

Fair Housing is Not All Black and White

Following is an article by Nadeen Green, an attorney who has spoken on fair housing topics to residential rental audiences across the country since the Fair Housing Amendments Act's inception in 1989.

Here at the Fair Housing Council (FHC0) we make ourselves available to those who feel their fair housing rights have been violated, as well as to those with fair housing questions, including housing providers! If you have a question about your rights or responsibilities under federal, state, and local fair housing laws, please visit us at FHC0 online or call our free Hotline at 800/424-3247 Ext. 2.

How can iguanas, "hellos," and food stamps put you at risk?

You have likely been to fair housing programs or have read articles that dealt with the important topics of race, color, disability, children, national origin, sex, and religion. (And if that is not the case and you have any role or job in the housing industry, then stop reading this article now—not an easy statement for any author to make—and find a class on fair housing basics pronto.)

But these topics, albeit extremely important, are not the only ones out there. Through state laws and local ordinances, as well as through court cases, the civil rights of the Fair Housing Act continue to expand or are clarified. So here are some things that you may not know about. Even if there is just one topic below that is helpful to you, your reading of this article has been worth it.

Lions and tigers and bears, oh, my! You know a service animal is not a pet and that you must make reasonable accommodations for people who have a service animal (this usually relates to your pet policies). And while it is highly unlikely that lions, tigers, or bears will be the service animals brought to your community, keep in mind that not all service

animals are dogs and cats. And those that are dogs may be providing assistance you never even thought of. From cases or in the news, service animals that take us beyond the guide dog for the blind, or the cat for depression, include

- o Dogs assisting their humans who are diabetic (sensing changes in blood sugar levels);

- o Dogs providing a calming effect for children with FAS (fetal alcohol syndrome);

- o Miniature horses (as guide animals for the blind); this author has had two students in class that had guide horses at their communities;

- o An iguana assisting with depression.

Everyone poops! (Which, by the way, is the title of a children's book by Taro Gomi that celebrates a very natural process.) Lions, tigers, bears, dogs, cats, horses, and iguanas all poop. But when you reasonably accommodate a person with disabilities and their service animal poops, do you have to clean it up for them? Can you require that the person does this (or arranges to have it done)? The answer to this query is found in the Federal Register, Vol. 73, No. 208, Monday, October 27, 2008 at page 63836. You, however, don't have to look it up because this author will now quote from that as follows: "...a housing provider may establish reasonable rules in lease provisions requiring a person with a disability to pick up and dispose of his or her assistance animal's waste." Now, before we leave this intriguing topic, may I suggest to you Service Dog Central as a website resource to help you keep current on service dog issues.

Pet lovers protected too? Well, not yet. But there has been discussion in San Francisco (let's refrain from making any comment whatsoever about California) to consider a prohibition of housing discrimination against responsible pet owners. That bears watching.

Merhaba. If your community participates in the Project Based Section 8 program or if you receive HOME or CDBG funds, you are supposed to be

compliant with HUD's Limited English Proficiency (LEP) guidelines. If you are not familiar with these, then wisdom would dictate you find out more about this and proceed accordingly. <You can read up on the subject at www.FHCO.org/lep.htm.> Those of you at conventional communities have no FHA duty to those with LEP. But just because you don't have to do anything in this regard, it doesn't mean you shouldn't. Why? Prospects, applicants and residents for whom you facilitate based on language challenges are happy. Why do you care? Happy people don't sue you (or at least not as often as unhappy people, although for purposes of disclosure, let me point out that this has not been statistically established; i.e., I made it up). But to avoid some of the issues related to national origin (the usual basis for LEP) and to show your openness to folks from other places (great for mitigation in a worst case scenario, i.e., a fair housing lawsuit or charge), think about what you can do to make it easier for people with LEP. Ideas might include a work order board (residents point to a picture where they have a problem – a toilet, a sink, a door) or work order requests with visuals (think Clip Art) to check. By the way, *merhaba* means "hello" in Turkish.

Boy Meets Girl. (Or Boy Meets Boy, or Girl Meets Boy, or Girl Meets Girl) No matter the combination, such a scenario can lead to charges of sexual harassment. Why is this a fair housing topic? Because the victims of sexual harassment are chosen based on their gender, and gender is protected under the FHA. Many of the issues arise with maintenance personnel (who may be perpetrators or, as is often the case, victims of sexual harassment). Keeping in mind the vulnerability of your residents and your employees, there are questions you need to ask and decisions you need to make. Should your employees be allowed to date residents? Should your employees be allowed to socialize with residents? And while the topic here is sexual harassment, dating and socializing can lead to other fair housing issues if they lead to disparate treatment in the rental environment (such as the upset African American resident who feels that the maintenance man responds more promptly to her neighbor whom he is dating and who is white). Know the risks of such dating and socializing, know your tolerance for risk, and create your policies accordingly.

MyFace and SpaceBook. You may chuckle when you hear less-than-savvy folks

talk about social media, but you may not know as much as you think you do when it comes to social media marketing and fair housing. Social media marketing is a form of advertising and there are fair housing considerations. There are numerous and detailed articles out there about this, but here are a few things for you to consider:

- o Use the EHO logo: this is advertising!
- o Watch what you say: the same words that were taboo in print and online are still taboo in social media.
- o Watch who says it: diversity of spokespersons should be your goal.
- o Watch who you show: white-only advertising has been a sin since 1968; the days of Barbie® and Ken are long over.
- o Weigh your control of your social media site: more control can mean more fair housing liability.

Food Stamps. Should food stamps be counted toward income for rent qualification? The answer is “maybe.” If your community is located in an area that has a source of income protection <this is the case across Oregon>, there is the possibility that food stamps would be considered income. Would this be necessary as a reasonable accommodation if the recipient is getting food stamps based on disability? And finally, the philosophical question of “why not” count them?

Fair housing laws will continue to expand and will often be interpreted very broadly to protect the civil rights of those who live with you or wish to do so. You owe it to them and to yourself to always be aware of and in compliance with those laws that assure equal housing opportunity.

At the Fair Housing Council we offer detailed information about federal and state protected classes linked from the entry page of our site at www.FHCO.org. To check for local protections in the area you live, work, or own property visit www.FHCO.org/pdfs/matrix_ore.pdf or www.FHCO.org/pdfs/matrix_wash.pdf. And, as always, if you

have fair housing questions, visit our site or call our free Hotline at 800/424-3247 Ext. 2.

This article brought to you by the Fair Housing Council; a nonprofit serving the state of Oregon and SW Washington. Learn more and / or sign up for our free, periodic newsletter at FHC0.org. "Fair Housing Focus" is written by Nadeen Green, Senior Counsel with For Rent Media Solutions™. The information contained in this article is not to be considered legal advice, and the author and For Rent Media Solutions strongly suggest that you consult with your own counsel as to any fair housing questions or problems you may have.

Qs about your rights and responsibilities under fair housing laws?

Visit www.FHC0.org or call 1-800-424-3247 Ext. 2.

Qs about this article? Want to schedule an in-office fair housing training program or speaker for corporate or association functions?

Contact Diane Hess, Education Director at dhess@FHC0.org or 800/424-3247 Ext. 108