



Fair Housing Enforcement Program

August 2015

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Aloha!



Winning artwork from "Fair Housing Is Our Kuleana" Art Contest 2015

In July, HUD announced its final rule on affirmatively furthering fair housing. Read below for more information and to learn about other recent fair housing news. This month's fact sheet focuses on fair housing laws in transitional housing and shelters. Next month's newsletter will feature a fact sheet on Hawaii Legislative Updates on Fair Housing.

As always, be sure to check out our [website](#) for more program updates and resources!

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About Us

The Fair Housing Enforcement Program (FHEP) is a project of the Legal Aid Society of Hawaii. Our mission is to promote fair housing and end housing discrimination through education, advocacy, outreach, and litigation.

All people in Hawaii have the right to make housing choices without regard to race, color, religion, national origin, sex, disability, familial status, age, gender identity or expression, sexual orientation, marital status, or HIV infection.

If you believe you have been denied access to housing because of discrimination, you may call the FHEP Hotline at **808-527-8024** or from the

Recent Fair Housing News

HUD Announces Final Rule on Affirmatively Furthering Fair Housing

On July 8, 2015, the U.S. Department of Housing and Urban Development (HUD) announced it had finalized its rule on affirmatively furthering fair housing. The intent of the rule is to provide clear guidelines to assist communities receiving HUD funding comply with their obligations.

To read HUD's press release, click [here](#).

To learn more about the final rule, click [here](#).

To read responses to the final rule, click [here](#)

Justice Department Settles with Housing Authority, Cities in Race Discrimination Case

The Justice Department, Los Angeles County Housing Authority, and the cities of Palmdale and Lancaster have reached a settlement agreement. Previously, on April 28, 2015 the Justice Department announced it had reached a settlement agreement with the Los Angeles County Sheriff's Department (LASD). Here, the Justice Department alleged discrimination against hundreds of African-Americans receiving housing assistance, and that the entities engaged in a pattern of harassment and intimidation of African Americans who held section 8 vouchers with the intent to terminate them from the program and pressure them to move. Altogether, the settlements will provide more than \$2.6 million in compensation. In addition, the housing authority is to reform its housing voucher enforcement, and the LASD will reform its policies and procedures.

Click [here](#) for more information on the settlement with the housing authority & cities, and [here](#) for information on the settlement with LASD.

Fair Housing Advocates Settles with New York Landlord in Race Discrimination Case

On July 16, 2015 the court approved a settlement agreement between the Fair Housing Justice Center (FHJC), two testers, and a renter and the owners and managers of Pelham East Apartments

Neighbor Islands, **866-527-3247**. Leave a message and our Intake Specialist will call to schedule an interview.

One of our staff attorneys will then review your case and determine whether we will be able to provide assistance.

in New Rochelle, New York. The case originated when an African American prospective tenant notified FHJC that she had unsuccessfully attempted to secure housing in the building for over a year. An investigation utilizing testers revealed that agents misrepresented to African American testers that units were unavailable while showing apartments to comparably situated Caucasian testers. As part of the settlement, the prospective tenant will be able to lease an apartment with two years rent free. Additionally, the apartments will pay \$150,000 for damages and attorney's fees, ensure available units are publicly advertised, adopt, post, and distribute housing policy, require employees to attend fair housing training, and maintain rental records. FHJC will monitor compliance for four years.

Click [here](#) for more information.

HUD Charges South Dakota Property Managers in Disability Discrimination Case

On July 16, 2015, HUD announced it is charging the owners and landlords of Vikings Villa, a South Dakota property. HUD alleges that the property initially rejected a tenant's reasonable accommodation request to obtain an assistance animal, and then once the tenant obtained an assistance animal, placed overly burdensome rules over them.

Click [here](#) for more information.

Justice Department Sues Nevada Housing Provider Alleging Familial Status Discrimination

On July 13, 2015 the Justice Department filed suit against owners of a single-family rental home and an apartment complex in Carson City, Nevada for familial discrimination. The couple is accused of discriminatory advertising indicating a preference for adult tenants and refusing to rent the house to a family with three children because they did not want children in the property.

Click [here](#) for more information.

Challenges New York Lottery Policy

On July 7, 2015, nonprofit Anti-Discrimination

Center (ADC) filed a lawsuit on behalf of three African American residents challenging New York City's affordable housing lottery policy. The city has reserved half of subsidized housing being built for applicants already living in the neighborhoods. The ADC argues that this denies equal access and perpetuates segregation in violation of the Fair Housing Act. New York City is the second most segregated major city in the US, and the developments identified in the suit are in predominantly white neighborhoods.

