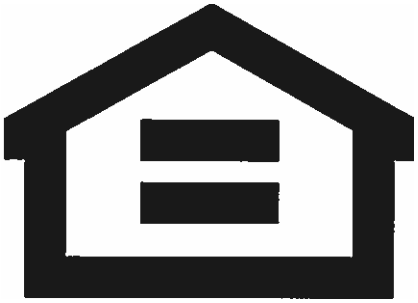
DULLES AREA ASSOCIATION OF REALTORS®

Dulles Area Association of REALTORS®
The Association of Choice for Real Estate Professionals™

2018

Fair Housing
(2 Classroom Hours)



EQUAL HOUSING OPPORTUNITY

I. History of Fair Housing

A. U.S. Constitution (1787)
Slaves considered three-fifths of a person

B. Bill of Rights (1791)
First 1O amendments of Constitution
1. Freedom of Speech and the Press
2. Right to Due Process
3. Right of Freedom of Religion

C. Dred Scott Decision (1857)
Blacks denied citizenship

D. Thirteenth Amendment (1865)
Abolished Slavery

E. Civil Rights Act of (1866)
Guaranteed all equal rights under law

F. Fourteenth Amendment (1868)
Full citizenship to persons of African descent.
All person's equal protection and due process.

G. Executive order 11063 (1962)
Put all federal agencies under anti-discrimination mandate.

H. Civil Rights Act of 1964 (1964)
Prohibited discrimination in federally assisted programs
and employment on the basis of Race, Color, Religion or National Origin.

I. Civil Rights Act of 1968 (1968)
Prohibited discrimination based on **Race, Color**
Religion, or **National Origin**

J. Amendment to the Civil Rights Act of 1968 (1972)
Required equal opportunity posters be displayed in all offices
and locations dealing with housing and must contain the slogan
"Equal Housing Opportunity" and carry a brief housing opportunity
statement on poster.

K. Rehabilitation Act of 1973 (1973)
Prohibiting discrimination against persons with disabilities in all federally
assisted housing. Must make reasonable accommodations/modifications

L. Housing and Community Development Act. (1974)
Added Sex (Gender)as a protected class

M. The 1988 Fair Housing Amendments Act 1988 (1988)
Added **Familial Status** and **Handicapped** as a protected class.

II. Supreme Court Cases

A. Plessy v. Ferguson (1896)
Supreme Court decision establishing the doctrine of "separate but equal"

8. Shelly v. Kraemer (1948)
Supreme Court decision barring state courts from enforcing racially restrictive covenants.

C. Brown v. Topeka Board of Education (1954)
Supreme Court decision overturned the "separate but equal" doctrine pertaining to public schools.

D. Jones v. Mayer (1968)
Supreme Court decision upholding the Civil Rights Act of 1866, applying it to private as well as public discrimination

III. Definition of Protected Classes

A. Federal
1. Race
2. Color
3. Religion
4. National Origin
5. Sex
6. Handicapped
7. Familial Status

8. Virginia
1. All federal protected classes
2. Elderliness - defined as 55+

C. Sampling of Local Protected Classes
1. Arlington - Sexual Orientation, Marital Status, Elderliness (40+)
2. Fairfax- Marital Status, Age (40+)
3. City of Alexandria - Sexual Orientation, Marital Status, Ancestry, Age (55+)
4. City of Falls Church - Marital Status, Elderliness (55+)
5. Prince William County - Marital Status
6. Loudoun County- no additional protected classes beyond federal and state

IV. Americans with Disabilities Act

A. Signed into law on July 26, 1990 by President George H. W. Bush

8. Website for information; www.ada.gov

C. Title I - Employment
Title II - Public Services
Title III - Housing, Public Accommodations
Title IV - Miscellaneous Provisions

D. What the ADA states about housing accommodations

V. Advertising

A. Fair Housing Posters, Symbols and Statements
    1. Use of Posters
        a. where/When Posters are not required
        b. Location
        c. Failure to display posters
    2. Fair Housing Symbols/Statement
        a. where required
        b. how to display/size

B. HUD Fair Housing Advertising Policy
   Part 109- Fair Housing Advertising
    1. Use of Fair Housing Symbols
    2. Discriminatory Advertising
        a. words and phrases
    3. Use of human models
    4. Selective Advertising
    5. HUD Memorandum of phraseology or discriminatory words

VI. Landlord Tenant Relations

A. Screening prospective tenants
B. Problem tenants
C. Establishing Occupancy Standards
    1. Size of bedrooms
    2. Age of children
    3. Physical limitations of housing
    4. Parking
    5. Service Animals
    6. Evictions

VII. Discriminatory Practices

A. Refusing to sell, rent or negotiate
B. Quoting different terms or conditions
C. Evicting tenants because of a protected class
D. Falsely representing that housing is not available
E. Intimidation or interfering with a person's housing decision
F. Denying membership in MLS
G. discriminatory advertising
H. blockbusting
I. Steering
J. Redlining
K. Failure to Display Poster, symbol or slogan or statement
L. Other discriminatory practices

VIII. Review of Administrative Decisions

A. Review of Case Studies and Recent Case Summaries

IX. Conclusion

A. review of what we learned

B. Questions and Answers

Student Handout
Packet Contents

1. History of Fair Housing handout
2. Selected Sections from the VREB Fair Housing Regulation
3. DPOR Housing Discrimination Complaint Form
4. HUD Fair Housing Policy- part 109-Fair Housing Advertising handout
5. HUD Memorandum
6. The Americans with Disabilities Act - Brief Overview handout
7. Fair Housing Case Studies and Recent Case Summaries
8. Guidance Document: Reasonable Accommodation Requests for Assistance Animals

History of Fair Housing

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Definition of Protected Classes

A. RACE

Racial discrimination occurs when people are treated differently from others similarly situated because they are members of a specific race. It can occur when individuals are treated differently because of unalterable characteristics, such as physical features, indigenous to their race. The courts have been careful to state that minorities are not the only victims of discrimination. Whites have also been found to have been discriminated against if treated differently from others who are similarly situated.

B. COLOR

Color discrimination is a separately identifiable type of discrimination that can occur in conjunction with race discrimination. It occurs when individuals are treated differently than others who are similarly situated because of the color of their skin. It can also occur in the absence of racial discrimination, if members of the same race are treated differently because of their skin color.

C. RELIGION

Religious discrimination occurs when a person is required to violate a fundamental precept of his or her religion in order to be treated as others similarly situated. The definition of religion is not limited to the orthodox denominations, but includes those who lack belief (atheists) as we11 as any belief that an individual sincerely holds with the strength of traditional religious views. All aspects of religious observances, practices and beliefs are covered.

D. NATIONAL ORIGIN

National origin discrimination has been defined as the denial of equal opportunity because of an individual's or an individual's ancestor's country of origin, or because an individual has the physical, cultural, or linguistic characteristics of a particular national origin group.

E. SEX

Sex discrimination may occur when similarly situated men and women are treated differently. This is called disparate treatment. Disparate impact occurs when a policy has a disproportionate adverse impact on persons of one gender. Sexual harassment is a form of sex discrimination. Sexual harassment is deliberate or repeated unsolicited and unwelcome verbal comments, gestures, of physical contact of a sexual nature in a work place or in a work-related environment.

F. HANDICAPPED

Discrimination of the handicapped occurs when an individual is treated differently on the basis of a handicapping condition. A disabled person is defined as one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

Physical or mental impairment means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Major life activities include, but are not limited to, functions such as caring for one's self, performing manual tasks, walking, seeing, standing, hearing, speaking, breathing, learning, and working.

"Has a record of such an impairment" means has a history of, or has been classified (or misclassified) as having a mental or physical impairment that substantially limits major life activities.

G. FAMILIAL STATUS

The act extends protection to families with children. The presence of one or more persons under the age of 18 whom lives with either a parent or a guardian. This could be a single parent or a couple with a child or children. A pregnant woman is under the familial status.

Discriminatory Practices

- **Refusing to sell, rent or negotiate**
  An example would be a landlord refusing to rent to a black couple or refusing to negotiate an offer to purchase because the purchaser is Asian.

- **Quoting different terms or conditions**
  Offering a reduced price to Caucasians to attract them into a community but quoting a larger amount to a Hispanic family would be a violation. Quoting different terms to a person who is disabled because they need to modify the property in order to live there.

- **Evicting tenants because of a protected class**
  Deciding that a property or complex should be an "adult only" community and removing families with children would be a violation

- **Falsely representing that housing is not available**
  A black couple is turned away because the rental office tells them that there is no vacancies and then immediately offers a rental unit to a white couple.

- **Intimidating or interfering with a person's housing decision**
  Making a person feel uncomfortable with their housing choice is intimidation, or making a threat to a person if they move into a property. These are violations.

- **Denying membership in MLS**
  No one should be denied the ability to place their property on the multiple listing service because of their class.

- **Discriminatory advertising**
  This area caused a great deal of confusion in the early nineties. Interest groups filed complaints over phraseology used in advertising. Such phrases as "Walk to", "Master bedroom", and "spectacular view" were included in complaints filed to HUD. Finally, HUD issued a clarification as to what constituted a discriminatory practice in advertising, (Attachment A).

- **Blockbusting**
  Blockbusting or panic selling is created when someone attempts to profit from inducing homeowners to sell because of the entry of a protected class. An example would be if a Realtor panics a homeowner to sell their home because of the expected loss of value due to the arrival of a family into the neighborhood of an Asian origin. The Realtor purchases the property from the homeowner at a low figure and the turns around and sells the property for top dollar to an Asian couple, thus creating a profit for the Realtor.

- **Steering**
  Showing property in communities based on a protected class is prohibited. Trying to protect the character of a neighborhood by avoiding showing property in a neighborhood to certain protected class is also prohibited. Even if asked to do so, it is illegal to comply with the request.

- **Redlining**
  This area applies to Insurance companies and Lenders. Refusing to lend money or insure property because of where it is located is prohibited.

- **Failure to Display Poster, symbol, slogan or statement.**
  A Fair Housing post should be display in all offices dealing with housing. The poster must contain the slogan **"Equal Housing Opportunity"** and a brief equal opportunity statement. In all advertising the equal housing opportunity logo should be displayed. HUD guidelines are as follows:

  1. The logotype should be not smaller than ½ by ½ inch in size.
  2. Not required in advertising less than four column inches
  3. If other logotypes are used, the logotype should be no smaller than the largest logotype used.

An equal housing opportunity statement may be used. This statement should read: ***"We are pledge to the letter and spirit of U.S. Policy for the achievement of EQUAL HOUSING OPPORTUNITY throughout the Nation. We encourage and support all affirmative advertising and marketing program in which there are barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin."***

Three to five percent of the advertisement may be devoted to this statement.

Exemption

The Fair Housing Laws allow for some exemptions. The law however does not exempt any discrimination based on *Race*. Also, a person holding a *real estate license* is never exempt, professionally or personally.

A. **A person owning no more than 3 single family homes** at one time who:
- Has not sold any more than one property in the past 24 months
- Does not have a real estate licensee involved
- Not been discriminatory in their advertising

B. **A one-to-four-unit family dwelling** where the owner owns it and lives in one of the units.

C. **Private Clubs** that are not open to the public can reserve housing for their members only so long as the housing *is* not operated commercially.

D. **Religious Organizations** who reserve housing their congregation as long as membership is not restricted based on *race, color or national origin.*

E. **Any person who poses a threat** to the health or safety of others or who would cause substantial physical damage to property is not a protected class.

F. **Retirement Communities** where at least 80% of the units are housed by at least one person *55* years of age or older may be exempt from the *familial status* class.

G. **Housing for the elderly** where all residents are at least 62 years of age, are also exempt from the *familial status.*

H. **Occupancy Standards** where the local, state, or federal government restricts the maximum number of persons permitted to occupy a property.

I. **Drug Conviction** - No protection for a person who has been convicted of manufacturing or distribution of a controlled substance.

J. **House sharing** - if a person is looking for a roommate and advertises for a same gender roommate, this is not a violation.

