

FAIR HOUSING NEWS

QUARTERLY NEWSLETTER FOCUSING ON FAIR HOUSING ISSUES

Fall 2015



THIS ISSUE

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FUNDING ANNOUNCEMENT

In September HUD announced that West Penn Rural Fair Housing was awarded two grants for 2016, which will allow us continue the fair housing efforts across our region.

Details on the grants are as follows:

- **Private Enforcement Initiative**
With this funding we are hoping to expand our testing program and increase the provision of legal counsel and representation on behalf of individuals who may have been the victim of housing discrimination. This program will continue to serve the 24 counties in Western Pennsylvania as well as four West Virginia Counties.
- **Education and Outreach Initiative - Sex/Familial Status Component**

With this funding we will be working on a national education and media campaign to promote fair housing to protected class members and their advocates.

HUD PROPOSES RULE TO CLARIFY PROTECTIONS FOR VICTIMS OF HARASSMENT IN HOUSING

On October 21, 2015, the U.S. Department of Housing and Urban Development announced that it is issuing a proposed rule that would formalize standards for victims of harassment in housing to bring claims under the Fair Housing Act. The proposed rule, "Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices under the Fair Housing Act," was published in the Federal Register today for public comment.

While no formal regulation has been in place, HUD and courts have long held that harassment in housing or housing-related transactions on the basis of race, color, national origin, religion, sex, disability, and familial status is prohibited under the Fair Housing Act. The proposed rule specifies how claims of "hostile environment" and "quid pro quo" harassment would be evaluated in both private and publicly assisted housing.

"A home should be a refuge where every woman and man deserves to live without the threat of violence or harassment. The rule HUD is proposing is designed to better protect victims of harassment by offering greater clarity for how to handle a claim against an abuser," said HUD Secretary Julián Castro.

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Current Federal Litigation

HUD CHARGES PENNSYLVANIA LANDLORD WITH DISCRIMINATING AGAINST FAMILIES WITH CHILDREN

On October 5, 2015, HUD announced that it had charged a Pennsylvania landlord with housing discrimination for allegedly refusing to rent apartments to families with children. HUD's charge alleges that Michael DeRomo, who owns and manages rental properties and formerly owned a four-unit building in Coopersburg, posted an online classified ad for one of his Coopersburg units that discouraged families with children from applying. Specifically, the ad read: "Not suitable for children due to the exterior landing and stairs."

"Landlords and housing providers have an obligation to treat every applicant the same. This includes families with children," said Gustavo Velasquez, HUD Assistant Secretary for Fair Housing and Equal Opportunity. "Discriminatory ads are also against the law and HUD will continue to take appropriate action any time the Fair Housing Act is violated."

According to the HUD's charge, a female tester posing as the mother of a four-year-old told DeRomo that she would be sharing the apartment with her daughter. After being told about the child, DeRomo allegedly told the tester that the ad stated "no kids" because the stairwell landing was not secure and he did not feel comfortable renting the unit to the family due to safety concerns for the child. Meanwhile, DeRomo gave a tester who said she had no children a tour of the unit and a rental application. DeRomo ultimately rented the unit to an applicant without children. DeRomo allegedly stated that he has not allowed any family to live in the two second-floor apartments of the Coopersburg building due to the landing and the stairs.

NEW YORK CITY LANDLORDS CHARGED WITH DISCRIMINATING AGAINST RESIDENT WITH DISABILITIES

On October 15, 2015, HUD announced that it had charged the owners and landlords of a high-rise complex in New York City with violating the Fair Housing Act by refusing to allow a resident with disabilities to have an emotional support animal. HUD's charge alleges that Friedman Residence, LLC (formerly called the Aurora), Common Ground Management Corporation, and The Actors' Fund of America refused to accept that the resident required a dog to cope with the symptoms of his disability.

"It's not a landlord's role to determine what a resident with disabilities needs in order to perform life's daily functions," said Gustavo Velasquez, HUD Assistant Secretary for Fair Housing and Equal Opportunity. "Landlords have an obligation to grant reasonable accommodations when they are needed and HUD will continue to work to ensure that they meet that obligation."

When the tenant moved into Friedman Residence in 2004 he did not have a support animal. However, in 2010 the resident began being treated by a licensed clinical psychologist and a year later bought a small dog. After recognizing an improvement in the man's condition, his doctor recommended that he register the animal as an official emotional support animal.

In February 2013, the landlords initiated eviction procedures against the man due to the presence of the dog. The man subsequently provided the property management director with documents from his doctor and the National Service Animal Registry showing that the dog was an emotional support animal, but instead of accepting the documentation, the landlords sent the man a final "Notice of Termination," stating that he had not sufficiently demonstrated his need for the animal. Legal proceedings between the resident and the landlords in New York County Civil Court were stayed while this charge was investigated.

In FY 2014, disability was the most common basis of complaints filed with HUD and its partner agencies, being cited as a basis for 4,606 complaints, or 54 percent of the overall total.



