

# FAIR HOUSING NEWS

QUARTERLY NEWSLETTER FOCUSING ON FAIR HOUSING ISSUES

Late Summer 2017



## THIS ISSUE

RURAL AFFORDABLE HOUSING P.1

RECENT DEVELOPMENTS P.2

FAIR HOUSING TESTING P.3

## RURAL AFFORDABLE HOUSING ISSUES: DOES APPALACHIA PRESAGE THE FUTURE OF RURAL AMERICA?

Article originally appeared in HUD's PD&R's online magazine, *The Edge*:

The recently published *Hillbilly Elegy* by J.D. Vance and *Factory Man* by Beth Macy vividly portray the housing, health, and employment conditions and stresses facing residents of rural America—particularly those living in Appalachia. In the context of economic globalization, declining investment in rural industry combined with technological advances in manufacturing, such as automation, that reduce the number of people needed to operate machinery have resulted in widespread unemployment. The disappearance of jobs has had many unfortunate consequences, including rising rates of early disability, an increasing reliance on Social Security for income, health problems, and the ravages of opioid addiction and the related drug trade. Some observers feel that these factors are wiping out the culture of Appalachia and other rural areas. Neither Vance nor Macy, however, is an apologist for the problems facing the rural population of Appalachia. Vance suggests that the residents of Appalachia are potentially the cause of their own demise, although both authors agree that health and employment problems are often the result of structural problems. Efforts to confront these critical economic development and health problems are inextricably tied to the preservation and accessibility of affordable rural housing.

*Continued on Page 4*

# Recent Developments

## JUSTICE DEPARTMENT SETTLES SEXUAL HARASSMENT LAWSUIT AGAINST MORGANTOWN, WEST VIRGINIA, LANDLORDS

On July 10, 2017, the Justice Department announced a settlement with the owners and former managers of more than 70 residential rental properties in the Morgantown, West Virginia area to resolve allegations that Gary Walden, while serving as the manager of these properties, sexually harassed female tenants and prospective tenants, in violation of the Fair Housing Act. Under the settlement, which was approved by the U.S. District Court for the Northern District of West Virginia, the defendants have agreed to pay a total of \$600,000 in monetary damages and civil penalties, and Walden intends to transfer his ownership of these properties and to relinquish his role in managing them.

"It is unacceptable that a woman should have to endure sexual harassment by her landlord in her own home," said Acting Assistant Attorney General Tom Wheeler of the Justice Department's Civil Rights Division. "this settlement sends a strong message that the Civil Rights Division will aggressively pursue those who engage in this egregious conduct."

"This type of conduct can never be tolerated in the Northern District of West Virginia or elsewhere," said Acting United States Attorney Betsy Steinfeld Jividen of the Northern District of West Virginia. "And while the monetary settlement will not erase the unthinkable violations outlined in this case, it will put all on notice that those who choose to violate anyone's civil rights will face consequences."

The settlement requires the defendants to pay \$500,000 to persons harmed by the discriminatory conduct and \$100,000 to the United States in civil penalties. Walden will be enjoined from engaging in any property management, rental management, or maintenance responsibilities at the rental properties, and from entering the premises or having any contact with current or former tenants of the rental properties, including any individuals determined to be aggrieved persons.

Individuals who believe they were subjected to sexual harassment by Walden should contact the Justice Department at 1-800-896-7743, mailbox 97, or by e-mail at [fairhousing@usdoj.gov](mailto:fairhousing@usdoj.gov).

The lawsuit arose when four female tenants filed complaints about Walden with the Department of Housing and Urban Development ("HUD"), which referred the complaints to the department. After conducting an investigation, the department filed this lawsuit in March 2016, alleging that Walden sexually harassed multiple female residents and prospective residents from at least July 2006 through July 2015. According to the department's complaint, Walden engaged in unwanted and unwelcome sex acts with female tenants, including touching and groping their breasts and genitals; conditioned tangible housing benefits to female tenants in exchange for performance of sex acts; made unwanted and unwelcome sexual comments and verbal sexual advances; entered the homes of female tenants without permission or notice to sexually harass them; and took or threatened to take adverse action against female tenants when they refused or objected to his sexual advances.