K. **Mrs. Murphy's Exemption** - a person who is the owner occupant of a property and rents room out (no more than four families living independently of each other)

Enforcement Procedures

A person who feels that they have been discriminated against may file a complaint with HUD. The complaint must be filed within **one year** of the date of the alleged discrimination. The complaint may be filed by telephone, mail or in person. The complaint should include the name and address or the complainant and the respondent, a description of the property involved and a statement of all the facts surrounding the alleged discrimination. HUD will refer all complaints to the state and local agencies whose fair housing laws are substantially equivalent to the federal statute. If the agency fails to commence proceedings within **30 days of referral,** HUD will reactivate the case for investigation.

The complaint process is as follows:

1. HUD advises the complainant of the right to start civil action in Federal District Court within **two years** after the discrimination occurred.
2. HUD serves respondent within 10 days of filing of complaint.
3. Respondent given 10 days to respond to complaint
4. HUD must investigate, attempt to resolve through conciliation and either file a charge or dismiss complaint.
5. HUD can refer matter to Justice Department or Attorney General if situation requires a prompt judicial action such as a restraining order.
6. HUD must complete investigation within 100 days, unless impractical.
7. If a conciliation agreement is entered into, the agreement may contain monetary damages, injunctive relief, provisions to vindicate public interest, affirmative action's respondent will undertake. An acceptance of a conciliation agreement will prevent a complainant from bringing civil suit against the respondent.
8. Conciliation agreement is subject to approval of the Secretary of HUD.
9. Based on facts, HUD can either dismiss case if no discriminatory practices are found or issue a formal charge.
10. If charge is issued parties can have case decided by an Administrative Law Judge or in Federal District Court.
11. Administrative Law Judges hold hearing within 120 days following issuance of a charge.
12. The Administrative Law Judge may offer the following relief:
    1. Actual Damages
    2. Equitable Relief
    3. Injunctive Relief
    4. Civil Penalties
        a. first offense $I0,000
        b. Second offense within 5 years $25,000
        c. Third and subsequent offenses within 7 years $50,000
13. Parties may appeal case within 30 days after final decision
14. General District Courts offer the following:
    1. Civil penalties of up to $50,000 for first offense and up to$100,000 for subsequent offences.
15. If a licensee is involved in a discriminatory practice, HUD is required to notify the licensing agency of the final decision.

U.S. **Department** of Housing and Urban Development
District of Columbia Office
Fair Housing and Equal Opportunity
820 First Street, NE
Washington, DC 20002-4255

FEDERALLY PROTECTED CLASSES

RACE
COLOR
NATIONAL ORIGIN
RELIGION
SEX
FAMILIAL STATUS
DISABILITY

PROTECTED CLASSES UNDER STATE FAIR HOUSING LAWS

District of Columbia	Maryland	Virginia
Race	Race	Race
Color	Color	Color
Religion	Religion	Religion
National Origin	National Origin	National Origin
Sex	Sex	Sex
Physical Disability	Physical/Mental Disability	Disability
Familial Responsibilities	Familial Status	Familial Status
Marital Status	Marital Status	Elderliness (55+)
Age (18 +)		
Personal Appearance		
Sexual Orientation		
Matriculation		
Political Affiliation		
Source of Income		
Place of Residence or Business		

Additional Protected Classes Under Other Local Fair Housing Laws

Maryland

Montgomery County, MD: source of income; sexual orientation; marital status; age; ancestry; and occupation

Prince George 's County, MD: sexual orientation; marital status; age; occupation; political opinion; and personal appearance

Virginia

Arlington County, VA: sexual orientation; marital status; and elderliness (40+)

Fairfax County, VA: marital status; and age (40+)

City of Alexandria, VA: sexual orientation; marital status; ancestry; and age (55+)

City of Falls Church, VA: marital status; and elderliness (55+)

Prince William County, VA: marital status

Loudoun County, VA: no additional protected classes beyond state and Federal classes

Selected Sections from the VREB Fair Housing Regulations

FAIR HOUSING REGULATIONS

Effective September 22, 2007

STATUTES

Title 36, Chapter 5.I

9960 Mayland Drive, Suite400
Richmond, Virginia 23233
804-367-8500

History of Virginia Fair Housing Law

In 1972 the General Assembly enacted Virginia's first fair housing law. The fair housing law that the General Assembly enacted in 1972 was similar to the fair housing law that Congress enacted under the Civil Rights Act of 1968. Since 1972 Virginia's fair housing law has been amended several times. Amendments were generally made to add protected classes.

Today Virginia's fair housing law prohibits discrimination on the basis of race, color, religion, national origin, sex, elderliness, familial status, and handicap. Because Virginia's fair housing law includes elderliness as a protected class it is broader than the federal fair housing law. Elderliness means anyone over 55.

Fair Housing - Past and Present

Historically most housing complaints were based on race. And according to estimates provided by the United States Department of Housing and Urban Development, 70% of fair housing complaints are related to a rental transaction.

While race is still the primary reason why people are discriminated against more complaints are being filed on the basis of disability. In fact, if current trends continue, in the near future, fair housing complaints based on disability will exceed those based on race.

Summary of Protected Classes

Virginia's Fair Housing Law makes it illegal to discriminate in residential housing on the basis of race, color. religion, national origin, sex, elderliness, familial status and disability. In addition, the law prohibits applying one standard to one class of individuals while applying a different standard to another class of individuals. For examp1e, it would be illegal to ask a disabled individual applying for an apartment to provide a credit report if non-disabled applicants did not have to provide one.

Virginia's Fair Housing Law applies to rental transactions, trying to rent an apartment or house, to sales transactions, trying to purchase a home, to financing transactions, trying to obtain a mortgage, to insurance transactions. trying to obtain homeowners or rental insurance and to advertising transactions, how individuals, companies and newspapers advertise about rental vacancies or homes for sale.

Description of the protected classes

Race
It would be illegal to deny someone a housing opportunity because they are black or white.

Color
Some people have darker complexions than others. If would be illegal to deny someone a housing opportunity on that basis.

Religion
A housing provider could not refuse to sell or rent to someone because they practice Islam or Christianity.

National origin
A housing provider could not refuse to sell or rent to someone because they are Asian or Jewish.

Sex
Except for shared living spaces it would be illegal to rent to one sex and not the other. For more information on sexual discrimination, visit the Sexual and Non-Sexual Discrimination page.

Elderliness
Elderliness means over 55. Under this protected class a housing proving could not deny a housing opportunity to someone because they are older than 55.

Familial status
Familial status means having children who are under eighteen. Unless a facility is a senior/retirement facility it may not refuse to rent to families with children. Senior and retirement faculties for individuals over 55 or 62 may however lawfully refuse to rent to fami1ies with children.

In terms of occupancy standards as they relate to families and children, the general guideline is that housing providers should allow at least two people per bedroom. In some circumstances landlords should allow more than two people per bedroom while in other circumstance a bedroom and the total living space would not accommodate two people in every bedroom. Housing providers should also not dictate which bedrooms younger children on different sexes sleep as this is a parental matte. Nor should a housing provider dictate what floor families with children should live on. Again, this is a parental matter.

Disability
The Jaw also makes it illegal to deny a housing opportunity to individuals with disabilities. Historically most housing complaints have been based on race. Complaints based on disability however continue to increase and may eventually displace race as the number one protected class. Complaints based on familial status are usually the third most frequent type of housing complaint.

Non- protected classes

There are several groups that are not protected under either the state or federal fair housing law. For example, students and smokers are not protected. Income status, sexual orientation, marital status, that is unmarried couples and age are also not protected groups. However, these classes may be protected under a local ordinance. Therefore, before drafting a fair housing policy a housing provider should determine if local ordinances protect certain classes that are not protected by the state or federal law.

Overview

In 1991 the General Assembly added handicap as an additional protected class to Virginia's fair housing law. Being handicapped includes but is not limited to psychological disorders, emotional and mental illnesses, learning disabilities and recovering drug addicts and alcoholics. If someone is disabled you cannot refuse to rent to them because of their disability.

Use of Fair Housing Posters

Except to the extent that regulation 2.5 E I b applies. all person's subject to §36.96.3 of the Virginia Fair Housing Law, Unlawful Discriminatory Housing Practices, shall post and maintain an approved fair housing poster as follows:

a. With respect to a single-family dwelling (not being offered for sale or rental in conjunction with the sale or rental of other dwellings) offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings, such person shall post and maintain a fair housing poster at any place of business where the dwelling is offered for sale or rental.

b. With respect to all other dwellings covered by the law: (i) a fair housing poster shall be posted and maintained at any place of business where the dwelling is offered for sale or rental, and (ii) a fair housing poster sha1 1 be posted and maintained at the dwelling, except that with respect to a single-family dwelling being offered for sale or rental in conjunction with the sale or rental of other dwellings, the fair housing poster may be posted and maintained at the model dwellings or at a conspicuous location instead of at each of the individual dwellings.

c. With respect to those dwellings to which subdivision 1 b of this section applies, the fair housing poster must be posted at the beginning of construction and maintained throughout the period of construction and sale or rental.

This part SHALL NOT require posting and maintaining a fair housing poster:

a. On vacant land, or

b. At any single-family dwelling, unless such dwelling (i) is being offered for sale or rental in conjunction with the sale or rental of other dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in subdivision (ii) of this subsection, or (ii) is being offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in subdivision I a of this subsection.

c. All person's subject to §36-96.4 of the Virginia Fair Housing Law, Discrimination in Residential Real Estate-Related Transactions, shall post and maintain a fair housing poster at all their places of business which participate in the covered activities.

d. All person's subject to regulation 2.8, Discrimination in the Provision of Brokerage Services, shall post and maintain a fair housing poster at all their places of business.

Location of posters

All fair housing posters shall be prominently displayed so as to be readily apparent to all persons seeking housing accommodations or seeking *to* engage in residential real estate-related transactions or brokerage services.

Availability of Posters

All person's subject to this section may obtain fair housing posters from the Virginia Fair Hosing Office.

Failure to Display Poster

A failure to display the fair housing poster as required by this section shall be deemed prima facie evidence of a discriminatory housing practice.

Advertising Generally

Among housing providers it's common knowledge that putting up a sign in front of an apartment building that says, "no children" or "adults only" would be discriminating against families with children. Housing providers also have to be careful not to use ads that say, "perfect house for couple", or "Christian family preferred". As a general rule ad should not contain words that express a preference based on a protected class.

A limited exception applies to renting out rooms. For example, if you are a woman and you have rooms to rent in your house, your ad for roommates may prefer females and can in fact exclude males. But, your ad may not prefer white females over black females nor may it prefer non--disabled females over disabled females. This limited exception app1ies only to sex and only where the owner Jives in the house and wants to rent rooms to same sex roommates.

Generally. ads should describe the property and not the tenant. If the unit is close to a park the ad

can say. "Two-bedroom, two bath unit with lots of closet space, close to a park and public

transportation, available immediately". The ad describes some of the unit's features and amenities but says nothing about prospective tenants.

In addition, human models used in sales or rental ads and in brochures and other advertising material should reflect the community's diversity. For example, if a community is 20% Asian, 40% black and 40% white, ads and brochures should not contain only white models. To do so may invite a housing complaint. Create models. ads and brochures that reflect the increasing diversity of our population.

Finally, the Fair Housing Logo should appear in all advertisements. Using the logo creates a presumption that you're trying to follow the fair housing law.

The following information is to assist all advertising media, advertising agencies and all other persons who use advertising to make, print, or publish, or cause to be made, printed or published, advertisements with respect to the sale, rental. or financing of dwellings which are in compliance with the requirements of the Virginia Fair Housing Law. These regulations also describe the matters the Board will review in evaluating compliance with the Fair Housing Law in connection with the investigation of complaints alleging discriminatory housing practices involving advertising.

This section also provides criteria for use by advertising media in determining whether to accept and publish advertising regarding sales or rental transactions. These criteria may be considered in making determinations as to whether there is reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

In the investigation of complaints, the board may consider the implementation of fair housing policies and practices provided in this section as evidence of compliance with the prohibitions against discrimination in advertising under the fair housing law.

