



Fair Housing Newsletter

Keeping you current on fair housing news and issues



 LAW OFFICE OF
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Georgia Court Disagrees with HUD on ESA Fees

The U.S. Department of Housing and Urban Development (“HUD”), has long held the position that landlords could not charge extra deposits, fees, or rent for assistance animals. That position has been called into question by a Georgia appeals court which has held that waiving the fees does not alleviate the effect of the disability.

In the Georgia case, a resident sued his landlord based on claims that the landlord had refused to accommodate the resident’s disability. One of those claims was that the landlord had refused to waive pet fees for the resident’s service animal.

The Georgia court held that a necessary accommodation is one that “alleviates the effects of a disability,” and a resident must show, at a minimum, that the accommodation affirmatively



enhances the quality of life by ameliorating or reducing the effects of his/her disability. Here the requested accommodation was not just to have an assistance dog, but to have the landlord waive any relevant pet fees for the dog.

The resident did not show that waiving the pet fees would itself “alleviate the effect of his disability” any further than the benefit already provided of having the assistance dog. As such, the claim was dismissed.

This case may sound exciting for many landlords, however, it is way too early to start charging residents for assistance animals. HUD’s position has not changed. This is one court, hearing one case. The decision may not be convincing for other courts.

Note From the Editor: Too hot to go outside? You can always stay inside and watch a webinar. We have two webinars this months. Check them out on pages three and four. If you are going to be on vacation, we can always send you a recording.



Offering an Alternate Accommodation Saves the Lawsuit

A Federal Judge in California has reversed a jury decision awarding damages for refusing to accommodate a resident. The accommodation request was a reserved parking space close to the resident's unit. The jury award was \$250,000.

In this case, the landlord had two types of parking. One type was referred to as "General" parking where residents could park on a first-come, first-serve basis. The second type of parking was called "Reserved" which included assigned spaces in designated carports or garages.



The resident requested an assigned parking space close his unit because of his son's disability. The space he requested was a "General" parking space. In the alternative, the landlord offered to move the resident to another unit, or allow him to have an assigned spot in the "Reserved" parking area. The assigned spot would be about 200 feet from the resident's unit.

The resident refused the offer and sued. A jury awarded the resident \$250,000 for emotional damages. The landlord asked the judge to set aside the judgment. The judge agreed. The evidence at trial showed that the reserved parking spot the landlord offered was a reasonable alternative. The 200 feet the resident would be required to walk was no more than the resident walked when he took his son to the pool or any other amenity on the property. The judgement was set aside.

Landlord Pays Over \$74,000 to Settle Service Members' Claims

The U.S. Justice Department and a California Management Company have agreed to settle claims alleging the Management Company violated the Servicemembers Civil Relief Act (SCRA). The claims were from nine servicemembers who were penalized for terminating their apartment leases after receiving military orders to relocate. The cost to the Management Company - \$74,087.

The SCRA provides protections for servicemembers in areas such as evictions, security deposits, pre-paid rent, civil judicial proceedings, installment contracts, interest rates, foreclosures and automobile leases. The SCRA also allows servicemembers to terminate their residential leases after entering military service or receiving military orders for a permanent change of station, deployment or retirement. Landlords are prohibited from imposing an early termination charge on servicemembers who terminate their leases under the SCRA.



The DOJ began an investigation into the Management Company's practices after receiving information from the Coast Guard Legal Assistance about two cases where the Company attempted to require servicemembers who were terminating their leases early, to repay discounts they had received when they signed the lease. In one case, the Company required a servicemember to repay \$8,590 in lease concessions after they terminated their lease. In the other case, the Company told a servicemember he would have to repay \$7,838 in lease incentives after he terminated his lease. The DOJ's investigation uncovered seven other cases.

The Company has agreed to pay a total of \$51,587 to the servicemembers and a \$22,500 civil penalty to the U.S.



HOUSING CROSSROADS

WHERE FAIR HOUSING AND
LANDLORD TENANT LAWS INTERSECT

Housing Crossroads Webinar

“You are not on the lease!”

Addressing Third Parties on the Property

Wednesday, July 26, 2023
10:00 a.m. - 11:30 a.m. central

When dealing with a resident- the lease is the governing document. But, what happens when you need to deal with a non-resident? There is no lease to point to for guidance. It is hard to know what you can and cannot say.

In this webinar, we will discuss issues that may arise when addressing non-residents on the property. Our discussion will include:

- Towing a non-resident’s car
- Talking to the family of a sick or deceased resident
- Banning a non-resident
- Trespass laws
- Caregiver rights
- Unauthorized tenants
- Talking to third parties

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Nathan Lybarger
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Speakers



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Inadequate Interpretation Results in \$25,000 Judgement Being Reversed

The Tennessee Fair Housing Council (“TFHC”) successfully argued that a \$25,000 judgment against a resident who was being evicted should be set aside because a Chuj interpreter was not provide at trial. Although a Spanish interpreter was provided, the TFHC argued the two languages are very different and the tenant was entitled to a new trial with a Chuj interpreter. The judge agreed and set aside the landlord’s earlier \$25,000 judgement.

Did you Know?

A two-person per bedroom occupancy standard may violate the Fair Housing Act depending on the age of the children and the size and configurations of the rooms.



Fair Housing Webinar Common Accommodations and Modifications

Wednesday, July 12, 2023
10:00 a.m. - 11:00 a.m. Central

Under the Fair Housing Act, it is unlawful for landlords to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas. While most landlords understand they need to make accommodations and modifications, the process is rarely simple.

In this webinar, we will discuss some of the common requests landlords receive as well as who will pay and what information you may be entitled to have about a resident’s disability. Our discussion will include:

- The Difference in Accommodation & Modifications
- Who Pays
- The Interactive Process
- Support Animals
- Transfers
- Paying Rent Late
- Hard Flooring
- Ramps and Grab Bars
- Hoarding & Bad Housekeeping
- And much, much, more...

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