbors," which "rose to the level of harassing."

The judge dismissed the case. The landlord supplied ample evidence to show it had a legitimate non-discriminatory reason for not renewing the resident's lease – making unsubstantiated complaints which amounted to harassment of her neighbors. In addition, at least 16 other residents had their lease terminated during the relevant time period. Of the 16, at least seven were Caucasian, six were Hispanic, one was African American and Hispanic, and three were unknown.

Lesson Learned: Be able to support any decision to non-renew a resident's lease with clear documentation.



Fair Housing Webinar

You Can't Ask Me That Question

Wednesday, November 11, 2020

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

\$24.99

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 10 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

\$24.99
[Register Now](#)