1. Use of equal housing opportunity logotype, statement, or slogan.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available *to* all persons regardless of race, color, religion, sex, handicap, familial status, elderliness, or national origin. The choice of logotype, statement, or Slogan depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement.

2. Use of human models.

Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, elderliness, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes and, when appropriate, families with children. Models, if used, should portray

persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, elderliness, or national

origin, and is not for the exclusive use of one such group. Human models include any depiction of a human being, paid or unpaid, resident or nonresident.

3. Coverage of local laws.

Where the equal housing opportunity statement is used, the advertisement may also include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

4. Notification of fair housing policy. The following groups should be notified of the firm's fair housing policy:

- Employees. All publishers of advertisements, advertising agencies, and firms engaged in the sale, rental, or financing of real estate should provide a printed copy of their nondiscrimination policy to each employee and officer.

- Clients. All publishers of advertisements and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous location wherever persons place advertising and should have copies available for all firms and persons using their advertising services.

Selective Advertising

The selective use of advertising media or content when used exclusively with respect to various housing developments or sites can lead to discriminatory results and may indicate a violation of the fair housing law. For example, the use of English language media alone or the exclusive use of media catering to the majority population in an area, when, in such area, there are also available non-English language or other minority media, may have a discriminatory impact.
Similarly, the selective use of human models in advertisements may have a discriminatory impact.
The following are examples of the selective use of advertisements that may be discriminatory:

Selective geographic advertisements.

Such selective use may involve the strategic placement of billboards; brochure advertisements distributed within a limited geographic area by hand or in the mail; advertising in particular geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising vehicles for reaching a particular segment of the community; or displays or announcements available only in selected sales offices.

Selective use of equal opportunity slogan or logo.

When placing advertisements, such selective use may involve placing the equal housing opportunity slogan or logo in advertising reaching some geographic areas, but not others, or with respect to some properties but not others.

Selective use of human models when conducting an advertising campaign.

Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or national origin segment of the population without a complementary advertising campaign that is directed at other groups. Another example may

involve use of racially mixed models by a developer to advertise one development and not others. Similar care must be exercised in advertising in publications or other media directed at one particular sex, or at persons without children. Such selective advertising may involve the use of human models of members of only one sex, or of adults only, in displays, photographs, or drawings to indicate preferences for one sex or the other, or for adults to the exclusion of children.

In addition, human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, elderliness, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the community, both sexes and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, elderliness, or national origin, and is not for the exclusive use of one such group. Human models include any depiction of a human being, paid or unpaid, resident or nonresident.

Publishers Notice

All publishers shall publish at the beginning of the real estate advertising section a publisher's notice. The notice should include the following or similar language:

We are pledged to the letter and spirit of Virginia's and HUD's equal opportunity housing policies. Virginia's fair housing law makes it illegal to advertise any preference limitation or discrimination based on race, color, religion, national origin sex, elderliness, familial status or handicap.

This newspaper will not knowingly accept advertising for real estate that violates the fair housing law. Our readers are hereby informed that all dwellings advertised in this newspaper are available on an equal opportunity basis. For more information about Virginia's Fair Housing Law or to fi1e a fair housing complaint call the Virginia Fair Housing Office at (804) 367-8530. Toll free call (888) 551-3247. For TDD users, please call the Virginia Relay by dialing 7-1-1.

Drafting Tenant and Community Rules

A good rule to follow when drafting rules or regulations is to draft them so they don't single out children or members of a protected class. Rather than having a sign that says, "Children are prohibited from running in the common areas", say "No running in the common areas". Instead of saying, "children keep off the grass", have the sign read, **"Keep** off the grass". Rules and regulations that apply to "all residents" are less suspect than rules that single out children.

If you need to single out children consider doing so on the basis of health and safety considerations. For example, if you have a workout room with exercise equipment ask the manufacturer to inform you what the age is for using the equipment without supervision. Then post a sign such as "According to the manufacturer this equipment may not be used by anyone under 14 years old, unless accompanied by an adult".

Screening Applicants

If you're a housing provider one way to reduce the probability of having a complaint filed against you is to treat everyone the same. Having written guidelines that, you follow with each applicant

may help you treat everyone the same. Therefore, whether you're managing hundreds of units for a large company or an individual who owns and rents a few units you should establish written guidelines for everything: from how you expect the rent to be paid, to your eviction process to how you expect tenants to behave while living in your dwelling.

Part of your screening guidelines should include an applicant's ability to timely pay the rent. Therefore, you may ask the applicant to provide employment, income and credit verification information. How much income and how long of an employment history you require depends on your housing market. You should set standards that allow you to compete for applicants. But setting standards too high may be viewed as trying to keep certain groups of people out of your rentals.

In addition to asking an applicant to verify their income and credit history you may also ask an applicant to provide character references. Character references may indicate what type of personal history your applicant has. If the applicant has a certain criminal history you may chose not to rent to them. These may include applicants who are convicted rapists or burglars. In fact, you may choose to exclude any applicant who has a conviction that could present a safety issue for other residents in your complex.

Criminal Background Checks

If you're concerned about renting to certain convicted criminals you may establish a criminal background check as part of your application criteria. In establishing a criminal background check keep the following in mind: put your policy in writing; get the applicant's permission to conduct the background check; enforce the policy consistently and if you reject the applicant tel1 them why.

Consistently applying a criminal background check policy means that you apply the policy to everyone. You apply it to the young and old and to everyone in between.

Even if you don't establish a criminal background check you're not going to accept every applicant. Rejecting applicants for legitimate credit or income or character reasons should not invite a complaint if you follow certain procedures. As noted you should establish written rental criteria that helps an applicant understand how his application will be screened. Then apply your criteria consistently. If you reject an applicant send them a letter explaining why you rejected them and finally keep excellent records.

Problem Tenants

OK, so you've approved an application and the tenant moves in. Shortly after the tenant moves in however, you start getting complaints. The newest tenant is apparently harassing other tenants. And you're also getting complaints that they're playing their stereo too loud. What should you do?

When tenants break the rules, you should apply the consequences fairly, consistently and according to established procedures. What consequences you apply depends on your procedures and on the records, you kept. Some of the records that you should keep include complaints that tenants file against other tenants; complaints that involve the police; letters that you sent to and received from the tenant about lease violations as well as other relevant letters and information.

Keeping detailed and accurate records will be important if you have to defend why you evicted the tenant.

If you don't keep good records or if you keep poor records proving that you evicted a tenant for a non-discriminatory reason may be more difficult.

Handling Maintenance Requests

How are maintenance and repair requests handled in your complex? Does your staff process repair requests from some tenants more quickly than from others? If so it could lead to a fair housing complaint. Generally, repairs should be done in the order that they are received with emergency repairs talking precedence over routine repairs.

Your tenants should understand how you process repair requests and they should understand how long it will take before you get to their request. If an emergency repair takes you or your staff away from a scheduled routine repair call the affected tenant and explain what happened. Among the things that you can do to reduce the probability of having a housing complaint filed against you is to be professional, be consistent, communicate with your tenants and keep excellent records.

Tenants on the other hand need to understand that routine and non-emergency repairs may take a few days and even longer to repair.

Evaluating Requests for Reasonable Accommodations and Modifications from Disabled Tenants

While reasonable modifications have to do with allowing a disabled tenant to make a physical change to his unit or *to* a common area, a reasonable accommodation requires the landlord to change or modify some rule, practice, policy or service when doing so may be necessary to afford the tenant equal opportunity *to* use and his or her unit.

Establishing Occupancy Standards

Occupancy standards have to do with how many people may live in a unit. In December of 1998 the Department of Housing and Urban Development (HUD) published a statement of the standards that it would review when evaluating a housing provider's occupancy standards to determine whether actions under the provider's policies may constitute discriminatory conduct under the Fair Housing Act on the basis of familial status, which means on the basis of having children in the family.

Since this office follows the occupancy statement that HUD issued in December of 1998, we have reproduced a few paragraphs of HUD's statement.

... the Department believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act. However, the reasonableness of any occupancy policy is rebuttable. Thus, in reviewing occupancy cases HUD wi1 1 consider the size and number

of the bedrooms and other special circumstances. The following principles and hypothetical examples should assist you in determining whether the size of the bedrooms or special circumstances would make an occupancy policy unreasonable.

Size of bedrooms and unit

Consider two theoretical situations in which a housing provider refused to permit a family of five to rent a two-bedroom dwelling based on a "two people per bedroom" policy. In the first, the complainants are a family of five who applied to rent an apartment with two large bedrooms and spacious living areas. In the second, the complainants are a family of five who applied to rent a mobile home space on which they planned to live in a two-bedroom mobile home. Depending on the other facts. issuance of a charge might be warranted in the first situation, but not in the second.

The size of the bedrooms also can be a factor suggesting that a determination of no reasonable cause is appropriate. For example, if a mobile home is advertised as a "two bedroom" home, but one bedroom is extremely small, depending on all the facts, it could be reasonable for the park manager to limit occupancy of the home to, two people.

Age of children

The following hypothetical involving two housing providers who refused to permit three people to share a bedroom illustrates this principle. In the first, the complainants are two adult parents who applied to rent a one-bedroom apartment with their infant child, and both the bedroom and the apartment are large. In the second, the complainants are a family of two adult parents and one teenager who applied to rent a one-bedroom apartment. Depending on the other facts, issuance of a charge might be warranted in the first hypothetical, but not in the second.

Configuration of unit

The following imaginary situations illustrate special circumstances involving unit configurations. Two condominium associations each reject a purchase by a family of two adults and three children based on a rule limiting sales to buyers who satisfy a "two-people per bedroom policy" occupancy policy. The first association manages a building in which the family of the five sought to purchase a unit consisting of two bedrooms plus a den or study. The second manages a building in which the family of five sought to purchase a two-bedroom unit which did not have a study or den. Depending on the other *facts,* a charge might be warranted in the first situation, but not in the second.

Other physical limitations of housing

In addition to physical considerations such as the size of each bedroom and the overall size and configuration of the dwelling, the Department will consider limiting factors identified by housing providers, such as the capacity of septic, sewer or other building systems.

State and local law

If a dwelling is governed by state or local government occupancy requirements, and the housing provider's occupancy policies reflect those requirements. HUD would consider the governmental requirements as a special circumstance tending to indicate that the housing provider's occupancy policies are reasonable.

Other relevant factors

Other relevant factors supporting a reasonable cause recommendation based on the conclusion that the occupancy policies are pretextual would include evidence that the housing provider has 1) made discriminatory statements; 2) adopted discriminatory rules governing the use of common facilities; 3) taken other steps to discourage families with children from Jiving in its housing; or 4) enforced its occupancy policies only against families with children.

The Building Officials and Code Administrators handbook states that for health and safety reasons you need 70 square feet of bedroom space for one occupant. If you have more than one occupant you need 50 square feet per person. If you have a unit with one-bedroom that measures 10 x 8 or 80 square feet it would be too small for two people. But if you have a unit with one-bedroom that measures 10 x 16 it may be big enough for three people.

Housing providers should strive to balance the requirement to implement a reasonable occupancy standard against their right to protect their property from overcrowding. Housing providers should also strive to balance the requirement to implement a reasonable occupancy standard against their right to protect their investment. Under some circumstances a large unit with three bedrooms may reasonably accommodate seven or eight people without creating an overcrowded situation and without jeopardizing the housing provider's investment. Under other circumstances a unit with three bedrooms may only reasonably accommodate five people. Each situation and complex has to be evaluated based on its own merit.

Reasonable Accommodations

Service Animals

§ 36-96.3:1. Rights and responsibilities with respect to the use of an assistance animal in a dwelling.

A. A person with a disability, or a person associated with such person, who maintains an assistance animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the dwelling and any common areas of the premises. Such person shall not be required to pay a pet fee or deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for any physical damages to the dwelling if residents who maintain pets are responsible for such damages in accordance with such documents or state law. Nothing herein shall be construed to affect any cause of action against any resident for other damages under the laws of the Commonwealth.