U.S. SUPREME COURT BACKS DISPARATE IMPACT CLAIMS

Earlier this Summer the Supreme Court, in a 5-4 decision, ruled that claims of racial discrimination in housing cases should not be limited by questions of intent.

The court affirmed a Court of Appeals decision in a case in which a nonprofit group, the Inclusive Communities Project, said that the Texas Department of Housing and Community Affairs had contributed to "segregated housing patterns by allocating too many tax credits to housing in predominantly black inner-city areas and too few in predominantly white suburban neighborhoods."

The 5-4 ruling endorses the notion of citing disparate impact in housing cases, meaning that statistics and other evidence can be used to show decisions and practices have discriminatory effects without proving that they're the result of discriminatory intentions.

The ruling brings clarity to an issue that had lingered in doubt: Are plaintiffs in housing discrimination cases required to prove an intent to discriminate? Or is it enough for them to show that some practices have an outsized negative effect on minorities?

Two previous high-profile cases had been settled, as neither side was willing to risk a defeat in the Supreme Court.

The court decided the case 5-4; Justice Clarence Thomas wrote a dissenting opinion, as did Justice Samuel Alito, whose opinion was joined by Thomas, Chief John Roberts and Justice Antonin Scalia.



HUD PROPOSES RULE TO CLARIFY PROTECTIONS FOR VICTIMS OF HARASSMENT IN HOUSING (CONT. from pg 1)

Sexual harassment is the most common form of harassment complaint received by HUD. Harassment in housing threatens a resident's sense of safety and privacy in their own home, and there can be little opportunity to escape such harassment unless the individual or family moves. In HUD's experience enforcing the Fair Housing Act, low-income women, often racial and ethnic minorities and persons with disabilities, may be particularly vulnerable to sexual harassment in housing.

The Department continues to aggressively pursue claims of harassment in housing. For example, HUD recently filed a charge of discrimination against a Wisconsin landlord who failed to take action to stop tenants from harassing other tenants, a mother and daughter with disabilities. HUD also charged a South Dakota property manager with sexually harassing a female tenant with two children. In addition, the Department of Justice recently agreed on a consent decree resolving a case investigated and charged by HUD involving sexual harassment by employees of a West Virginia property management firm.

HUD's proposed rule will:

- Formalize uniform standards for evaluating claims of hostile environment and quid pro quo harassment in the housing context:
- Hostile Environment Harassment involves subjecting a person to unwelcome conduct that is sufficiently severe or pervasive such that it interferes with or deprives the per-

son the right to use and enjoy the housing.

- Quid Pro Quo Harassment involves subjecting a person to an unwelcome request or demand and making submission to the request or demand a condition related to the person's housing.
- Clarify when housing providers and other covered entities or individuals may be held directly or vicariously liable under the Fair Housing Act for illegal harassment or other discriminatory housing practices.

HUD has submitted its proposed rule for publication in the Federal Register. The general public will have sixty (60) days from the date of publication to submit comments electronically at www.regulations.gov.

TESTERS WANTED

West Penn Rural Fair Housing in conjunction with the United States Department of Housing and Urban Development is looking for individuals to conduct fair housing investigations. This is a great opportunity to play a big part in fighting discrimination in Western and Central Pennsylvania and the Northern Panhandle of West Virginia. Please contact us at 1-877-725-4472 or complete an application online by clicking on "Become a Tester" at westpennfairhousing.org

CRIMINAL SURVEY STUDY

Currently, we are asking anyone who has a criminal record to take part in our housing study. To take part in our study, please visit our website at westpennfairhousing.org/criminal-record-impact-study

Education Solutions for Non-Profits

Does your agency need Fair Housing training?

Through a grant from HUD, West Penn Rural Fair Housing offers free HUD approved fair housing training. If you are interested in having one of our staff members or partners give a free fair housing training, please contact Jaime Milligan at 724-225-6170 or visit westpennfairhousing.org/training-request to make your request online.





FAIR HOUSING SERVICES FOR HOMELESS SHELTERS

This year West Penn Rural Fair Housing is excited to offer specific support for shelters in our coverage area. West Penn Rural Fair Housing is available to provide free training and technical assistance to a shelter's staff and/or volunteers to prevent inadvertent violations of the Fair Housing Act. Some examples of what we can offer to shelters are: training for your staff and volunteers, advice on fair housing issues that may arise in your shelter, a variety of informational brochures, and training for your shelter guests to enhance their knowledge as they search for permanent housing.

If you are interested in scheduling a training for your staff and/or shelter guests or would like to request any of services, please feel free to contact us at 724-225-6170 or Jaime@splas.org. You can also submit a request for training online by visiting

<http://westpennfairhousing.org/training-request>

DID YOU KNOW?

A landlord cannot charge you an extra fee for a service or support animal.

A landlord cannot say they don't rent to people with children.

A landlord cannot evict you because you are a victim of domestic violence.



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