



LEGAL AID
SOCIETY OF HAWAII



Fair Housing Enforcement Program

December 2014

Volume 1, Issue 9

Happy Holidays!

This month we have provided you with a Question and Answer fact sheet on evictions and lease terminations. Next month we will be providing a fact sheet on the disparate impact doctrine under the Fair Housing Act.

Be sure to check out our [website](#) for more program updates and resources!

Recent Fair Housing News

The U.S. Department of Housing and Urban Development (HUD) has settled an administrative complaint filed against the Salvation Army for wrongfully evicting tenants from a transitional housing center when they became pregnant. The Salvation Army's Turning Point Center had a policy which stated that there could be no additions to a resident's family once she is enrolled in the program. The Salvation Army has agreed to revise its policy and will pay \$48,000 to four women who were evicted from the center as a result of their pregnancy. For more details, please [click here](#).

HUD announced on November 12, 2014 that Castillo Condominium Association in San Juan, Puerto Rico discriminated against a disabled resident when they refused to allow him to keep an assistance animal in his unit, even though he presented documentation identifying his disability and his need for the animal. HUD ordered that the Condominium Association pay \$20,000 in damages to the resident plus a \$16,000 civil penalty. For more details, please [click here](#).

University Village, owner and operator of a 500-unit HUD-subsidized apartment complex in DeKalb, Illinois has agreed to pay \$255,000 to settle allegations that it failed to meet the needs of persons with disabilities and retaliated against a resident with disabilities for requesting a reasonable accommodation. One complainant alleged that

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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

University Village made housing unavailable when it assigned a mobility impaired resident to a third-floor unit in a building with no elevator, and threatened eviction for having her adult daughter, who was serving as her caregiver in the unit, even after she presented verification of her disability and the need for a live-in caregiver accommodation. For more details, please [click here](#).

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.

Q&A: Evictions and Lease Terminations

Q: I rent a unit in a complex with a no-pets policy. I have lived there for many years without a pet. Recently, my doctor recommended I get an assistance animal due to my disability. I submitted a reasonable accommodation request, then my landlord wrote back saying that they were terminating my lease in two months. Is this a violation of my fair housing rights?

A: The Fair Housing Act makes it unlawful to refuse to make reasonable accommodations to rules and policies when the request is necessary - and reasonable - to afford a person with a disability an equal opportunity to the use and enjoyment of a dwelling. An accommodation request may be deemed necessary when there is a nexus - or significant relationship - between the accommodation request and the person's disability.

By immediately responding with a notice of termination of tenancy, the landlord may have violated the Fair Housing Act in two areas. First, the landlord failed to consider the reasonable accommodation request, and instead opting to terminate the lease. The landlord did not decide on the issue and also did not engage in the interactive process in finding an alternative solution. Note that the request could likely be considered reasonable as well. Second, terminating the tenancy under the circumstances may be considered retaliatory. A retaliation claim requires showing that the resident has 1) engaged in activity protected by the fair housing act, 2) the landlord or community association has taken adverse action against the resident, and 3) a nexus between the protected activity and the adverse action. In this instance, the termination of tenancy might be considered retaliatory.

Q: I received a letter from my landlord citing noise complaints from my neighbors. The letter stated I have ten days to resolve the noise issues or face eviction. My son has a disability that results in loud, violent outbursts at times. Can I be evicted for these noise complaints?

A: A tenant may be evicted for repeated violations of house rules, including noise violations. Since the noise violations

appear to be connected to the child's disability, a reasonable accommodation request of the house rules regarding noise levels may be an appropriate measure. It may be unreasonable to allow for an indefinite exemption from the building's noise policy. However, requesting time - and therefore a temporary exemption from the noise policy - to develop a treatment plan for the disability would likely be reasonable under the circumstances. Under these circumstances, the interactive process would be an important component in finding a reasonable accommodation that would be viewed favorably by both sides.

Q: We live in a housing complex that has a limit of six occupants in a four-bedroom unit. I currently have four young children, but my wife is pregnant and we are expecting another child in the coming months. Can we be evicted for violating the complex's occupancy limits?

A: In the fair housing context, it is unlawful to develop over-restrictive occupancy standards, especially as applied to children. An overly restrictive occupancy limit may be considered discrimination on the basis of familial status. As a general guideline, The Department of Housing and Urban Development states that two persons per bedroom is considered reasonable. Note that this is a general guideline since other factors such as room size and age of occupants may also be considered. Therefore, whether an occupancy limit violates a tenant's fair housing rights may depend on factors such as room size, total living area, age of children, and other factors such as capacity of existing infrastructure. For a PDF version of the evictions fact sheet, please [click here](#).

Fair Housing Enforcement Program In the Community

Fair Housing Training at Kuhio Park Terrace

On November 6, 2014, Housing Urban and Development (HUD), Hawaii Civil Rights Commission (HCRC), and Legal Aid Society of Hawaii (LASH) provided a training on Fair Housing to housing providers at Kuhio Park Terrace, a public housing complex.



Fair Housing Enforcement Program attorneys Naomi Kusachi and Elwen Freitas presenting fair housing case studies on reasonable accommodation requests.

Tenants Rights Training at Senior Housing Project

On November 24, 2014, the Fair Housing Enforcement Program staff conducted a training on tenants rights, reasonable accommodation requests, and reasonable modification requests at a senior housing project. On-site intake services were also provided to tenants needed assistance in requesting accommodations.

November 2014 Project D.A.T.E Outreach

In light of the Thanksgiving holiday, Project D.A.T.E. hosted a social service fair and free Thanksgiving lunch on November 26, 2014. The event was located near the

Honolulu International Airport, where a lot of homeless individuals reside underneath the freeway. Fair Housing advocates, Chelsey and Madonna participated in the social service fair and met with other 100 attendees. At the Thanksgiving Social Service fair, our advocates gave out information on assistance animals as a reasonable accommodation request and brief information on Fair Housing law in Hawaii. For more information on Project D.A.T.E., please [click here](#).

Upcoming Tester Training Sessions

The next tester training opportunity for Oahu will be in Honolulu on Monday, December 8th from 5:30 p.m. - 7:00 p.m. For registration details and information, please call the Investigation Coordinator at (808) 527-8017 or complete the online [pre-screening questionnaire](#).

Outreach Events in December 2014

Weekly Outreach at St. Elizabeth Episcopal Church

This Thursday, December 4th, FHEP Civil Rights Advocate, Madonna will join Health Connector Advocate, Jojo Peter, at St. Elizabeth Episcopal Church in Kalihi from noon - 2:00 p.m. to provide educational and outreach material. If you cannot attend the outreach this Thursday, both will be at St. Elizabeth again on Thursday, December 11th from 10:00 a.m. - noon.

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 available.

For more information on this outreach, please contact Madonna at 808-527-8083.

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