B. If a person's disability is obvious or otherwise known to the person receiving a request, or if the need for a requested accommodation is readily apparent or known to the person receiving a request, the person receiving a request for reasonable accommodation may not request any additional verification about the requester's disability. If a person's disability is readily apparent or known to the person receiving the request but the disability-related need is not readily apparent or

known, the person receiving the request may ask for additional verification to evaluate the requester's disability-related need.

C. A person with a disability, or a person associated with such person, may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling. Subject to subsection B, the person receiving the request may ask the requester to provide reliable documentation of the disability and the disability-related need for an assistance animal, including documentation from any person with whom the person with a disability has or has had a therapeutic relationship.

D. Subject to subsection B, a person receiving a request for a reasonable accommodation to maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation to verify the disability and the disability-related need for the reasonable accommodation regarding an assistance animal.

E. For purposes of this section, "therapeutic relationship" means the provision of medical care, program care, or personal care services, in good faith, to the person with a disability by (i) a mental health service provider as defined in § 54.1-2400.1; (ii) an individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities; (iii) a person from a peer support or similar group that does not charge service recipients a fee or impose any actual or implied financial requirement and who has actual knowledge about the requester's disability; or (iv) a caregiver, reliable third party, or government entity with actual knowledge of the requester's disability.

2017, cc. 575, 729.

Parking Spaces

If someone disabled asks a housing provider to create or designate a parking space for them, generally the law is going to require the housing provider to create or designate the space if three conditions are met. First, the resident must ask for a designated space; second creating or designating the parking space would allow the disabled resident to **live** in and fully enjoy the premises; and third creating or designating the parking space would not create an undue financial or administrative burden for the housing provider.

In processing a parking space request from someone who is disabled you are entitled to ask for medical evidence that proves the resident has a disability. This does not give a housing provider the right to ask about the nature of the resident's disability but it does give them the right to ask for proof of their disability. Acceptable proof would be handicapped vehicle identification plates or tags or a letter from the resident's doctor, chiropractor or social worker. Once the resident provides proof, the housing provider has a duty to provide the parking space. And if more than one disabled resident asks for a parking space the housing provider will have a duty to accommodate each request.

The Department of Housing and Urban Development's regulations implementing *the* Fair Housing Amendments Act in relevant part on page 3289 states:

Progress Gardens is a 300-unit apartment complex with 450 parking spaces, which are available to tenants and guests of Progress Gardens on a "first come first served" basis. John applies for housing in Progress Gardens. John is mobility impaired and is unable to walk more than a short distance and therefore requests that a parking space near his unit be reserved for him so that he will not have to walk very far to get to his apartment. It is a violation of the law for the owner or manager of Progress Gardens to refuse to make this accommodation. Without a reserved space,

John might be unable to Jive in Progress Gardens at all or, when he has to park in a space far from his unit, might have great difficulty getting from his car to his apartment unit. The accommodation therefore is necessary to afford John an equal opportunity to use and enjoy the dwelling. The accommodation is feasible and practical under the circumstances.

Evicting a Disabled Tenant

If you're a housing provider and one of your tenants violates his/her lease and if you know or suspect that they have a disability, you may not automatically evict the tenant. As a housing provider, before you evict any tenant with a disability you must first ask him/her if there is an accommodation that you can make that would alleviate or modify the behavior that caused the lease violation.

Reasonable Modifications

If someone is disabled you cannot refuse to rent to them because of their disability. Just as important though the law requires that you allow someone who is disabled, at their expense, to make reasonable modifications to their unit if such modifications will allow the disabled person full enjoyment of the premises.

In many circumstances a housing provider may condition approval of the modification on having the tenant establish an escrow fund to pay to have the unit restored to its original condition when the tenant moves. The housing provider can also ask for assurances that the modification will be done in a professional manner.

The Department of Housing and Urban Development's regulations implementing the Fair Housing Amendments Act give two examples of reasonable modifications.

Example (1) A tenant with a handicap asks his or her landlord for permission to install grab bars at his or her own expense. It is necessary to reinforce the walls with blocking between studs in order to affix the grab bars. It is unlawful for the landlord to refuse to permit the tenant, at the tenant's own expense, from making the modifications necessary to add the grab bars. However, the landlord may condition permission for the modification on the tenant agreeing to restore the bathroom to the condition that existed before the modification, reasonable wear and tear excepted. It would be reasonable for the landlord to require the tenant to remove the grab bars at the end of the tenancy. The landlord may also reasonably require that the wall to which the grab bars are attached be repaired and restored to its original condition, reasonable wear and tear excepted. However, it would be unreasonable for the landlord to require the tenant to remove the blocking, since the reinforced walls will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises and may be needed by some future tenant.

Example (2) An applicant for rental housing has a child who uses a wheelchair. The bathroom door in the dwelling unit is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway. It is unlawful for the landlord to refuse to permit the applicant to make the modification. Further, the landlord may not, in usual circumstances, condition permission for the modification on the applicant paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises.

For more information about your rights and responsibilities under the handicapped provisions of the Fair Housing Law, call the Fair Housing Office at (888) - 551-3247 and request a copy of the booklet titled, "What Fair Housing Means for People with Disabilities".

Sexual Harassment

Sexual harassment can be any unwelcome sexually suggestive or inappropriate language, touching, gestures, demands or conditions made towards or about another person.

Housing providers should be concerned about two types of sexual harassment: residents sexually harassing other residents or staff and staff sexually harassing other residents or other staff.

Court decisions have made it impossible and costly for housing providers to ignore a tenant's allegation of sexual harassment. That means that housing providers should take allegations of sexual harassment seriously. Taking allegations of sexual harassment seriously begins by having a written policy that explains what sexual harassment is and establishes that it will not be tolerated. A meaningful sexual harassment policy will include prohibiting inappropriate or suggestive touching and joke telling. It will also prohibit staff from using inappropriate or unprofessional language with other staff or any resident. It will also discourage residents from doing the same. A meaningful sexual harassment policy will also explain how sexual harassments complaints will be handled and investigated and how offenders will be disciplined.

Maintenance staff can also be targets of sexual harassment complaints. Therefore, maintenance staff should be trained to enter apartments only after scheduling an appointment. Even if they schedule an appointment maintenance staff should not enter an apartment if it questionable to do so. For example, if the tenant is not properly dressed or if they are in the shower the maintenance staff may want to return later.

Once you've established a sexual harassment policy make sure all staff are properly trained on it and then distribute the policy to all residents.

Non-Sexual Harassment

Non-sexual harassment may include any behavior that creates an abusive, hostile or intimidating environment. Examples of non-sexual harassment that may be actionable under the fair housing law include using intimidating or discriminatory phrases or gestures, calling people names and even gossiping about tenants. Any pattern of behavior by one tenant that disturbs another tenant's quiet and peaceful enjoyment of the premises may amount to harassment that is actionable under the fair housing law.

Housing providers must also take allegations of non-sexual harassment seriously. Housing providers should not ignore a tenant who complains that they are being harassed by another tenant or a staff member because of their race or because they have children or for any other protected reason. If you're a housing provider and one of your tenants complains that they are being harassed it's your responsibility to investigate and address the tenants' concerns. To do nothing is to invite being sued.

Prohibited Practices

Virginia's fair housing law prohibits the following practices:

1. Refusing to sell or rent after the making of a bona fide offer or refusing to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, elderliness, familial status or disability;
2. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a

dwel l ing, or in the provision of services or facilities in connection therewith to any person because of race, color, religion, sex, national origin, elderliness, familial status or disability;
3. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation or discrimination based on race, color, religion, sex, national origin, elderliness, familial status or disability. The use of words or symbols associated with a particular religion, national origin, sex or race shall be prima facie evidence of an illegal preference under this chapter which shall not be overcome by a general disclaimer;
4. Representing to any person because of race, color, religion, sex, national origin, elderliness, familial status or disability that any dwel l ing is not available for inspection, sale, or rental when such dwelling is in fact available;
5. Denying any person access to membership or participation in any multiple listing service, real estate brokers' organization. or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, sex, national origin, elderliness, familial status or disability;
6. To include in any transfer, sale rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, sex, national origin, elder l iness, familial status or disability or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;
7. To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, elderliness, familial status or disability.

Additional Prohibited Actions

Virginia's Fair Housing regulations list additional actions that are prohibited. Some of the actions that the regulations prohibit on the basis of race, color, religion, sex, national origin, elderliness. familial status or disability include:

1. Failing or delaying maintenance or repairs of sales or rental dwellings;
2. Limiting the use of privileges, services or facilities associated with a dwelling;
3. Discouraging the purchase or rental of a dwelling or exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or a community, neighborhood, or development;
4. Communicating to any prospective purchaser that they would not be comfortable or compatible with existing residents of a community neighborhood or development;
5. Assigning any person to a particular section of a community neighborhood or development or to a particular floor or section of a building;
6. Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

Virginia's Fair Housing Law applies to property managers, owners, landlords, real estate agents, banks, savings institutions, credit unions, insurance companies. mortgage lenders and appraisers. If you're working with a property manager or real estate agent to buy a home or 1ocate a rental or if you're trying to get a mortgage or homeowner's insurance you cannot be treated differently because of your race. color. religion, sex, national origin, elderliness, familial status or disability.

Additional prohibited actions include but are not limited to:

1. Failing to accept, consider, negotiate, process or accurately communicate a bona fide offer:
2. Imposing different sales prices or rental charges for the sale or rental of a dwelling upon

person;

3. Using different qualification criteria or applications, or sales or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis, or sales or rental approval procedures or other requirements;
4. Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium;
5. Employing codes or other devices to segregate or reject applicants, purchasers, or renters, refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex, national origin, elderliness. familial status or disability or refusing to deal with certain brokers or agents because they or one of their clients are of a particular race, color, religion, sex, national origin, elderliness, familial status or disability;
6. Indicating through words or conduct that a dwelling, which is available for inspection, sale or rental, has been sold or rented;
7. Refusing to provide municipal services or property or hazard insurance for dwellings or providing such services differently
8. Threatening, intimidating or interfering with persons in their enjoyment of a dwelling; Intimidating or threatening any person because that person is engaged in activities designed to make other persons aware of or encouraging such other persons to exercise rights granted or protected by this part;
9. Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the fair housing law.

Prohibited Advertising Practices

Virginia's Fair Housing Law also applies to advertising. In this regard Virginia's Fair Housing regulations prohibit:

1. Using words, phrases, photographs, illustrations, symbols, or forms which convey that dwellings are available or are not available to a particular group because of race, color, religion, sex, handicap, familial status, elderliness or national origin;

2. Selective geographic advertisements. Such selective use may involve the strategic placement of billboards; brochure advertisements distributed within a limited geographic area by hand or in the mail; advertising in particular geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising vehicles for reaching a particular segment of the community; or displays or announcements available only in selected sales offices;

3. Selective use of human models when using an advertising campaign. Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or national origin segment of the population without a complementary advertising campaign that is directed at other groups. Another example may involve use of racially mixed models by a developer to advertise one development and not others. Similar care must be exercised in advertising in publications or other media directed at one particular sex, or at persons without children. Such selective advertising may involve the use of human models of members of only one sex. or of adults only in displays, photographs, or drawings to indicate preferences for one sex or the other, or for adults to the exclusion of children.

If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes and when appropriate, families with children. Models, if used, should portray persons in equal

settings and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap. familial status, elderliness or national origin;

4. Publisher's notice. All publishers should publish at the beginning of the real estate advertising section a notice such as that appearing in Table III, Appendix I, to Part 109, 24 CFR, Ch. l (4-1-89 edition). The notice may include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

Our Investigative Mandate

Virginia's Fair Housing Office (VFHO) is located on the 4 ih floor at 9960 Mayland Drive. Suite 400, in Richmond. VA. The VFHO is under the auspices of the Department of Professional and Occupational Regulation.

The VFHO consists of an administrator who has overall responsibility for the office; an Investigative Supervisor who oversees all investigations; a Program Conciliator who attempts to resolve complaints through informal negotiation and four field investigators and two administrative investigators.

