



**LEGAL AID**  
**SOCIETY OF HAWAII**



## Fair Housing Enforcement Program

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### Happy New Year!

The Legal Aid Society of Hawaii Fair Housing Enforcement Program wishes you a happy and prosperous New Year!!! On January 21, 2014, the U.S. Supreme Court will hear oral arguments on a case challenging the use of disparate impact under the Fair Housing Act. Please check out our fact sheet below for more information on the Disparate Impact doctrine.

Next month, we will provide you with a question and answer sheet on how advertising can steer potential tenants away, in violation of the Fair Housing Act.

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

### Recent Fair Housing News

In December 2014, the U.S. Department of Justice filed a lawsuit against a North Carolina housing authority and two of its employees for sexually harassing a number of Section 8 voucher-holders. The two employees of the housing authority demanded sexual favors in exchange for granting Section 8 vouchers and conducting favorable home inspections. The employees visited the women's homes to solicit sex, made sexually suggestive phone calls, exposed themselves, and touched the women sexually without their consent. For more information, [click here](#).

Elite Riverview Apartments, a 70-unit rental complex in Miami, has reached a confidential settlement in a case alleging discrimination against African American rental applicants. Housing Opportunities for Project Excellence (HOPE) filed the lawsuit in the U.S. Southern District of Florida. HOPE conducted tests in early 2014. During the tests, all three African American testers posing as rental applicants were told that there were no available units. However, hours later, Hispanic testers would inquire into

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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

vacancies and were shown vacant units. This case shows the importance of testing to further the Fair Housing Act.

## The Disparate Impact Doctrine Under the Fair Housing Act

### What is Disparate Impact?

Disparate Impact is a legal doctrine under the Fair Housing Act which means that a policy or practice may be considered discriminatory if it has a disproportionate "adverse impact" against any group based on race, national origin, color, religion, sex, familial status, or disability.

When a policy has a discriminatory effect and it is unjustified or unnecessary, the disparate impact approach says it must be set aside in favor of a policy that is both fair and effective. However, if there is a justifiable reason for the policy and no other policy could achieve the same goal with a less discriminatory effect, the challenged policy will stand.

The Disparate Impact doctrine has been used for more than four decades to ensure that covert discrimination has no place in America's housing market. All but one federal appellate court have ruled in favor of applying the disparate impact standard in housing discrimination case.

### Examples of the Disparate Impact Doctrine in Practice:

- An apartment complex requires that tenants have full-time jobs. This requirement will bar people with disabilities from living in the apartment complex, even though they can afford the rent because of other means of financial support. The complex could instead consider all forms of income rather than just employment.
- A city decides to only approve permits to develop luxury condominiums, and that has the effect of excluding most or all people of color in that region. If the city cannot show a valid reason for its policy, or if a more fair and effective alternative is available, then the policy would have to be set aside under the disparate impact approach.

Despite the strong precedent favoring the disparate impact analysis, on October 2, 2014, the United States Supreme Court agreed to take up the question of whether disparate impact will remain a safeguard against covert discrimination in housing.

In *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*, it was alleged that

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.

the Texas Department of Housing and Community Affairs (TDHCA) disproportionately allocated tax credits to projects in minority-populated areas, thus also disproportionately denying tax credits to projects in mainly white neighborhoods - in violation of the Fair Housing Act's prohibition against racial discrimination.

The district court held that TDHCA produced no evidence to show that there were no less-discriminatory alternatives and the judgment was affirmed by the Fifth Circuit. The U.S. Supreme Court is set to hear oral arguments later this month.

For a PDF version of the Disparate Impact Doctrine Under the Fair Housing fact sheet, please click [here](#).

*This fact sheet was based on the National Fair Housing Alliance publication titled, "Disparate Impact: Safeguarding Civil Rights." To view this document, please [click here](#).*

## Upcoming Tester Training Sessions

The next tester training opportunity for Oahu will be in Honolulu on Monday, January 12th 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 January 2015



JoJo Peter and Madonna passing out brochures on Fair Housing and providing onsite intake services in Kalihi.

## Weekly Outreach at St. Elizabeth Episcopal Church

Every Thursday, starting on January 8, 2015, 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 materials.

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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Please forward this email to other interested parties

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