Fair Housing for On-Site Staff

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About the Presenter

NAHMA Approved FHC™ Instructor

Heather Staggs, SHCM™, CPO™, FHC™

Ms. Staggs brings knowledge from both sides of the aisle. Formerly with the Colorado Housing and Finance Authority (CHFA) and, prior to that, the U.S. Department of Housing and Urban Development, she is an expert in compliance with low-income housing laws and regulations. As a long-time property manager, Ms. Staggs possesses the real-world, hands-on knowledge of applying the rules of the trade. Her experience includes:

•More than 20 years of property management experience with deep knowledge of multifamily programs and regulations, including: Fair Housing, Project Based Section 8, Low Income Housing Tax Credit, FDIC Affordable Housing Program, and FHA and Non-FHA Loan products

•Former Manager of Section 8, and Multifamily Program Compliance and Asset Management Officer with Colorado Housing and Finance Authority (CHFA)

•Former Project Manager with the U.S. Department of Housing and Urban Development

•Former Sr. Director of Property Management

•Former Community Manager/Assistant Manager with Windsor Communities / General Investment and Development

•Former District Manager with McCormack Baron Management Services and Wilhoit Properties

•Former Special Task Assignment Response Team Specialist with Property Asset Management / AIMCO

•Attended the University of Denver's Executive Leadership Program 2010-2011

•Rocky AHMA's Contract Administration Special Recognition Award for Commitment to Excellence in Affordable Housing in 2011

•Recipient of a Special Recognition Award from the Denver HUD Office 2012

President Lyndon B. Johnson signing
the Civil Rights Act of 1968
April 11, 1968

Fair Housing

2015 marks the 47th anniversary of the passage of the Fair Housing Act of 1968

April is Fair Housing Month

Equality in Housing

"Fair Housing, its not an option! It's the law!"

Legislation History

- 1968 Fair Housing Act
  - Makes housing transactions subject to civil rights law
  - Holds property managers and landlords responsible for discrimination
  - May not discriminate based on race, color, national origin, religion

Legislation History cont…

- Section 504 (1973 Rehabilitation Act)
  Applies to properties that receive federal funds
  - Housing providers cannot discriminate based on disability
  - 5% of housing must be accessible for mobility impairments
  - 2% of housing must be accessible for hearing impairments

Legislation History cont…

- 1974 Housing & Community Development Act
  - Housing providers cannot discriminate based upon sex

Legislation History cont.

- 1988 Fair Housing Act Amendments
  1. Added Familial Status as a protected class
  2. Added Disabled as a protected class
  3. New construction must be disabled accessible

Legislation History cont…

- 1995 Housing for Older Persons Act Amended FHA (HOPA)
  - Created protection for housing intended to be for older persons and must have one person who is 55 years of age or older living in at least 80 percent of its occupied units.
    - *An exempt property will not violate the Fair Housing Act if it includes families with children, but it does not have to do so. Of course, the property must meet the Act's requirements that at least 80 percent of its occupied units have at least one occupant who is 55 or older, and that it publish and follow policies and procedures that demonstrate an intent to be 55 and older housing.

7 Federal Fair Housing Protected Classes

- Race
- Color
- National Origin
- Religion
- Sex/Gender
- Disability
- Familial Status

Protected Class Definitions

Race

- A group of people united or classified together on the basis of common history, nationality, or geographic distribution.
- Any of several extensive human populations associated with broadly defined regions of the world and distinguished from one another on the basis of inheritable physical characteristics, traditionally conceived as including such traits as pigmentation, hair texture, and facial features.

Color

- Although Title VII does not define “color,” the courts and the Commission read “color” to have its commonly understood meaning – pigmentation, complexion, or skin shade or tone.
- Thus, color discrimination occurs when a person is discriminated against based on the lightness, darkness, or other color characteristic of the person. Title VII prohibits race/color discrimination against all persons, including Caucasians.

National Origin

- It is illegal to discriminate against an individual because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group.

Religion

- Religious discrimination involves treating a person unfavorably because of his or her religious beliefs. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs.

Religion

- Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of his or her connection with a religious organization or group.

Sex/Gender

- Courts have interpreted Title VII's prohibition against sex discrimination to mean discrimination against men because they are men and women because they are women.
- Discrimination based upon "gender identity," which refers to a person's internal psychological identification as a man or a woman,

Familial Status

Did you know?