The VFHO is the investigative arm of Virginia's Fair Housing Board and Real Estate Board. The Fair Housing Board administers and enforces the Fair Housing Law for most individuals and businesses; the Real Estate Board retains jurisdiction over real estate licensees and their employees. Both boards meet in Richmond at the Department of Professional and Occupational Regulation. The public is welcome to attend these meetings.

Once the VFHO accepts a complaint *as* stating a fair housing claim the complaint is assigned to be investigated. During the investigative process an investigator generally interviews the complainant. the respondent and relevant witnesses. The investigator may also review documents and records.

After the investigation is completed the investigator writes a final report that summarizes the evidence obtained during the investigation. The investigative supervisor then reviews this report. The evidence is presented to the Board at its next regularly scheduled meeting. After reviewing the evidence, the Board generally will either dismiss the complaint. issue a charge of discrimination or accept the conciliation agreement. If the Board dismisses the complaint both parties will be notified in writing that no further action will be taken. If the Board issues a charge of discrimination the charge is immediately referred to the Attorney General's Office for further action. If the Board issues a charge of discrimination both parties will be notified accordingly in writing.

During the investigative process the Program Conciliator will attempt to resolve the complaint through conciliation. Conciliation is a voluntary process where the parties attempt to resolve the complaint by agreeing to mutually acceptable terms. If conciliation is successful the investigation will be suspended. If conciliation is unsuccessful or if one of the parties does not want to attempt conciliation. the investigation continues until it is complete.

Our Training Mandate

In addition to investigating complaints another important function that Virginia's Fair Housing Office serves is to provide training and outreach. Each year staff from the fair housing office travel throughout Virginia providing training to housing providers, consumers and local and state officials. Presentations made by the fair housing staff range from giving out handouts to

sophisticated Power Point presentations. Training provided by the Fair Housing is interactive, can be tailored *to* meet specific needs. Best of all the training is free.

If you have a fair housing question or if you have a question about our investigative process or our training availability call us at (804) 367-8530. Toll free call (888) 551-3247. For TDD users, please call the Virginia Relay by dialing 7-1-1. Or send an email to: fairhousing@dpor.state.va.us.

File a Complaint

You may file a complaint by downloading our complaint form. Once you print and complete the form, you can either fax it to us at (804) 527-4400 or you can send it to us at:

Virginia Fair Housing Office
9960 Mayland Drive
Suite 400
Richmond, VA 23233

Phone: (804) 367-8530.
Toll free call (888) 551-3247.
For TDD users, please call the Virginia Relay by dialing 7-1-1 Email:
fairhousing@dpor.virginia.gov

Insert Complaint Form

Department of Professional and Occupational Regulation

Guidance Document

Reasonable Accommodation Requests for Assistance Animals

Adopted by:	Real Estate Board on October 26, 2016 Fair Housing Board on March 1, 2017

As a means of providing information or guidance of general applicability to the public, the Real Estate Board and Fair Housing Board issue this guidance document to interpret the requirements of 18 VAC 135-50 (Fair Housing Regulations).

The purpose of this guidance document is to address issues regarding the "verification" of reasonable accommodation requests for assistance animals, particularly those assistance animals that provide emotional support or other seemingly untrained assistance to persons with a disability.[1]

I. INTRODUCTION

When the Virginia Fair Housing Law ("VFHL") and its federal counterpart, the Fair Housing Act ("FHA"), were amended in the late 1980s to include disability as a protected class, legislators created targeted protections for persons with a disability. Specifically, persons with a disability were given the right to seek reasonable accommodations (changes to rules, practices, policies, etc.) and modifications (physical alternations to the premises) to ensure the opportunity to enjoy equal access to housing.

Since that time, and perhaps with greater frequency in recent years, persons with a disability and housing providers have faced questions over making accommodations to policies that restrict pets or assistance animals. While service animals—such as dogs that guide visually impaired persons, alert hearing impaired persons to sounds and alarms, or perform tasks for mobility impaired individuals—are not a new phenomenon, increasingly there are a growing number of instances in which persons with a disability derive other types of support or assistance from animals.

Today, it is just as common for an animal to provide emotional support, comfort, or companionship to a person with a mental impairment. Some animals are naturally sensitive to a person's blood sugar levels and can alert when an individual who has diabetes reaches a dangerous threshold; others will alert when sensing that a person with a disability is about to experience a seizure. Often, the animal in question provides such assistance without any formal training but instead through innate abilities the animal possesses. Such innate assistance, though,

[1] While fair housing laws use the term "handicap," this document uses the more preferred term "disability" and its variations, which have the same legal meaning. *See,* 18 VAC 135-50-200; Bragdon v. Abbott, 524 U.S. 624 (1998).

particularly when coupled with a person who has "invisible" impairments, reportedly presents challenges for housing providers with pet restriction policies.

Housing providers suggest that some individuals "game the system," and abuse the legal protections in place for persons with disabilities, by fraudulently claiming an "invisible" impairment and declaring their pet an assistance animal. For instance, housing providers complain that there are an influx of websites and other third-party sources offering assistance animal "certifications" without any firsthand knowledge of whether the animal provides a needed service or support, or even if the individual tied to the request is a person with a disability. More recently, some housing providers point to what appear to be form letters from medical professionals vouching for persons to have such an animal without evidence of effort to verify either disability or the claimed assistance.

Fundamentally, some housing providers contend that the VFHL and FHA, in their current form, leave little room to question such verifications—especially when an individual presents an assistance animal "certification" obtained from an online source—without the risk of inviting a discrimination charge. For the reasons below, we believe this is not the case, as adequate, appropriate protections already exist in both fair housing and health professions laws.

II. BACKGROUND

In the late 1980s, Congress and the General Assembly amended their respective fair housing laws to prohibit discrimination against persons with a disability in residential housing transactions.[2] To ensure full and equal access to housing, the VFHL and FHA were further amended to provide persons with a disability additional protection in the form of requiring reasonable accommodations "in rules, practices, policies, or services when such accommodations may be necessary to afford such person [an] equal opportunity to use and enjoy a dwelling."[3]

A person is considered disabled under the VFHL and FHA when the person: (1) has a physical or mental impairment that substantially limits one or more of their major life activities; (2) has a record of having such an impairment; or (3) is regarded as having such an impairment.[4] "Mental impairments" include, but are not limited to, "emotional or mental illness . . . autism,

[2] *See*, Va. Code § 36-96.3(A)(8)(9); 42 U.S.C. § 3604(f).
[3] *See*, Va. Code § 36-96.3(B)(ii); 42 U.S.C. § 3604(f)(3)(B).
[4] *See*, Va. Code § 36-96.1:1; 42 U.S.C. § 3601. Further, such definitions are consistent with the definition of "disability" found in the Americans with Disabilities Act (ADA).

epilepsy . . . [and] emotional illness."[5] Thus, an accommodation aimed at ameliorating the effects of a mental impairment may be required where it is shown that the accommodation is reasonable and necessary to afford a person with a mental or emotional impairment an equal opportunity to use and enjoy the dwelling.

The mental impairments above are emphasized because such so-called invisible impairments are often at the center of an accommodation request for an assistance animal. Differentiation between assistance animals—a different and broader class of animals that assist people with disabilities—and "service dogs" is a fundamental legal distinction for purposes of fair housing accommodation request.

A. Service Animals and Public Accommodations

The federal Americans with Disabilities Act, as amended ("ADA"),[6] and its state counterpart, the Virginians with Disabilities Act, as amended ("VDA"),[7] prohibit discrimination against people with disabilities (physical or mental) in employment, the provision of public services, and in public accommodations. Both laws focus, in part, on ensuring that persons with a disability have equal access to places of public accommodation (e.g., hotels, shopping centers, restaurants, etc.) in all areas otherwise open to the public.

Provisions of the ADA and VDA apply to public accommodations and do not extend to residential housing. Public entities covered by these laws must allow a person with a disability to be accompanied by a service animal, narrowly defined as an animal trained to assist persons with visual, hearing, or mobility impairments.[8] Under the ADA, "the provision of emotional support, well-being, comfort, or companionship" is not, by itself, sufficient to be classified as a service animal.[9]

When evaluating a reasonable accommodation request, a public accommodation may verify that an animal is required because of a disability (although it cannot inquire about the

[5] *See*, 18 VAC 135-50-200; 24 CFR § 100.201.
[6] *See*, 42 U.S.C. § 12101, *et seq.*
[7] *See*, Va. Code § 51.5-1 *et seq*.
[8] *See*, Va. Code § 51.5-40.1; 28 C.F.R. § 36.104.
[9] *See*, 28 C.F.R. § 35.104. The term "service animal" is defined in part as "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability[…]The work or tasks performed by a service animal must be directly related to the individual's disability…[T]he provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition."

nature of a person's impairment) and ask what tasks the service animal has been trained to perform.[10] During its 2016 legislative session, the Virginia General Assembly amended the VDA to deem it a misdemeanor criminal offense for a person to access a public accommodation by falsely representing an animal as a service dog or hearing dog.[11]

B. Assistance Animals, Private Homes, and Fair Housing

In contrast, the VFHL and FHA focus exclusively on accommodations needed by a person with a disability in order to have full and equal access to their home. These laws take a broader approach and require housing providers to accommodate not only service animals as traditionally understood under the ADA, but assistance animals that offer necessary support to persons with a disability without regard to training or tasks performed.[12] Accommodation of untrained emotional support animals may be required under the FHA if such accommodation is reasonably necessary to allow a person with a disability an equal opportunity to enjoy and use residential housing.[13]

When evaluating a reasonable accommodation request under fair housing law, a housing provider may verify that the requester meets the definition of disabled (although it cannot inquire about the specific nature of a person's impairment) and ask how the claimed assistance animal will allow the person with a disability to use and enjoy the dwelling.

C. Assistance Animal and Accommodations Case Law

The physical and philosophical distinction between public and private spaces underscore why the law requires different approaches to reasonable accommodations in each setting. In

[10] *See*, 28 C.F.R. § 35.136(f).
[11] *See*, Va. Code § 51.5-44.1.
[12] The U.S. Department of Justice and the U.S. Department of Housing and Urban Development jointly administer the FHA under 42 U.S.C. §§ 3614(a) and 3612(a), and maintain that the ADA's definition of the term "service animals" should not inform the FHA's broader definition of assistance animals. *See,* Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, 75 Fed. Reg. 56236 (Sept 15, 2010) *and* Pet Ownership for the Elderly and Persons with Disabilities, 73 Fed. Reg. 63834, (Oct. 27, 2008).
[13] *See,* Janush v. Charities Housing Development Corp., 169 F.Supp.2d 1133, 1136 (N.D. Cal. 2000) (denying a motion to dismiss a claim to permit keeping birds and cats as emotional support animals because "plaintiff has adequately plead that she is handicapped, that defendants knew of her handicap, that accommodation of the handicap may be necessary and that defendants refused to make such accommodation…"); Fair Housing of the Dakotas, Inc. v. Goldmark Property Management, Inc., 778 F.Supp.2d 1028, 1036 (D.N.D. 2011) (holding that "the FHA encompasses all types of assistance animals regardless of training, including those that ameliorate a physical disability and those that ameliorate a mental disability").

publishing its final rule regarding assistance animals in government-funded housing, the U.S. Department of Housing and Urban Development ("HUD"), which is the agency charged with enforcing the FHA, recognized that "assistance animals" include "service dogs" but also animals that "alert[] individuals to impending seizures and providing emotional support to persons who have a disability-related need for such support."[14] During its rule-making process, HUD found "a valid distinction between the functions animals provide to persons with disabilities in the public arena, i.e., performing tasks enabling individuals to use public services and public accommodations, as compared to how an assistance animal might be used in the home."[15]

In particular, HUD reasoned that assistance animals, including emotional support animals, "provide very private functions for persons with mental and emotional disabilities" that alleviate the effects of such disabilities without any specialized training.[16] In essence, the federal rule-making process concluded that there is a notable difference in the type of accommodation one may need in order to access public venues (e.g., restaurants, shopping centers, etc.) than in the type of accommodation a person with a disability may need to have full access to and enjoyment of their home.