The department's lawsuit names Walden, the estate of his late wife, Tina Walden, and business entities associated with the Waldens' property ownership and management business, including Walden Homes, LLC, d/b/a Walden Rentals, and 973 Chestnut Ridge Road, Inc. In April 2015, Gary Walden pled guilty to sexual abuse and other charges in the Circuit Court of Monongalia County, West Virginia, and was incarcerated for those offenses from July 2015 to March 2017 in a state prison. In 2006, the West Virginia Attorney General's Office filed a housing discrimination lawsuit in state court against Walden alleging sexual harassment, which was settled in 2008.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin, and disability. Individuals who believe that they may have been victims of housing discrimination elsewhere should call the department at 1-800-896-7743, or send an e-mail to [fairhousing@usdoj.gov](mailto:fairhousing@usdoj.gov), or contact HUD at 1-800-669-9777, or contact the Fair Housing Law Center at 1-877-725-4472, or at [fhlaw.org](http://fhlaw.org).

The full consent decree can be found at: <https://www.justice.gov/opa/press-release/file/979241/download>



## Justice Department and City of Jackson, Mississippi Resolve Lawsuit Over Zoning of Group Homes

On May 31, 2017, the Justice Department announced a settlement with the City of Jackson, Mississippi to resolve allegations that the city violated the Fair Housing Act ("FHA") and the Americans with Disabilities Act ("ADA") by preventing people in recovery from alcohol and substance abuse from living in group homes in most residential areas.

The settlement, which must still be approved by the U.S. District Court for the Southern District of Mississippi, resolved a lawsuit the department filed in September 2016.

The United States alleged that the City of Jackson engaged in a pattern or practice of discrimination on the basis of disability by imposing unlawful zoning restrictions on group homes for persons in recovery. The city enforced those restrictions against a group home operated by Urban Rehab, Inc., resulting in an order requiring the home to close and the residents to relocate. Several other homes for persons in recovery were at risk of being closed by the city's enforcement of its ordinance.

As part of the settlement, the city agreed to revise its zoning code to permit persons in recovery to reside in all residential zones and to ease other restrictions on group homes for people with disabilities. The city has agreed to adopt a reasonable accommodation policy, train city employees on the requirements of the FHA and ADA, appoint a Fair Housing Compliance Officer, and report periodically to the Justice Department. The city will pay \$100,000 to the owner of Urban Rehab, Inc., \$35,000 to the department as a civil penalty, and \$50,000 to a settlement fund that will compensate other victims.

*Continued on Page 4*



## TESTERS WANTED

Fair Housing Law Center, in conjunction with HUD, is looking for individuals to conduct fair housing investigations. This is a great opportunity to play a key part in fighting discrimination in Western and Central Pennsylvania and the West Virginia Panhandle.

Please contact us at 877-725-4472 or at [www.fhlaw.org](http://www.fhlaw.org).

# Fair Housing Testing

## *What is Testing?*

Fair Housing tests measure the quality, quantity, and content of information provided to potential renters and homebuyers based on protected class under the Fair Housing Act.

The U.S. Supreme Court, Department of Justice, and HUD have all recognized that sometimes unlawful housing practices can only be uncovered through testing. Testers can make the difference when it comes to moving a case forward.

## *What do Testers do?*

Testers pose as renters or homebuyers in order to help collect data for a fair housing investigation. Testers meet with landlords, property managers, and real estate agents. A factual report of the events is then compiled by the Tester. Tests are conducted throughout the 28 county area covered by the Fair Housing Law Center.

The Tester's experience is then compared to the experiences of a partner tester who is alike in every respect, except the protected class: race or color, national origin, religion, gender, familial status, or disability. The reports are analyzed by Fair Housing Law Center staff and the results either support or dispel allegations of discrimination.

## *Examples of Discrimination Uncovered by Testing*

- Failure to waive a "no pets" rule (denial of a request for a reasonable accommodation) for a service or support animal.
- Charging higher rent or security deposit for potential tenants with children.
- Falsely denying availability of an advertised rental unit.
- Failure to comply with the Fair Housing Act's requirements regarding the accessibility of a property.

## *Who can be a Tester?*

Ideal testers are detail oriented, have excellent observational skills, and are comfortable recording their thoughts in writing. Additionally, a potential tester should have access to reliable transportation, telephone, and computer with internet access.

**The Fair Housing Law Center is always looking for people who are interested in becoming a tester.**

**If interested, please contact us at 877-725-4472 or online at [www.fhlaw.org](http://www.fhlaw.org).**

## Education Solutions for Non-Profits

Does your agency need Fair Housing training?

Through a grant from HUD, the Fair Housing Law Center 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 Kristie Horrell at 724-225-6170.





