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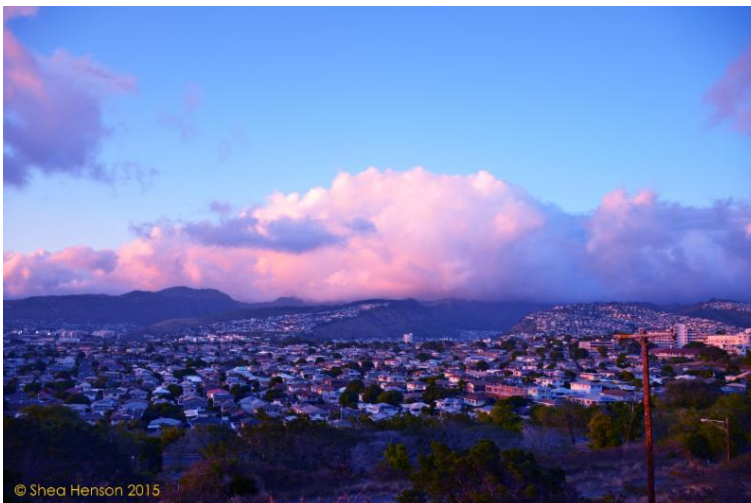


Fair Housing Enforcement Program

December 2015

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Aloha!



Kaimuki Town and Clouds Over Tantalus

Mele Kalikimaka! This month, our fact sheet focuses on HUD's new guidance for Public Housing Agencies and owners of Federally Assisted-Housing on the exclusion of home seekers with criminal records.

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

Recent Fair Housing News

Recent News

Dec. 2, 2015 - Greg Ostiguy of New Bedford, MA was arrested and charged with assault and battery in August 1991 after getting into a confrontation with his brother. Ostiguy, then 27, had been working for a

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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.

lumber company and living on Thomas Street. He spent three days in jail.

Two decades later, Ostiguy, 47, said he is homeless, camping out at a Park and Ride near the New Bedford Regional Airport. He said he has been living on the streets because he has been struggling to find work with his criminal record and unable to afford rent. He relies on a disability check for a motorcycle accident years ago.

A new policy and guidance from HUD and the Justice Department would make it easier for people like Ostiguy to transition from prison and gain more opportunities for jobs and housing.

"If I had housing, I could try to do better in my life. It's been two decades." To read the full story, click [here](#).

Fair Housing Centers Settle Accessibility & Design Lawsuits against Several Housing Development Companies

The month of November was a month of victory for the National Fair Housing Alliance (NFHA) and other Fair Housing Enforcement agencies across the country as they negotiated settlements with several housing development companies for enhanced access in apartments for disabled residents. The Fair Housing Act requires all new multifamily dwellings built after 1991 to be accessible and usable by everyone, including people with disabilities. Not doing so makes housing difficult, if not impossible, to enjoy for people who cope with mental or physical handicaps.

In Washington DC, the NFHA and other Fair Housing enforcement organizations settled a suit against Rudeen Development, LLC and other co-defendants who had constructed multifamily dwellings without the accessibility features required by the federal Fair Housing Act. The settlement outlined an agreement for

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 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.

defendants to make improvements and modifications at five apartment complexes identified in Idaho and Washington State, in addition to paying the plaintiffs \$225,000 in damages, costs, and attorney fees.

Once more, the NFHA along with Housing Opportunities Made Equal of Virginia (HOME) have settled a discrimination suit against Hunt Investments, LLC and other co-defendants for building Shockoe Valley View Apartments without the accessibility features of the Fair Housing Act. The defendants of this case have agreed to retrofit the complex in order to enhance accessibility features for disabled residents. The defendants have also agreed to pay \$600,000 in damages, costs, and attorney's fees.

In Illinois, the NFHA, Open Communities, and HOPE Fair Housing Center reached an agreement with Ryan Companies US, Inc. to make Ryan properties compliant with the accessibility requirements under the Fair Housing Act. The defendants have agreed to make alterations to +900 apartments over the next 24 months so that the units and apartment's common areas will be accessible for people with disabilities. Part of the complaints brought on by the NFHA was that wheelchair users could not access thresholds in either kitchens or bathrooms. The settlement requires the defendants to lower the thresholds, electrical outlets, and thermostats so that people with disabilities may have equal access. Costs of these alterations estimate to be \$2.7 million. The defendants were also ordered to pay \$875,000 to NFHA, Open Communities, and HOPE for damages and attorney's fees.

To read up more on these cases, click [here](#).

Worthy Reading:

Art, Ghetto, and Housing as a Human Right



Artist Ise Lyfe used the bars covering the windows in the Greenside housing project to create "Caged Living."