While this issue has not been addressed under the VFHL by Virginia courts, federal courts have found HUD's reasoning persuasive in evaluating reasonable accommodation issues under the FHA for private residential housing as well.[17] For instance, in Overlook Mutual Homes, Inc. v. Spencer, an Ohio federal district court thoroughly weighed whether the FHA imposed a training requirement on an animal in order for it to be approved as a reasonable accommodation.[18] In ruling the FHA imposed no such requirement, the court reasoned,

> "Simply stated, there is a difference between not requiring the owner of a movie theater to allow a customer to bring her emotional support dog, which is not a service animal, into the theater to watch a two-hour movie, an ADA-type issue, on one hand, and permitting the provider of housing to refuse to allow a renter to keep such an animal in her apartment in order to provide emotional support to her

[14] *See*, 73 Fed. Reg. 63834 (Oct. 27, 2008).
[15] *Id.,* at 63836.
[16] *Id.*
[17] *See*, Overlook Mut. Homes, Inc. v. Spencer, 666 F. Supp. 2d 850, 858-61 (S.D. Ohio 2009); Fair Housing of the Dakotas, Inc. v. Goldmark Prop. Mgmt., Inc., 778 F. Supp. 2d 1028, 1035-36 (D.N.D. 2011); Falin v. Condo. Ass'n of La Mer Estates, Inc., No.: 11-61903-CIV, 2012 U.S. Dist. LEXIS 73453, at *10 (S.D. Fla., May 28, 2012); Sanzaro v. Ardiente Homeowners' Association, LLC, 21 F. Supp. 3d 1109 (D. Nev. 2014).
[18] *See*, Overlook Mut. Homes, 666 F. Supp. 2d at 857 (rejecting prior cases that imposed an ADA-like training requirement for an animal to qualify as a reasonable accommodation).

> and to assist her to cope with her depression, an FHA-type issue, on the other hand." [19]

This analysis alone was enough to sway the court, but it further discussed with approval the distinctions drawn by HUD in issuing the above-cited rule to hold that an animal can qualify as a reasonable accommodation under the FHA even if the animal is not individually trained (as required by the ADA for public accommodations) but rather is an emotional support animal.[20]

Other federal courts have since adopted this reasoning. In North Dakota, the district court denied summary judgment for a housing provider who refused to provide an accommodation to its policy of charging additional fees for an untrained assistance animal.[21] In doing so, the court held that "the FHA encompasses all types of assistance animals regardless of training" that ameliorate the effects of either physical or mental disabilities.[22] Before reaching its decision, the court reviewed the competing positions on this issue and reasoned that it must necessarily distinguish accommodations for places of public accommodation from those for housing given the type of access a person with a disability needs to have full and equal enjoyment of each.[23]

A federal district court in Florida reached the same conclusion in holding that an untrained "emotional support animal" could be a reasonable accommodation under the FHA.[24] Similarly, the federal district court in Nevada likewise held that the FHA imposed no training requirements for assistance animals, and in doing so, refused to apply the ADA definition of service animal when analyzing issues related to accommodations for assistance animals under the FHA.[25]

The clear trend in FHA case law is to permit reasonable accommodations for (untrained) assistance animals where a nexus exists between the requesting persons' disability and the function or assistance that the animal provides. If the requester is able to show how the accommodation (here, for example, an assistance animal) ameliorates one or more effects of their disability, such a connection exists and the accommodation should be granted as "necessary

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[19] *Id.*, at 859.
[20] *Id.*, at 861.
[21] *See*, Fair Hous. of the Dakotas, 778 F. Supp. 2d 1028 (D. N.D. 2011).
[22] *Id.*, at 1036.
[23] *Id.,* at 1035-36.
[24] *See*, Falin v. Condominium Assoc. of La Mer Estates, Inc., No.: 11-61903-CIV-Cohn/Seltzer, 2012 U.S. Dist. LEXIS 73453 (S.D. Fla., May 28, 2012).
[25] *See*, Sanzaro v. Ardiente Homeowners' Assoc., LLC, 21 F. Supp. 3d at 1117-19.

to afford such person an equal opportunity to use and enjoy a dwelling."[26] For assistance animals, this means there must be a relationship between the person's disability and the function or assistance provided by the animal.[27] There is, however, no requirement under the VFHL or the FHA that an animal must be trained or "verified" to provide the claimed assistance.

III. ANALYSIS

We agree with HUD, DOJ, and the multiple federal courts that have addressed this issue, that providing an accommodation to allow a person with a disability full access to and enjoyment of their home is necessarily different from providing accommodation to access a public place for an abbreviated period of time. Given the persuasive reasoning expressed by these authorities, we posit that the VFHL likewise distinguishes between ADA/VDA "service animals" and imposes no such training requirement for assistance animals.

Nor should there be. Increasingly, animals are proving useful to lessen the effects of mental and emotional disabilities such as anxiety, autism, post-traumatic stress disorder ("PTSD"), etc. because animals have been shown to have the innate ability to relieve depression and anxiety, reduce stress and stress-related pain, provide companionship, and detect seizures.[28] In particular, it is widely recognized that animals, typically dogs, are helpful in treating military service members and veterans diagnosed with PTSD.[29] For instance, the *Richmond Times-Dispatch* not long ago profiled a Mechanicsville veteran and Purple Heart recipient who described the assistance he received from an animal to lessen the effects of PTSD and anxiety.[30]

A. Reliable Verification of Disability

Housing providers seeking clarification about third-party verification should redirect their attention away from animal training or certification, which is unnecessary and legally insufficient. They also should not be daunted by the prospect of potential litigation into accepting dubious verifications limited to vague statements of how an assistance animal would

[26] *See*, 73 Fed. Reg. 63834, 63835 (Oct. 27, 2008); *see also*, Commonwealth of Virginia ex rel Fair Housing Board v. Windsor Plaza Condo. Ass'n, Inc., 289 Va. 34, 54, 768 S.E. 2d 79, 88 (2014).
[27] *See*, 73 Fed. Reg. at 63835; *see also*, Overlook Mut. Homes, 666 F. Supp. 2d at 857.
[28] *See*, 73 Fed. Reg. at 63835.
[29] *See*, U.S. Dep't of Veteran Affairs, PTSD: National Center for PTSD, "Dogs and PTSD," http://www.ptsd.va.gov/public/treatment/cope/dogs_and_ptsd.asp (last visited Oct. 21, 2016).
[30] *See*, RICHMOND TIMES-DISPATCH, "Dog Changes Veteran's Life," http://www.richmond.com/article_7921daf7-6d03-583e-aad8-588c455e3cbc.html (last visited Oct. 21, 2016).

benefit the requester, but rather should insist on supplemental credible confirmation of underlying disability. As with any other reasonable accommodation request, housing providers are absolutely within their rights to focus first on establishing the legitimacy of the requesting party's disability status as defined by fair housing law. Then, as stated above, the only issue remaining is evaluation of information to determine whether the animal provides assistance that ameliorates the effects of the established disability.

Thus, if a person suffering from PTSD—as diagnosed by their treating physician—receives assistance from an untrained dog in the form of emotional support, lessened anxiety, or exiting a building quickly when experiencing a flashback, the housing provider must make exceptions to any pet limitation policies that may normally apply to the housing in question (with no further requirement that an assistance animal be trained, certified, or verified).[31] Conversely, where a prospective tenant fails to provide credible documentation of either a qualifying disability, or cannot show a relationship to the claimed assistance from an animal, the housing provider may request additional information from a reliable third party "in a position to know about the individual's disability."[32]

B. Best Practice Recommendations

Housing providers should only seek "reliable disability-related information" that: (1) establishes that the person is "disabled" as defined by the FHA and VFHL; (2) describes the needed accommodation (e.g., assistance animal); and (3) demonstrates how the requested accommodation is related to and will help ameliorate the effects of the disability.[33] We caution, however, that housing providers should rarely require access to an individual's medical records or details concerning the nature or severity of the person's disability. Additionally, care should be taken to keep the documentation confidential given its personal and health-related nature. Finally, we cannot warn strongly enough against rules or procedures that would unduly restrict the process a person with a disability uses when seeking a reasonable accommodation; to do so

[31] *See*, 18 VAC 135-50-200(D)(2) incorporating by reference the JOINT STATEMENT OF U.S. DEP'T OF HOUS. AND URBAN DEVEL. AND DEP'T OF JUSTICE, "Reasonable Accommodations under the Fair Housing Act," May 17, 2004, p. 13 (Response to question 18) (link: http://www.hud.gov/offices/fheo/library/huddojstatement.pdf)
[32] *Id.*
[33] *See*, 18 VAC 135-50-200(D)(2) incorporating by reference the JOINT STATEMENT OF U.S. DEP'T OF HOUS. AND URBAN DEVEL. AND DEP'T OF JUSTICE "Reasonable Accommodations Under the Fair Housing Act" at 13-14.

could have a chilling effect on persons with disabilities, perhaps most especially those with intellectual or mental impairments.

Housing providers should not impose additional deposits or fees as a condition of granting a reasonable accommodation request for an assistance animal.[34] Charging such fees in the absence of significant damage, or based only on unjustified assumptions about an animal, goes against the anti-discrimination nature of the statutes in place to protect persons with a disability. The animal is essentially functioning as an assistive device in such circumstances; so just as a housing provider should not impose a wheelchair deposit for potential carpet damage, it should not demand upfront money for animal damage that may never occur. Of course, persons with a disability are nonetheless responsible for any damages actually caused by an assistance animal, and housing providers retain the right to seek recovery for damages that exceed normal wear and tear (whether caused by an assistance animal or a wheelchair).[35]

When a housing provider seeks additional information from a person seeking a reasonable accommodation for an assistance animal, it may be advisable to grant a temporary exception to any pet limitation policy pending its submission. Such a temporary exception may serve to avoid claims that the housing provider refused the reasonable accommodation request. Ultimately, if the person seeking a reasonable accommodation for an assistance animal cannot provide reliable evidence supporting their disability status as defined by FHA or VFHL, or fails to establish the required nexus between the disability and the assistance the animal provides, then the housing provider may deny such request.

C. Therapeutic Relationships

The evaluation of a reasonable accommodation request is "a highly fact specific inquiry"[36] demanding individual, case-by-case consideration by housing providers. As a result, compiling an exhaustive inventory of "acceptable" documentation (or, alternatively, a list of unacceptable authenticators) for verification purposes is inadvisable, if not practically impossible, because a requester must be allowed to submit credible information that may not otherwise appear on a list.

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[34] *See*, 18 VAC 135-50-200(D)(2) incorporating by reference the JOINT STATEMENT OF U.S. DEP'T OF HOUS. AND URBAN DEVEL. AND DEP'T OF JUSTICE "Reasonable Accommodations Under the Fair Housing Act," Question 11 at 9-10.
[35] *Id.*
[36] *See*, Windsor Plaza, 289 Va. at 55 *citing* Scoggins v. Lee's Crossing Homeowners Ass'n, 718 F.3d 262, 272 (4th Cir. 2013).

We caution against limiting the pool of acceptable persons or entities qualified to verify disability status—as well as the imposition of higher or different standards based on type of disability (e.g. mental health vs. physical impairment)—to avoid the risk of discrimination against a qualified person with a disability in an unusual or unforeseeable circumstance. For example, limiting verification documentation *exclusively* to physicians, psychiatrists, or similar healthcare professionals may disenfranchise otherwise eligible persons with a disability who lack the financial or logistical means to access medical care for a period of time.

However, this does not mean housing providers are prohibited from asking disability verification sources for reasonable documentation of their reliability. In light of expressed concerns from some housing providers about hesitancy to request *any* information to avoid a potential fair housing complaint or charge, this guidance document provides examples of sources considered to meet the "reliable third party" standard as expressed in the HUD/DOJ Joint Statement. In general, housing providers may ask that the verifier have a therapeutic relationship with the requester, in order to establish their reliability as a "third party who is in a position to know" about the individual's disability.