- Familial status refers to families with children under the age of 18, regardless of age or number of children.
- Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under 18 live with:
  - A parent or
  - A person who has legal custody of the child or children or
  - The designee of the parent or legal custodian, with the parent or custodian's written permission.

Familial Status

Familial status also includes pregnant women, families that are planning to adopt, and families that have or are planning to have foster children or to become guardians of children!

Familial Status

- Exemption from Familial Status for Older persons
  - HUD states that there are 3 exemptions where properties can exclude families with children without violating the Fair Housing Act

Familial Status

- The exemptions are:

1. State and Federal Housing Programs if the Secretary determines that the property is designed and operated for only the elderly

Familial Status

- The exemptions are:

2. 55 and over housing – where at least one person is the household is 55 years of age or older. In order for the property to qualify at least 80% of the units must have on person at least 55 or older

Familial Status

- The exemptions are:

3. 62 and over housing – Housing intended and occupied solely by persons 62 and older
(100% of the property)

Persons with Disabilities

Who is Considered Disabled?

- Anyone with a physically or mental impairment and at least one or more major life activities are substantially limited. (Includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex or an **intellectual disability**)
- Anyone has had a record of such a disability;
or
- Is regarded as having such a disability

Reasonable Accommodations

Who is Considered Disabled?

- Anyone with a physically or mental impairment and at least one or more major life activities are substantially limited. (Includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex or an **intellectual disability**)
- Anyone has had a record of such a disability;

  or
- Is regarded as having such a disability

Accommodating Persons With Disabilities

- The Federal Fair Housing Act requires housing providers to make "reasonable accommodations" for persons with disabilities.

Accommodating Persons With Disabilities

- Reasonable accommodations of rules, policies, services or practices must be allowed to afford a person with a disability the opportunity to enjoy the unit or common areas of the building.

Accommodating Persons With Disabilities

- Section 504 makes it a requirement to provide reasonable accommodations and the owner is **required to pay** for reasonable modifications to the unit to enable the person to have equal opportunity to enjoy his or her housing.

Accommodating Persons With Disabilities

- Three standards for determining what is "reasonable" have been set through regulations and court decisions. The person's request with a disability must not be:
  - An undue financial burden
  - An undue administrative burden
  - Substantially alter the nature of the offered housing
- Must be able to justify or back-up decision of denial.
  - Bids
  - Financials
  - Other documentation

Exception

Reasonable accommodations need not be made available to a person who is a direct threat to the health or safety of others or who currently use illegal drugs

1. The Act does not allow for exclusions of individuals based upon fear speculation, or stereotype about a particular disability or persons with disabilities in general.
2. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence such as current conduct or a recent history of overt acts.
3. You should always contact your property management attorney.

Accommodating Persons With Disabilities

- Owners and management agents cannot require that an applicant or resident provide the request for a reasonable accommodation in writing.
- If an owner or management agent denies a reasonable accommodation request they should engage in a dialogue with the resident as well as offer a reasonable solution.
- Owners and management agents must provide a prompt response agreeing to or denying the request.

Accommodating Persons With Disabilities

- Owners and/or management agents must have written reasonable accommodation policies and procedures.
- Owners and/or management agents should have a statement that person's with disabilities are entitled to request a reasonable accommodation.

Examples of Reasonable Accommodations

- Allowing an assistive animal.
- Having dumpsters delivered that have an opening on the front in addition to an opening on top.
- Assigning a dedicated parking space to someone with a mobility impairment.
- Allowing a person to have a Live-in Aide.
- Allowing for a larger apartment for medical equipment or a Live-in Aide.

PROOF OF DISABILITY

- Generally you can request proof that the person meets the FHA's definition of disabled when disability is not obvious.
- You can ask "if" not "what"
- You can not request proof when the disability is obvious.

Live-in Aides

- The applicant or resident must be disabled to request the Live-in Aide
- Always verify the need
- The Live-in Aide cannot be a spouse
- You must screen the live-in aide.

The Americans with Disabilities Act of 1990 (ADA)

- The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, **commercial facilities**, and transportation.
- It also mandates the establishment of **TDD/telephone relay services**.