Click [here](#) and here for more information.

HUD Issues Guidance to LGBT Americans Seeking HUD-Assisted Housing

HUD issued guidance clarifying The Equal Access Rule published in 2012 to avoid discrimination against LGBT Americans seeking HUD assisted or HUD insured housing. The Equal Access Rule ensures HUD programs are available to all qualified candidates regardless of their actual or perceived sexual orientation, gender identity, or marital status.

Click [here](#) for more information.

Additional Articles Related to Fair Housing

For additional reading, click [here](#) for an op ed on the Supreme Court reaffirming disparate impact, [here](#) for an article about racial disparities and neighborhoods, and [here](#) for an article about a success story in an experiment in housing policy in Dallas.

FHEP in the News

The Fair Housing Enforcement Program (FHEP) filed a housing discrimination suit in Hawaii State Circuit Court. For a brief information on the case, please click [here](#) to access the Hawaii Tribune Herald's article.

Shelters, Transitional Housing, and the Fair Housing Act

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, or national origin. The

state fair housing law also prohibits discrimination on the basis of sexual orientation, gender identity or expression, marital status, age, or HIV. The prohibition applies in the refusal to rent a dwelling to a member of a protected class, in the terms or conditions in the sale or rental of a dwelling, and advertisements in the sale or rental of a dwelling.

In the context of homeless shelters and transitional housing, an important question is whether a facility qualifies as a "dwelling" under fair housing law. Under the Fair Housing Act, a dwelling is "any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families" 42 U.S.C. § 3602(b).

For shelter providers, the best practice would be to comply with state and federal fair housing laws to mitigate claims of fair housing discrimination. As a general rule, the Fair Housing Act does apply to homeless shelters and transitional housing. However, certain types of facilities may not qualify as a "dwelling" under the Fair Housing Act. The analysis as to whether the facility is a "dwelling" under the Fair Housing Act is a case-by-case determination. Some of the factors to consider are:

- * Duration of stay;
- * Intent or right to return each night;
- * Inclusion of amenities;
- * Whether there is a program fee or rent due;
- * The program's purpose (whether housing is secondary to the program's purpose); and
- * Execution of a rental or occupancy agreement.

A common issue for shelter facilities is dealing with occupants with disabilities. A disabled person may make a reasonable accommodation request to a program's rules or policies. One example would be the acceptance of an assistance animal in a facility with a no pets policy. It is acceptable to require occupants to provide proof of disability through verification from their treating medical professional. Typically, reasonable accommodation requests should be granted unless the request either poses an undue financial and administrative burden, or causes a fundamental alteration to the nature of the program.

It is important to note that even if fair housing laws do not apply to particular facilities, the facilities may be considered public accommodations due to their availability to the public. In these instances, state and federal public accommodations laws such as the Americans with Disabilities Act, may apply. This prohibits discrimination with respect to the use and enjoyment of goods and services to those with disabilities.

Please click [here](#) for a PDF copy of this month's fact sheet.

Upcoming Tester Training Sessions

The Fair Housing Tester Program will be having a tester training session for anyone that is eligible to attend. All interested candidates must be 18 years and older with no previous felony record, have no open case with the Legal Aid Society, and cannot have an active real estate license. The following tester training sessions have been scheduled for the month of August:

Oahu: Tuesday, August 18, 2015 5:00-7:00 p.m. in Honolulu

Please call the Fair Housing Tester Coordinator at (808) 527-8036 to register and to receive more details, or complete the online [pre-screening questionnaire](#).

Fun Events with FHEP



(Left to Right: Maddalynn Seseapasara, Erin White, and Cathy Kapua)

On July 17, 2015, Cathy Kapua and Maddalynn Seseapasara from the Life Foundation came down to our office and gave an engaging presentation on transgender issues. Thank you Life Foundation for sharing your knowledge!

Did you know?

FHEP offers free training on fair housing. Our training seminar options cover a range of topics from general fair housing information to specific areas such as reasonable accommodation requests, assistance animals, and others. Please contact Madonna at (808) 527-8083 to schedule a free training on fair housing.

Legal Aid Society of Hawaii | | info@fairhousinghawaii.org | <http://www.fairhousinghawaii.org>
924 Bethel Street
Honolulu, HI 96813

Please forward this email to other interested parties

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