For disability verification purposes, we consider "therapeutic relationship" to mean the provision of medical care, program services, or personal care services done in good faith, in the interests of the person with a disability, by: (1) a mental health service provider as defined in Va. Code § 54.1-2400.1; (2) an individual or facility under the rights, privileges, and responsibilities conferred by a valid, unrestricted state license, certification, or registration to serve persons with disabilities; (3) a member of a peer support or similar group that does not charge service recipients a fee, or impose any actual or implied financial requirement, and who has actual knowledge about the requester's disability; or (4) a caregiver with actual knowledge about the requester's disability.

Housing providers also may request verifiers authenticate all or some of the following information to help evaluate their reliability and knowledge of the requester's disability:

- General location of the provision of care, as well as duration (for example, number of in-person sessions within the preceding 12 months);
- Whether the verifier is accountable to or subject to any regulatory body or professional entity for acts of misconduct;

- Whether the verifier is trained in any field or specialty related to persons with disabilities in general or the particular impairment cited (again, being cautious not to venture into the nature and scope of the requester's disability); or
- Whether the verifier is recognized by consumers, peers, or the public as a credible provider of therapeutic care.

D. Examples of Presumed Reliable Third-Party Verifiers[37]

- Persons licensed or certified by the Virginia Boards of Audiology and Speech-Language Pathology; Counseling; Dentistry; Medicine; Nursing; Optometry; Pharmacy; Physical Therapy; Psychology; or Social Work, when acting within their scope of practice to treat the requester's claimed disability.
- Any health care provider on active duty in the armed services or public health service of the United States at any public or private health care facility while such practitioner is so commissioned or serving, and in accordance with his official duties and scope of practice to treat the requester's claimed disability.
- Persons in compliance with the regulations governing an organization or facility qualified to treat the requester's claimed disability and licensed by the Department of Behavioral Health and Developmental Services; the Department for Aging and Rehabilitative Services; or other similar non-medical service agency.
- Unlicensed counselors or therapists rendering services similar to those falling within the standards of practice for professional counseling, as defined in Va. Code § 54.1-3500, including members of peer support groups, so long as the person with a disability benefiting from such services is not subject to a charge or fee, or any financial requirement, actual or implied.
- A licensed or certified practitioner of the healing arts in good standing with his profession's regulatory body in another state, who has a bona fide practitioner-patient relationship with the requester in compliance with all requirements of applicable Virginia law and regulations.

[37] This list is not meant to be exhaustive.

A note about online disability verifications or other documentation that appear formulaic: In situations involving verification from an out-of-state practitioner not regulated by the Virginia Board of Medicine, the practitioner should be licensed or certified by both the other state's applicable regulatory body as well as the jurisdiction where the person with a disability was located *at the time services were provided* (presumably, in most cases, Virginia).

Housing providers with reason to believe a disability verification was obtained via telemedicine in particular (e.g., online verification) may authenticate the information to ensure compliance with Virginia Board of Medicine guidance that states, in part: "Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care." [38]

In order to assess the reliability of the verifier when evaluating a reasonable accommodation request, a housing provider—or the Virginia Fair Housing Office (VFHO) in the event of a complaint investigation—may question the basic nature of the interaction among the verifier and the requester. (In fact, as part of perfecting a fair housing complaint for filing, the VFHO asks medical or mental health professional verifiers to certify their willingness to testify under oath as to the disability-related need for the requested accommodation.) We emphasize the need to focus not on the nature or severity of the condition or diagnosis, but rather the credibility of the information provided in establishing the verifier's qualifications as being in a position to know about the person's disability.

To determine whether a disability verification that appears questionable to the housing provider—or the VFHO in the event of a complaint investigation—results from a bona fide practitioner-patient relationship, the verifier may be asked to affirm compliance with Virginia law governing the practice of health professions, as well as adherence to Board of Medicine official guidance on telemedicine[39] as applicable.

IV. CONCLUSION

The U.S. Supreme Court has held that the FHA is remedial in nature and requires "generous construction" in order to combat pervasive discrimination against persons with a

[38] *See* Department of Health Professions, Virginia Board of Medicine, Guidance Document 85-12 (http://www.townhall.virginia.gov/L/ViewGDoc.cfm?gdid=5712).
[39] *Id.*

disability.[40] Allowing housing providers to challenge disability verifications arbitrarily, or require overly burdensome documentation from individuals making reasonable accommodation requests, would jeopardize the fundamental protections in place for persons with a disability under fair housing laws. Moreover, amending the VFHA to make state-level rules governing assistance animals more stringent would only create a false sense of security or safe harbor; Virginia housing providers would remain subject to federal complaints or charges by HUD under FHA, just as they are now.

At the same time, ensuring that residential housing providers can request and obtain reliable, credible disability verification in support of accommodation requests for assistance animals preserves the integrity of the process for all parties. Virginia law governing professional licensure of health care practitioners sufficiently addresses the stated concerns of housing providers regarding requests for a therapeutic relationship between the requester and the verifier. The Board of Medicine's guidance on telemedicine in particular appears to prohibit the fraudulent "verification mills"[41] cited by some industry advocates.

Given that no statutory deficiency appears evident in relation to the issues raised, we offer this guidance to demonstrate that asking disability verification sources to document a therapeutic relationship with the accommodation requester is a reasonable way for housing providers to evaluate third-party reliability. Pending submission of additional supporting information, it may still be prudent for housing providers to grant a temporary exception to any pet limitation policy, in the spirit of the kind of informal interactive process preferred by HUD.[42] In this way, discussions remain open and the housing provider may avoid claims of undue delay in providing a response to the accommodation request, which could be considered a denial.

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[40] *See, e.g.,* City of Edmonds v. Oxford House, Inc., 514 U.S. 725, 731 (1995); Trafficante v. Metro. Life Ins. Co., 409 U.S. 205, 212 (1972).

[41] *See*, "Fraudulent Requests for Accommodation of Assistive/Emotional Support Animals," Virginia Apartment Management Association for Affordable Housing, Real Estate Law and Mortgages Workgroup of the Virginia Housing Commission, July 2016 (http://services.dlas.virginia.gov/User_db/frmView.aspx?ViewId=4608&s=16).

[42] *See*, 18 VAC 135-50-200(D)(2) incorporating by reference the JOINT STATEMENT OF U.S. DEP'T OF HOUS. AND URBAN DEVEL. AND DEP'T OF JUSTICE, AT P. 7-9 (ANSWER TO QUESTION 7).

HUD Fair Housing Policy
Part -109 Fair housing Advertising
Handout

PART 109-FAIR HOUSING ADVERTISING

Sec.

APPENDIX I To PART 109-FAIR HOUSING ADVERTISING

AUTHORITY: Title VIII, Civil Rights Act of 1968, 42 U.S.C. 3600-3620; section 7(d), Department of HUD Act, 42 U.S.C. 3535{d).

SOURCE: 54 FR 3308, Jan. 23, 1989, unless otherwise noted.

§ 109.5 Policy.

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. The provisions of the Fair Housing Act {42 U.S.C. 3600, *et seq.)* make it unlawful to discriminate in the sale, rental, and financing of housing, and in the provision of brokerage and appraisal services, because of race, color, religion, sex, handicap, familial status, or national origin. Section 804{c) of the Fair Housing Act, 42 U.S.C. 3604{c), as amended, makes it unlawful to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. However, the prohibitions of the act regarding familial status do not apply with respect to *housing for older persons,* as defined in section 807(b) of the act.

§ 109.10 Purpose.

The purpose of this part is to assist all advertising media, advertising agencies and all other persons who use advertising to make, print, or publish, or cause to be made, printed, or published, advertisements with respect to the sale, rental, or financing of dwellings which are in compliance with the requirements of the Fair Housing Act. These regulations also describe the matters this Department will review in evaluating compliance with the Fair Housing Act in connection with investigations of complaints alleging discriminatory housing practices involving advertising.

§ 109.15 Definitions.

As used in this part:

(a) *Assistant Secretary* means the Assistant Secretary for Fair Housing and Equal Opportunity.

(b) *General Counsel* means the General Counsel of the Department of Housing and Urban Development.

(c) *Dwelling* means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d) *Family* includes a single individual.

(e) *Person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title J1 of the United States Code, receivers, and fiduciaries.

(f) *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(g) *Discriminatory housing practice* means an act that is unlawful under section 804, 805, 806, or 818 of the Fair Housing Act.

(h) *Handicap* means, with respect to a person-

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) A record of having such an impairment, or

(3) Being regarded as having such an impairment.

This term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite.

(i) *Familial status* means one or more individuals (who have not attained the age of 18 years) being domiciled with-

(l) A parent or another person having legal custody of such individual or individuals; or

(2) The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

§ 109.16 Scope.

(a) *General.* This part describes the matters the Department will review in evaluating compliance with the Fair Housing Act in connection with investigations of complaints alleging discriminatory housing practices involving advertising. Use of these criteria will be considered by the General Counsel in making determinations as to whether there is reasonable cause, and by the Assistant Secretary in making determinations that there is no reasonable cause, to believe that a discriminatory housing practice has occurred or is about to occur.

(1) *Advertising media.* This part provides criteria for use by advertising media in determining whether to accept and publish advertising regarding sales or rental transactions. Use of these criteria will be considered by the General Counsel in making determinations as to whether there is reasonable cause, and by the Assistant Secretary in making determinations that there is no reasonable cause, to believe that a discriminatory housing practice has occurred or is about to occur.

(2) *Persons placing advertisements* A failure by persons placing advertisements to use the criteria contained in this part, when found in connection with the investigation of a complaint alleging the making or use of discriminatory advertisements, will be considered by the General Counsel in making a determination of reasonable cause, and by the Assistant Secretary in making determinations that there is no reasonable cause, to believe that a discriminatory housing practice has occurred or is about to occur.

(b) *Affirmative advertising efforts.* Nothing in this part shall be construed to restrict advertising efforts designed to attract persons to dwellings who would not ordinarily be expected to apply, when such efforts are pursuant to an affirmative marketing program or undertaken to remedy the effects of prior discrimination in connection with the advertising or marketing of dwellings.

[54 FR 308, Jan. 23 1989, as amended at 55 FR 53294, Dec. 28, 1990.]

§ 109.20 Use of words, phrases, symbols, and visual aids.

The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations. In considering a complaint under the Fair Housing Act, the Department will normally consider the use of these and comparable words, phrases, symbols, and forms to indicate a possible violation of the act and to establish a need for further proceedings on the complaint, if it is apparent from the context of the usage that discrimination within the meaning of the act is likely to result.

(a) *Words descriptive of dwelling, landlord, and tenants.* White private home, Colored home, Jewish home, Hispanic residence, adult building.

(b) Words indicative of race, color, religion, sex, handicap, familial status, or national origin--

(I) *Race-Negro,* Black, Caucasian, Oriental, American Indian.

(2) *Color-White,* Black, Colored.

(3) *Religion-Protestant,* Christian, Catholic, Jew.

(4) *National origin-Mexican* American, Puerto Rican, Philippine, Polish, Hungarian, Irish, Italian, Chicano, African, Hispanic, Chinese, Indian, Latino.

(5) *Sex-the* exclusive use of words in advertisements, including those involving the rental of separate units in a single or multi-family dwelling, stating or tending to imply that the housing being advertised is available to persons of only one sex and not the other, except where the sharing of living areas is involved. Nothing in this part restricts advertisements of dwellings used exclusively for dormitory facilities by educational institutions.

(6) *Handicap-crippled,* blind, deaf, mentally ill, retarded, impaired, handicapped, physically fit. Nothing in this part restricts the inclusion of information about the availability of accessible housing in advertising of dwellings.

(7) *Familial status-adults,* children, singles, mature persons. Nothing in this part restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute *housing for older persons* as defined in Part 100 of this title.

(8) *Catch words-Words* and phrases used in a discriminatory context should be avoided, e.g., *restricted, exclusive, private, integrated, traditional, board approval or membership approval.*

(c) *Symbols or logotypes.* Symbols or logotypes which imply or suggest race, color, religion, sex, handicap, familial status, or national origin.

(d) *Colloquia/isms.* Words or phrases used regionally or locally which imply or suggest race, color, religion, sex, handicap, familial status, or national origin.