ADA

- **"The Americans with Disabilities Act:** In most cases, the ADA does not apply to residential housing. Rather, the ADA applies to places of public accommodation such as restaurants, retail stores, libraries, and hospitals as well as commercial facilities such as offices buildings, warehouses, and factories.
- However, Title III of the ADA covers public and common use areas at housing developments when these public areas are, by their nature, open to the general public. For example, it covers the rental office since the rental office is open to the general public."

www.HUD.Gov

ADA

- "Title II of the ADA applies to all programs, services, and activities provided or made available by public entities. This includes housing when the housing is provided or made available by a public entity. For example, housing covered by Title II of the ADA includes public housing authorities that meet the ADA definition of "public entity," and housing operated by States or units of local government, such as housing on a State university campus."

WWW.HUD.Gov

FHA and the ADA

- The Fair Housing Act's design and construction requirements do not preempt the ADA and in those cases where a development is subject to more than one accessibility standard, the laws and the standards must be read together and followed together.

FHA and ADA "Service Animals"

- ADA limits the definition of Service Animal to a dog. The definition of Service Animals also does not include emotional or support animals.
- FHA and Section 504 allow for a reasonable accommodation for an assistance animal.

Assistance Animals

- An assistance animal is not a pet
- The animal can provide a service, assistance, emotional support or companionship.
- The animal must work, provide assistance, or support that alleviates one or more identified symptoms or effects of a persons disability.
- The animal need not be trained or certified.

Assistance Animals

- There must be a connection between the person's disability and the need for the service animal.
- You cannot impose conditions or restrictions on assistance animals that you would on pets for example:
  - You cannot charge a deposit
  - You cannot limit weight, size or breed

Assistance Animal

- The only permissible reasons to deny and assistance animal:
  - 1. The animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
  - 2. The animal would cause substantial physical damage to the property of others

Assistance Animal

- The only permissible reasons to deny and assistance animal:
  - 3. The presence of the assistance animal would pose an undue financial and administrative burden to the provider, or
  - 4. The presence of the assistance animal would fundamentally alter the nature of the provider's services

The Fair Housing Act
(Title VIII of the Civil Rights Act of 1968)
is defined as:

- A federal law that prohibits discrimination on the basis of race, color, national origin, religion, sex, familial status, or disability in the sale, rental, and financing of dwellings and in certain other housing-related transactions.

Fair Housing Act Cont.

- The Fair Housing Act also makes it unlawful to coerce, threaten, intimidate, or interfere with any person for exercising or enjoying their fair housing rights or encouraging or aiding others in the exercise or enjoyment of their fair housing rights.

Housing Covered by Fair Housing Laws

- Rental Housing
- Multifamily Rental Housing
- Condominiums
- Cooperatives
- Mobile home Parks
- Retirement Communities
- Nursing Homes
- Assisted Living
- Supportive Housing
- Transitional Housing
- Single Room Occupancy (SROs)

Types Housing NOT Covered

- Owner occupied with 4 or less units
- Single Family homes sold or rented without the use of a Broker
- Public accommodations such as hotels
  - Extended stay hotels and SROs are covered

FAIR HOUSING STATS

NATIONAL DATA BY BASIS OF DISCRIMINATION

For the last several years, housing discrimination against people with disabilities has made up the majority of national complaints, and 2014 was no different. In 2014, disability-based housing discrimination made up 51.8 percent of all complaints with 14,272 instances reported, an increase from the 13,542 complaints from the previous year in which they made up 49.5 percent.

Table 2. Discrimination by Protected Class

Basis	NFHA Members	HUD	FHAP Agencies	DOJ	Total
Race	19.2% (3,659)	22.2% (379)	29.5% (1,995)	29.0% (10)	22.0% (6,044)
Disability	50.7% (9,643)	59.0% (1,009)	53.2% (3,596)	50.0% (22)	51.8% (14,272)
Familial Status	10.3% (1,963)	10.9% (186)	12.8% (863)	18.0% (10)	11.0% (3,023)
Sex	4.8% (910)	8.5% (146)	10.8% (731)	6.0% (2)	6.5% (1,789)
National Origin	6.3% (1,196)	26.0% (444)	18.9% (1,280)	12.0% (4)	10.6% (2,925)
Color	1.2% (225)	2.2% (37)	1.6% (110)	0.0% (0)	1.4% (372)
Religion	0.8% (148)	1.0% (16)	3.0% (205)	3.0% (1)	1.3% (370)
Other*	6.7% (1,282)	8.8% (150)	7.5% (507)	0.0% (0)	7.8% (2,141)

Totals for these data may exceed 100 percent as individual complaints reported by HUD, DOJ and FHAPs may involve multiple protected classes.