Photo: Michael Macor, The Chronicle

Oakland native, Ise Lyfe, writes about his art exhibition at a condemned and vacant public housing complex in Oakland, CA. Reminding us that a few blocks can make a difference on the environment and quality of life a child has growing up in the inner-city, Mr. Lyfe's conceptual art exhibition, titled *Brighter Than Blight*, brought hundreds of visitors of all races and ages, including former tenants of the public housing complex, together to behold the art which paid tribute to the hundreds of long-suffering people who called this drug and crime-ridden complex home.

To read more, click [here](#).

December Factsheet The Use of Arrest Records for Public Housing Agencies and Owners of Federally-Assisted Housing

Racial disparities in arrests, convictions and sentencing have led to the overrepresentation of people of color in the criminal justice system. Denying housing or evicting individuals with criminal records disproportionately impacts communities of color and may be a violation of the Fair Housing Act.

Criminal conviction brings with it a host of sanctions that can make it difficult for individuals trying to re-enter society and be productive members of our community.

Collateral consequences that affect an individual's ability to secure housing, employment, public benefits, students loans, etc. tend to last indefinitely, long after an individual is fully rehabilitated. About 100 million (nearly 1 in 3) Americans have a criminal record.

HUD, along with other federal agencies aims to provide second chances to formerly incarcerated individuals and ensure that individuals are not denied access to HUD-subsidized housing on the basis of unreliable evidence of past criminal conduct.

Does HUD Require that PHAs and owners adopt or enforce "one-strike" rules that deny admission to anyone with a criminal record or require eviction any time a household member engages in criminal activity?

No. In most cases, PHAs and owners have discretion to decide whether or not to deny admission to an applicant with certain types of criminal history, or terminate assistance or evict a household if a tenant, household member, or guest engages in certain drug-related or other criminal activity on or off the premises (in the case of public housing) or on or near the premises (in the case of Section 8 programs).

In deciding whether to admit or retain an individual that has engaged in criminal activity what factors should PHAs and owners consider?

PHAs and owners may consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to:

- the seriousness of the offending action;
- the length of time since the conviction;
- the number of convictions that appear on the applicant's criminal history;
- whether the applicant's offense bears a relationship to the safety and security of other residents;

- the effect that eviction of the entire household would have on family members not involved in the criminal activity;
- the extent to which the leaseholder has taken all reasonable steps to prevent or mitigate the criminal activity;
- the extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking;
- and with regard to illegal drug use by a household member who is no longer engaged in such activity, whether the household member is participating in or has successfully completed a drug rehabilitation program, or has otherwise been rehabilitated successfully.

Is an arrest evidence of criminal activity that can support an adverse admission, termination, or eviction decision?

No. An arrest shows nothing more than that someone probably suspected the person of an offense. In many cases, arrests do not result in criminal charges. In the 75 largest counties in the country, about one-third of felony arrests did not result in conviction, with about one-quarter of all cases ending in dismissal.

Arrest records are often inaccurate or incomplete (e.g., by failing to indicate whether the individual was prosecuted, convicted, or acquitted). As a result, relying on arrests not resulting in conviction as the basis for denying applicants or eviction may result in unwarranted denials to or eviction from federally subsidized housing.

What are some examples of PHA best practices on the use of criminal records in screening for criminal activity?

- Adopt admission policies that limit criminal record screening to assessments of conviction records
- Allow public housing and Housing Choice Voucher applicants to address and present mitigating circumstances regarding criminal backgrounds prior to admission decisions.
- Adopt lookback periods that limit what criminal conduct is considered during the screening process based on when the conduct occurred and the type of conduct.
- Adopt admission policies that enumerate the specific factors that will be considered when the PHA evaluates an individual's criminal record.
- Implement pilot programs that allow formerly incarcerated persons who have been released from prison within the past two or three years to be added to an existing voucher of a family member if all involved agree to participate and the formerly incarcerated individual agrees to six months to one year of supportive services with nonprofit partners.
- Hire an offender reentry housing specialist who collaborates with a formerly incarcerated individual's parole officer, landlord, and treatment provider to ensure successful reentry into the community.

For more information see:

[HUDs Guidance for Public Housing Agencies \(PHAs\) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing](#)

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 December:

Honolulu: Thursday, December 10, 2015 5:00-7:00 p.m.
& Thursday, December 17, 2015 5:00-7:00 p.m.

Please call the Fair Housing Investigation Coordinator at (808) 527-8017 to register and to receive more details, or complete the online [application here](#).

December FHEP Outreaches

Weekly Outreach at St. Elizabeth Episcopal Church
FHEP Civil Rights Advocate, Madonna will join Health Connector Advocate, Jojo Peter, at St. Elizabeth Episcopal Church in Kalihi every Thursday in the month of December from 10:00 am to 12:00 pm to provide educational and outreach materials. Onsite intake services will also be available. If you or anyone you know has a fair housing issue and is interested in applying for Legal Aid services, feel free to come down. A Chuukese interpreter will also be present. For more information on this outreach, please contact Madonna at (808) 527-8083.

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.

Honolulu, HI 96813

Please forward this email to other interested parties

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