## RURAL AFFORDABLE HOUSING ISSUES

(cont. from pg.1)

**Disability** — According to American Community Survey (ACS) data, the overall percentage of U.S. residents with disabilities was estimated at 12.6% in 2015, up from 11.9% in 2010. ACS data also show that 28.9% of U.S. households have a member with a disability. People with disabilities tend to have lower incomes than those who do not; in 2015, the median income of people with disabilities ages 16 and over in the U.S. was about two-thirds that of people without disabilities (\$21,572 and \$31,874, respectively). Many heavily rural states such as those in the Midwest, South, and Appalachian regions employ high percentages of the workforce in physically demanding industries, including forestry, certain types of mining, utilities, constructions, and manufacturing. These states tend to have more disability recipients than do states with economies oriented toward service industries, and some of these states have disability rates that are nearly double the national average. The low earnings of disability recipients stress household budgets, making access to affordable housing critical for many rural families.

**Health** — Residents of rural areas often live far from healthcare providers, including emergency care providers. Some areas may also have fewer providers, making it difficult for residents to get routine checkups, treatments, and screenings. These challenges may lead to delayed care, which can cause health problems to worsen before they are diagnosed and addressed. Policy responses that address the need for affordable rural housing should consider opportunities to better link housing and health services, whether through improved transportation options, in-home supportive services, community health centers, or other interventions.

**Employment** — To help improve the employment prospects of workers displaced by foreign competition, retraining is available through the federal Trade Adjustment Assistance program. According to Macy, however, people in such education and training programs often drop out of classes when any job becomes available, whatever the salary—rarely considering the long-term consequences of taking such employment. MIT economist David Autor, as quoted in *Factory Man*, has argued for “better-designed job training programs that would help people rejoin the labor markets and acquire skills to prevent them from exiting the workforce, as many do in import-slammed areas.” Other studies have found that wages for displaced workers are lower than those of other workers in the long run. However, younger workers and those who take advantage of job training and apprenticeships fare better than older participants in the long run. Many displace, adversely affected employees turn to SSDI for support—an expensive solution for the federal government. Although underutilized, training for new skills that match the needs of the new economy is a solution for the economic challenges of rural regions.

**Affordable Housing** — There is a growing need for affordable rental housing in rural America. The National Rural Housing Coalition indicates that 35% of rural renters are cost burdened, meaning they spend more than 30% of their income on housing costs. The USDA’s Section 515 Rural Rental Housing loans for very low, low, and moderate-income families; elderly people; and people with disabilities have been used successfully to house the rural population since 1949. As of April 2010, the average income of Section 515 tenants, per USDA, was \$11,086. According to an analysis by the Housing Assistance Council, there were 13,838 Section 515 properties with 416,688 rental units in the U.S. in 2016. Almost two-thirds of the households in these properties received rental assistance from USDA. Many of these properties, however, are approaching their estimated loan maturity or payoff date, at which time they can exit the Section 515 program. USDA projects that 74 properties with 1,788 units will exit the program each year from 2016 to 2027, after which the projected average annual loss will rise to 556 properties (16,364 units) annually through 2032. From 2032 to 2040, when the losses are expected to peak, an estimated 22,500 units per year will leave the program. Therefore, as is the case in many urban areas, the preservation of affordable rental housing in rural communities remains a challenge. The acute needs for affordable rental housing and the projected loss of affordable units requires a policy response. As suggested by the Preservation Compact in Chicago, preservation efforts could entail a change in federal legislation, an early warning system for housing at risk of losing affordability, an Energy Savers program to cut operating costs, and help for tenants being squeezed out of markets.

### Group Home Settlement

(cont. from pg.2)

“Federal law prohibits housing discrimination against people because of their disabilities,” said Acting Assistant Attorney General Tom Wheeler of the Justice Department’s Civil Rights Division. “This settlement is an important commitment by the City of Jackson to bring its zoning code in line with both the Fair Housing Act and the Americans with Disabilities Act.”

The case was handled by the department’s Civil Rights Division and the U.S. Attorney’s Office of the Southern District of Mississippi.

The Fair Housing Act prohibits discrimination in housing based on race, color, religion, national origin, sex, disability, and familial status. More information about the Civil Rights Division and the laws it enforces is available at [www.justice.gov/crt](http://www.justice.gov/crt). Individuals who believe that they may have been victims of housing discrimination elsewhere should call the department at 1-800-896-7743, or send an e-mail to [fairhousing@usdoj.gov](mailto:fairhousing@usdoj.gov), or contact HUD at 1-800-669-9777, or contact the Fair Housing Law Center at 1-877-725-4472, or at [fhlaw.org](http://fhlaw.org).

The full consent decree can be found at: <https://www.justice.gov/opa/press-release/file/984366/download>.