NFHA Other* includes: sexual orientation, gender identity, source of income, marital status, age, criminal background, ancestry (including citizenship), military status, domestic violence, student status, physical appearance, lawful occupation, place of residence, family responsibility, and arbitrary (in CA rentals only).

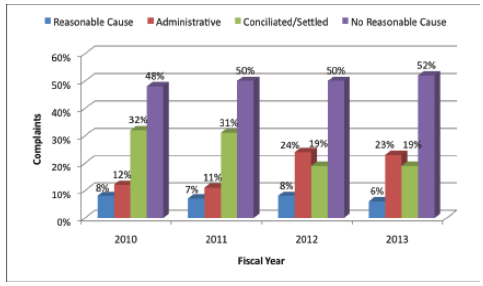
HUD and FHAP Other* are complaints of retaliation, which is prohibited under the federal Fair Housing Act.

Tables D.3 provides data on the race, ethnicity, age, sex, disability, and familial status of households receiving assistance from rental subsidies and direct loans in the 18-month period ending September 30, 2012. The data on race, ethnicity, age, and sex were provided for the head of household only, regardless of the composition of the household. The number of households represents only those beneficiaries that submitted data to HUD.

Table D.3: Protected Characteristics of Households Provided with Housing Assistance from Rental Subsidies and Direct Loans, for the 18-month period ending September 30, 2012[1]

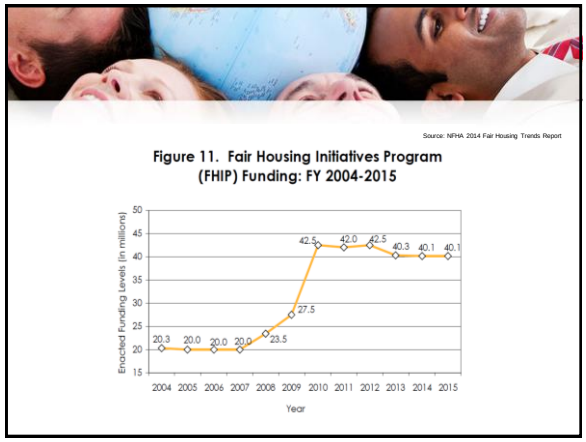
	Section 8 Project-Based[1]	Rent Supp.	Rental Assist. Program	Section 202 Direct Loan w/ Section 8	Section 202/ PRAC	Section 811/ PRAC
Number of Reported Households	998,453	7,683	10,730	149,573	112,132	30,279
Race of Head of Household						
American Indian or Alaska Native	0.9%	0.3%	0.6%	0.5%	0.6%	0.9%
Asian	4.3%	1.6%	4.3%	5.1%	7.8%	1.1%
Black or African American	35.5%	36.1%	45.9%	21.4%	23.2%	22.8%
Multiple Race	0.7%	0.5%	0.5%	0.4%	0.6%	0.7%
Native Hawaiian or Pacific Islander	0.2%	0.1%	0.1%	0.3%	0.3%	0.3%
White	52.5%	53.1%	44%	67%	60.7%	68.3%

1 All data are from the PIC system for the 18 months period ending September 30, 2012. The table excludes all records showing head of households to be under 15 years of age or over 105 years of age, as well as any record showing type of action to be either "end of participation" or portability move-out".



Did you know?

- For the fiscal year 2015, the Department of Housing and Urban Development (HUD) awarded over 40.1 million dollars in grants for Fair Housing education, outreach and enforcement.
- Every day, apartment owners and managers are being fined hundreds of thousands of dollars for violating the Fair Housing Act.



