

Civil Rights FHA Issues



Webinar Presented on:

January 23, 2019

By:

John H. Pentecost & Bill Dahlin

(1)

FHA

A Short Primer

- What impact on Manufactured Housing Communities?
- What is the FHA?
- What are the potential concerns?
- Are there usually state law parallels?

Federal Fair Housing Laws

FHA goal is to provide equal opportunity for all persons to obtain and enjoy housing of their choice.

Applies to all housing owners and operators

Federal Fair Housing Laws

Applies to common community areas
of any manufactured home

Applies to business areas that
resident or potential resident will
use, but not employee-only areas

Federal Fair Housing Laws

New Construction/Alteration Issues

To Common areas at owners expense; To resident dwelling unit at expense of individual homeowner.

Common area changes – Resident may invoke request for reasonable accommodation

Residential dwelling – If prohibited by community rules, resident may invoke request for reasonable accommodation

Federal Fair Housing Laws

New multi-family unit buildings must comply to HUD accessibility standards, new single family homes are not covered. Thus, rare application to Mobilehome Community.

May require accommodations such as provision of special parking area

Federal Fair Housing Laws

Violation of FHA laws can be discrimination against the affected person; may also have violation if related to associates (guests) of resident or a resident is regarded as handicapped.

Implemented and enforced by HUD and any State Commission and/or local governmental agency.

New HUD memo of April 4, 2016 re: Criminal background checks

General Fair Housing Policy Consideration

- Simple to read
- We abide by all federal state and local fair housing laws
- If it takes a lawyer to understand -- start over
- Post it in your front office (may need to do so in multiple languages)

Best Practices

- Post a brief written policy that complies with federal, state and local laws
- Follow written complaint process. Don't ignore a complaint.
- Educate employees about the policy and the need to obey fair housing laws. Train all employees. Sanction noncompliance.
- Adopt a written incident report for property managers. Consider a checklist. DOCUMENT. DOCUMENT. DOCUMENT.
- Include fair housing language in the lease.

Best Practices (cont.)

- Advertise the property (not the tenants).
- Use the Equal Housing Opportunity logo on your advertisements.
- Maintain a current list of available units, so all are given the same information.
- Keep a copy of everything in LARGE PRINT.
- Treat everyone the same and self-test.

Screening Policy

You can:

- Determine if an applicant has the income and rental history to meet your tenancy criteria
- Request identification
- Run credit checks (denials)

You Can't:

- Discriminate based on any of the protected classes!
- Say a rental is unavailable when it actually is

Reasonable Accommodations Policy

A reasonable accommodation is a change made to a policy, program or service allowing a person with a disability to reside in or use the community dwelling, such as:

- modifications to home or home site
- a rental form in large print
- allowing caregiver
- moving monthly residents meeting to an accessible location
- reading notices to tenants
- **service and support animals**

Criminal Background Checks

April 4, 2016 – HUD issued a “guidance” memo on its view of how the Fair Housing Act applies to the use of criminal background checks by housing providers.

Specifically the document “addresses how the discriminatory effects and disparate treatment methods of proof apply in Fair Housing Act cases in which a housing provider justifies an adverse housing action – such as a refusal to rent or renew a lease – based on an individual’s criminal history.”

Criminals are not a “protected class.”

Care Takers

- Reasonable Accommodation
- Aging in Place
- Family Members



Service Animals

- FHA – Service Animals and Emotional Support Animals
- ADA – Service Animals



Questions?



Thank you!



John Pentecost

jpentecost@hartkinglaw.com

714-432-8700 ext. 363

Bill Dahlin

bdahlin@hartkinglaw.com

714-432-8700 ext. 306

4 Hutton Centre Drive, Ste. 900

Santa Ana, CA 92707

www.hartkinglaw.com