"Live Free" campaign placed 87 fair housing advertisements in 45 publications in 34 cities throughout the country

Legal Penalties for Non-Compliance

- Up to $16,000 1st Offense
- Up to $42,500.00 2nd Offense within 5 years
- Up to $70,000 3rd Offense within 7 years

Legal Penalties for Non-Compliance

- What is thought to be the largest recovery under the Fair Housing Act to date the owners and former manager of a New York City Apartment building were ordered to pay more than $2 million to the victims and an additional $55,000 in civil penalties.
- In addition to the financial penalty, there were other prohibitions and training requirements put in place to help ensure this conduct is not repeated.

Liability Insurance

The owner's liability insurance usually does not cover damage awards or fines for their actions if they violate the law.

Everyone from the property staff to the Owner can be held liable.

Those Responsible for Complying with Fair Housing Laws

ALL ON-SITE PERSONNEL

This includes the Maintenance staff! Maintenance requests should be fair and equal in manor. They cannot be prioritized or withheld to show preferences to any resident.

ALL OFF-SITE PERSONNEL

This includes ALL Management Company personnel and ALL Ownership entities.

Is A Site Required To Let Applicants And Residents Know the Staff Doesn't Discriminate?

- **Yes.** Staff is responsible for communicating to applicants and residents that they do not discriminate.

Is A Site Required To Let Applicants And Residents Know The Staff Doesn't Discriminate?

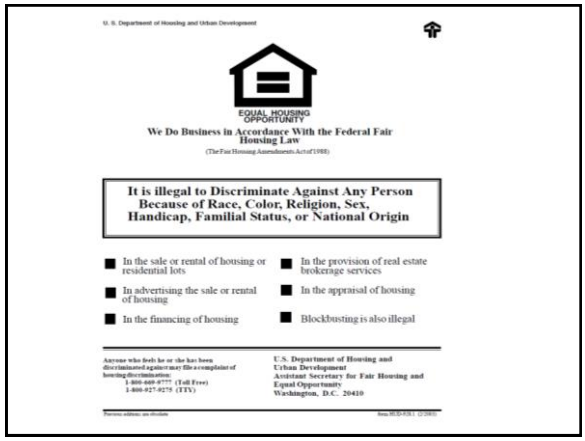
- Housing providers are required by the Federal Fair Housing Act to post and maintain a fair housing poster at all sites and places of business. Sites can obtain HUD's "We do Business in Accordance with The Federal Fair Housing Law" poster off the HUD website in English, Arabic, Cambodian, Chinese, Creole, Hmong, Korean, Spanish and Vietnamese at:

http://www.hud.gov/offices/fheo/promotingfh/lep.cfm

- To ensure equal access to this information for people with disabilities, posters must be hung at a level that someone who uses a wheelchair can read, and one should be displayed in large print.

Fair Housing

- Owners MUST display Fair Housing Posters 11” X 14”
- Any property built after March 13, 1991 with 4 or more units must contain certain design requirements



U. S. Department of Housing and Urban Development

EQUAL HOUSING OPPORTUNITY

We Do Business in Accordance With the Federal Fair Housing Law

(The Fair Housing Amendments Act of 1988)

It is illegal to Discriminate Against Any Person Because of Race, Color, Religion, Sex, Handicap, Familial Status, or National Origin

- In the sale or rental of housing or residential lots
- In advertising the sale or rental of housing
- In the financing of housing
- In the provision of real estate brokerage services
- In the appraisal of housing
- Blockbusting is also illegal

Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:
1-800-669-9777 (Toll Free)
1-800-927-9275 (TTY)

U.S. Department of Housing and Urban Development
Assistant Secretary for Fair Housing and Equal Opportunity
Washington, D.C. 20410

Previous editions are obsolete

Form HUD-928.1 (2/2003)

REQUIRED POSTER FOR RURAL DEVELOPMENT PROPERTIES

Non-discrimination Clause/Logo

- The Fair Housing Act doesn't require that a nondiscrimination clause/logo be used. It says this **should** be used; however, there is a program covered by HUD Handbook 4350.3 REV-1 it is a **must** to use the Fair Housing Logo, statement, or slogan.

EQUAL HOUSING OPPORTUNITY

Non-discrimination Clause/Logo

- Also, a property receives federal dollars it is required to use a statement of nondiscrimination on the basis of disability in any recruitment or informational material.
- Recipients with 15 or more employees have an ongoing obligation to notify applicants, tenants and employees that they don't discriminate on the basis of disability.
  - The notice must also include the name of the person responsible for coordinating its compliance efforts under Section 504 of the Rehabilitation Act.

EQUAL HOUSING OPPORTUNITY

What's New…

Why does Domestic Violence Impact Management Decisions?

- **1 in 3** women and **1 in 4** men have been victims of physical violence by an intimate partner within their lifetime [1.]
- **1 in 7** women and **1 in 18** men have been stalked by an intimate partner during their lifetime to the point in which they felt very fearful or believed that they or someone close to them would be harmed or killed[1.]
  - Domestic Violence is a gender issue based on statistics alone. Because gender is federally protected under the federal Fair Housing Act, and you must comply with the Fair Housing Act.
  - What seems like a "good management decision" could potentially have unintended effects on domestic violence victims.
  - Management policies or decisions could cause women to have to make the horrifying choice to either stay with their abuser and not call the police, or calling the police, and risk losing their housing.

[1.] *NCADV. (2015). Domestic violence national statistics. Retrieved from www.ncadv.org*

Alvera et al vs. C.B.M. et al (Oregon):

- This was the very first fair housing case dealing with domestic violence evictions as a form of sex/gender discrimination
- In this case, the husband physically assaulted his wife and was subsequently arrested
- The victim obtained a restraining order, requested a transfer and that her husband be removed from the lease
- The landlord informed the victim that she was being evicted due to a zero tolerance policy against violence
- The victim was awarded an undisclosed amount in addition to $25,628.75 in attorney fees. HUD required a change in management's policies as they relate to domestic violence

HUD vs. Norristown PA

- Complaint Filed in June of 2013 alleging that the municipality discriminated against females by enacting 2 separate a disorderly behavior ordinance
- The ordinance held landlord responsible to evict residents who were cited for disorderly behavior to include domestic disturbances.
- If the owner/landlord did not evict they would be subject to fines and possible loss of their rental licenses

HUD vs. Norristown PA

- The Municipality opposed the complaint as they felt that both ordinances were “gender neutral” and therefore they did not have a disproportionate on either females or female victims of domestic violence.
- Although they contested the complaint they agreed to enter into a 2 year conciliation agreement.
- Pay $495,000 to the victim

What did the agreement require?

- Required to repeal the ordinance
- All City employees we required to receive a copy of the conciliation agreement and a copy must be made available to the general public upon request
- The Norristown Administrator, City Council Members, Director of Code Enforcement, Chief of Police and all other persons who have interaction with victims of crime or abuse attend fair housing training and then continue to attend annual fair housing training
- Develop a community education and outreach program about the Fair Housing Act as it relates to rights under the law

What Did the Agreement Require?

- Norristown had to partner and seek guidance from a local domestic violence advocacy group to develop a community service activity that would raise awareness about domestic violence.
- They also had to promote and publicize the activity.

Blackwell vs. HA Housing LP (Colorado)

- Tenant was beaten, stabbed and raped by an ex-boyfriend in her Project Based Section 8 unit.
- As she feared for her safety, she asked her landlord to allow her to transfer to another property but her landlord refused.
- Fearing for her safety and that of her children, she moved out of her apartment and went into hiding with friends and family until her ex was caught and arrested three months later.
- Case was settled for $60,000 and the management agent was forced to change their policies.

ACLU v. Northend Village:

- The Resident's ex-boyfriend harassed and stalked her causing her to seek a protection order.
- The ex was charged for stalking and damaging the residents windows and property; however, the landlord filed eviction against the resident for failure to supervise her guests. She was not home at the time of the incident.
- Settlement reached included monetary damages and attorney fees in addition to requiring the landlord not to evict or discriminate against individuals because they have been the victims of domestic violence, dating violence, sexual assault or stalking, regardless if the abuser is residing in the tenant's household.

How do you comply?

- Do not give victims eviction notices solely due to criminal activity related to them being a victim of domestic violence.
- Allow for locks to be changed
- Acknowledge protection orders when a victim presents the order to you
- Protect residents identity and address. Do not release information to anyone unless the resident has given permission

Final Thoughts…

- Domestic violence is not a lease violation
- Do not implement “zero tolerance” policies
- Do not implement “3-strikes you are out” policies
- If you have questions about domestic violence or suspect someone may be a victim, please contact the National Domestic Violence Hotline at 1-800-799-SAFE (7233)

FAMILIES WITH CHILDREN CASE LAW

Centennial, Colorado Case

- An apartment community in Centennial Colorado published a notice in their monthly resident newsletter which set the following rule:

  "*All children must be supervised by an adult at all times while playing outside. No sports activities, skateboarding, roller-blading, or general extracurricular activities are to take place in our community. If we see anyone violating any of the above activities or see any unsupervised children they will be sent home immediately*."

Source: hud.org

Centennial Colorado, Case

- The property to resolve allegations of discrimination entered into a Conciliation Agreement
- As part of the agreement property managers were required to design and build the play area, which had to be accessible to persons with disabilities
- All property staff was required to undergo fair housing training within a year; and
- The property management company was required amend its policies to comply with the Fair Housing Act regarding familial status and distribute the new rules to employees and residents

Napa California Case

- Case involved seven affected families
- Allegations include the manager cursing at the children on the property if he found them playing outside without adult supervision
- When he found the children unaccompanied, he required that they go the management office and sit on the floor. Once there, he required the children to clean the office toilet and pick up trash around the property. In addition, threatened them, telling them that their families may be evicted if they did not comply with his instructions.

Napa California Case

- During the investigation it was also discovered that the property also had a rules barring children from using the swimming pool during particular hours.
- Under the terms of the conciliation agreement, the owners and manager of the apartment community were required to:
  - Pay Fair Housing of Napa Valley $3,750;
  - Waive four months of rent for five of the seven families (a total monetary value of $19,000);
  - Pay two former resident families a total of $7,000;
  - Eliminate the rule that limits pool usage by children during the day; and
  - Obtain fair housing training for employees.

Lenexa, Kansas Case

- The apartment community allegedly instituted a policy that "prohibited children under the age of 16 from freely using the common areas of the property"
- The rules allegedly required children to be supervised by an adult at all times and prohibited the children under the age of 16 from playing anywhere on the property except the playground. They were also prohibited from playing any team sports on the property, and from riding bicycles, skateboards, or scooters on the property
- Management also allegedly refused to renew one of the family's leases as retaliation

Source: hud.org

Lenexa, Kansas Case

- The apartment community in Lenexa, Kansas, together with their named partner and agents, agreed to pay $170,000 to settle a lawsuit
  - Under the proposed consent decree, the defendants paid $60,000 to the family that initiated the original complaint filed with HUD, $100,000 into a victim fund to compensate other aggrieved families and $10,000 to the federal government as a civil penalty.
  - In addition, the proposed consent decree prohibits the defendants from discriminating in the future against families with children and requires the defendants to receive training on the requirements of the FHA.

What Does HUD Have to Say on the Issue?

- HUD Assistant Secretary Gustavo Velasquez of Fair Housing and Equal Opportunity said, "Overly restrictive housing policies for families with children are illegal, and prevent them from fully enjoying the place they call home. HUD will continue to work with the Department of Justice to take action against property owners and landlords whose policies violate the Fair Housing Act."

Families With Children Impact on Management Decisions

- Use caution not to implement policies involving children
- Ensure that policies are not overly restrictive
- Ensure violations are not punishable by manual labor

Final Rule: Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity

- **DATES:** *Effective Date:* March 5, 2012.
- Clarifies that all otherwise eligible families, regardless of marital status, sexual orientation, or gender identity, will have the opportunity to participate in HUD programs. In the majority of HUD's rental and homeownership programs the term "family" already has a broad scope, and includes a single person and families with or without children. HUD's rule clarifies that otherwise eligible families may not be excluded because one or more members of the family may be an LGBT individual, have an LGBT relationship, or be perceived to be such an individual or in such relationship.

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- Prohibits owners and operators of HUD-assisted housing or housing insured by HUD from asking about an applicant or occupant's sexual orientation and gender identity for the purpose of determining eligibility or otherwise making housing available. In response to comments on the proposed rule, HUD has clarified this final rule to state that this provision does not prohibit voluntary and anonymous reporting of sexual orientation or gender identity pursuant to state, local, or federal data collection requirements.

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