(e) *Directions to real estate for sale or rent (use of maps or written instructions).* Directions can imply a discriminatory preference, limitation, or exclusion. For example, references to real estate location made in terms of racial or national origin significant landmarks, such as an existing black development (signal to blacks) or an existing development known for its exclusion of minorities (signal to whites). Specific directions which make reference to a racial or national origin significant area may indicate a preference. References to a synagogue, congregation or parish may also indicate a religious preference.

(t) *Area (location) description.* Names of facilities which cater to a particular racial, national origin or religious group, such as country club or private school designations, or names of facilities which are used exclusively by one sex may indicate a preference.

§ 109.25 Selective use of advertising media or content.

The selective use of advertising media or content when particular combinations thereof are used exclusively with respect to various housing developments or sites can lead to discriminatory

results and may indicate a violation of the Fair Housing Act. For example, the use of English language media alone or the exclusive use of media catering to the majority population in an area, when, in such area, there are also available non-English language or other minority media, may have discriminatory impact. Similarly, the selective use of human models in advertisements may have discriminatory impact. The following are examples of the selective use of advertisements which may be discriminatory:

(a) *Selective geographic advertisements.* Such selective use may involve the strategic placement of billboards; brochure advertisements distributed within a limited geographic area by hand or in the mail; advertising in particular geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising vehicles for reaching a particular segment of the community; or displays or announcements available only in selected sales offices.

(b) *Selective use of equal opportunity slogan or logo.* When placing advertisements, such selective use may involve placing the equal housing opportunity slogan or logo in advertising reaching some geographic areas, but not others, or with respect to some properties but not others.

(c) *Selective use of human models when conducting an advertising campaign.* Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or national origin segment of the population without a complementary advertising campaign that is directed at other groups. Another example may involve use of racially mixed models by a developer to advertise one development and not others. Similar care must be exercised in advertising in publications or other media directed at one particular sex, or at persons without children. Such selective advertising may involve the use of human models of members of only one sex, or of adults only, in displays, photographs or drawings to indicate preferences for one sex or the other, or for adults to the exclusion of children.

§ 109.30 Fair housing policy and practices.

In the investigation of complaints, the Assistant Secretary will consider the implementation of fair housing policies and practices provided in this section as evidence of compliance with the prohibitions against discrimination in advertising under the Fair Housing Act.

(a) *Use of Equal Housing Opportunity logotype, statement, or slogan.* All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home-seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Table I (see Appendix I) indicates suggested use of the logotype, statement, or slogan and size of logotype. Table II (see Appendix I) contains copies of the suggested Equal Housing Opportunity logotype, statement and slogan.

(b) *Use of human models.* Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex,

handicap, familial status, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes, and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, or national origin, and is not for the exclusive use of one such group.

(c) *Coverage of local laws.* Where the Equal Housing Opportunity statement is used, the advertisement may also include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

(d) Notification of fair housing policy-

(1) *Employees.* All publishers of advertisements, advertising agencies, and firms engaged in the sale, rental or financing of real estate should provide a printed copy of their nondiscrimination policy to each employee and officer.

(2) *Clients.* All publishers or advertisements and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous location wherever persons place advertising and should have copies available for all firms and persons using their advertising services.

(3) *Publishers' notice.* All publishers should publish at the beginning of the real estate advertising section a notice such as that appearing in Table III (see Appendix I). The notice may include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

APPENDIX I TO PART I09-FAIR HOUSING ADVERTISING

The following three tables may serve as a guide for the use of the Equal Housing Opportunity logotype, statement, slogan, and publisher's notice for advertising:

Table I

A simple formula can guide the real estate advertiser in using the Equal Housing Opportunity logotype, statement, or slogan.

In all space advertising (advertising in regularly printed media such as newspapers or magazines) the following standards should be used:

Size of advertisement	*Size of logotype in inches*
½page or larger.	2x2
1/8 page up to½ page.. ... . …… .. .. 4 column inches to 1/8 a2e.....	lxl ½x½
Less than 4 column inches	(1)

Do not use (1)

ln any other advertisements, if other logotypes are used in the advertisement, then the Equal Housing Opportunity logo should be of a size at least equal to the largest of the other logotypes; if no other logotypes are used, then the type should be bold display face which is clearly visible. Alternatively, when no other logotypes are used, 3 to 5 percent of an advertisement may be devoted to a statement of the equal housing opportunity policy.

In space advertising which is less than 4 column inches (one column 4 inches long or two columns 2 inches long) of a page in size, the Equal Housing Opportunity slogan should be used. Such advertisements may be grouped with other advertisements under a caption which states that the housing is available to all without regard to race, color, religion, sex, handicap, familial status, or national origin.

Table II

Illustrations of Logotype, Statement, and Slogan. Equal Housing Opportunity Logotype:

Equal Housing Opportunity Statement: We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.

Equal Housing Opportunity Slogan: "Equal Housing Opportunity."

Table III

Illustration of Media Notice-Publisher's notice: All real estate advertised herein is subject to the Federal Fair Housing Act, which makes it illegal to advertise "any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or intention to make any such preference, limitation, or discrimination."

We will not knowingly accept any advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis.

HUD Memorandum

U.S. **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**
WASHINGTON, D.C. 20410-2000

January 9, 1995

OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

MEMORANDUM FOR: FHEO, Office Directors, Enforcement Directors, Staff, Office of Investigations, Field Assistant General Counsel

FROM: Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity, E

SUBJECT: Guidance Regarding Advertisements Under §804(c) of the Fair Housing Act

The purpose of this memorandum is to provide guidance on the procedures for the acceptance and investigation of allegations of discrimination under Section 804(c) of the Fair Housing Act (the Act) involving the publication of real estate advertisements[1].

Recently, the number of inquiries involving whether or not potential violations of the Act occur through use of certain words or phrases has increased, and these issues cannot, in some situations, be answered by referring to decided cases alone. In some circumstances, the Advertising Guidelines, published at 24 C.F.R. Part 109, have been interpreted {usually by persons outside of HUD) to extend the liability for advertisements to circumstances which are unreasonable.

This guidance is meant to advise you of the Department's position on several of these issues.

Previous guidance already requires that Intake staff review a potential complaint, gather preliminary information to ascertain whether the complaint states a claim under the Act, and consult with counsel on any legally questionable matters before the complaint is filed. Likewise, jurisdictional issues such as standing and timeliness should also be established prior to filing.

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[1] This memorandum does not address fair housing issues associated with the publication of advertisements containing human models, and does not address 804{c) liability for making discriminatory statements.

If the Advertising Guidelines, this memorandum, or *a* judicial decision clearly indicate that the language used in the advertisement is a potential violation of Section 804(c) and the criteria for establishing jurisdiction are met, the complaint should be filed and processed. Any complaint concerning an advertisement which requires an assessment of whether the usage of particular words or phrases in context is discriminatory, requires the approval of Headquarters FHEO before a complaint is filed. If the advertisement appears to be discriminatory, but the Advertising Guidelines, this memorandum, or a judicial decision do not explicitly address the language in question, supervisory staff must also obtain approval of Headquarters FHEO before the complaint is filed. Potential complaints regarding advertisements which do not meet the above descriptions should not be filed.

Where there is a question about whether a particular real estate advertising complaint should be filed, relevant information regarding the factual and/or legal issues involved in the complaint should be gathered, and counsel should be consulted prior to contacting the potential respondent publisher. The matter should then be referred to the Office of Investigations for review. Such referrals may take the form of a short memo, reciting the applicable advertisement language, and any factual or legal analysis which is appropriate.

Section 804(c) of the Act prohibits the making, printing and publishing of advertisements which state a preference, limitation or discrimination on the basis of race, color, religion, **sex,** handicap, familial status, or national origin. The prohibition applies to publishers, such as newspapers and directories, as well as to persons and entities who place real estate advertisements. It also applies to advertisements where the underlying property may be exempt from the provisions of the Act, but where the advertisement itself violates the Act. See 42 U.S.C. 3603(b).

Publishers and advertisers are responsible under the Act for making, printing, or publishing an advertisement that violates the Act on its face. Thus, they should not publish or cause to be published an advertisement that on its face expresses a preference, limitation or discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin. To the extent that either the Advertising Guidelines or the case law do not state that particular terms or phrases (or closely comparable terms) may violate the Act, a publisher is not liable under the Act for advertisements which, in the context of the usage in a particular advertisement, might indicate a preference, limitation or discrimination, but where such a preference is not readily apparent to an ordinary reader. Therefore, complaints will not be accepted against publishers concerning advertisements where the language might or might not be viewed as being used in a discriminatory context.

For example, Intake staff should not accept a complaint against a newspaper for running an advertisement which includes the phrase **female roommate wanted** because the advertisement does not indicate whether the requirements for the shared living exception have been met. Publishers can rely on the representations of the individual placing the ad that shared living arrangements apply to the property in question. Persons placing such

advertisements, however, are responsible for satisfying the conditions for the exemption. Thus, an ad for a female roommate could result in liability for the person placing the ad if the housing being advertised is actually a separate dwelling unit without shared living spaces. See 24 CFR 109.20.

Similarly, Intake staff should not file a familial status complaint against a publisher of an advertisement if the advertisement indicates on its face that it is housing for older persons. While an owner-respondent may be held responsible for running an advertisement indicating an exclusion of families with children if his or her property does not meet the "housing for older persons" exemption, a publisher is entitled to rely on the owner's assurance that the property is exempt.

The following is policy guidance on certain advertising issues which have arisen recently. We are currently reviewing past guidance from this office and from the Office of General Counsel and will update our guidance as appropriate.

1. **Race, color, national origin.** Real estate advertisements should state no discriminatory preference or limitation on account of race, color, or national origin. Use of words describing the housing, the current or potential residents, or the neighbors or neighborhood in racial or ethnic terms {i.e., **white family home, no Irish)** will create liability under this section.

However, advertisements which are facially neutral will not create liability. Thus, complaints over use of phrases such as **master bedroom, rare find, or desirable neighborhood** should not be filed.

2. **Religion.** Advertisements should not contain an explicit preference, limitation or discrimination on account of religion {i.e., **no Jews, Christian home).** Advertisements which use the legal name of an entity which contains a religious reference {for example, **Roselawn Catholic Home),** or those which contain a religious symbol, {such as **a cross),** standing alone, may indicate a religious preference. However, if such an advertisement includes a disclaimer {such as the statement "This Home does not discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status") it will not violate the Act. Advertisements containing descriptions of properties **(apartment complex with chapel),** or services **(kosher meals available)** do not on their face state a preference for persons likely to make use of those facilities, and are not violations of the Act.

The use of secularized terms or symbols relating to religious holidays such as **Santa Claus, Easter Bunny or St. Valentine's Day** images, or phrases such as **"Merry Christmas", "Happy Easter",** or the like does not constitute a violation of the Act.

3. **Sex.** Advertisements for single family dwellings or separate units in a multi-family dwelling should contain no explicit preference, limitation or

discrimination based on sex. Use of the term **master bedroom** does not constitute a *violation* of either the sex

discrimination provisions or the race discrimination provisions. Terms such as **"mother-in-l.aw suite"** and **"bachelor apartment"** are commonly used as physical descriptions of housing units and do not violate the Act.

4. Handicap. Real estate advertisements should not contain explicit exclusions, limitations, or other indications of discrimination based on handicap (i.e., **no wheelchairs).** Advertisements containing descriptions of properties **(great view, fourth-floor walk-up, walk-in closets),** services or facilities **(jogging trails),** or neighborhoods **(walk to bus-stop)** do not violate the Act. Advertisements describing the conduct required of residents **("non-smoking", "sober")** do not violate the Act. Advertisements containing descriptions of accessibility features are lawful **(wheelchair ramp).**

5. **Familial status.** Advertisements may not state an explicit preference, limitation or discrimination based on familial status. Advertisements may not contain limitations on the number or ages of children, or state a preference for adults, couples or singles. Advertisements describing the properties **(two-bedroom, cozy, family room),** services and facilities **(no bicycles allowed)** or neighborhoods **(quiet streets)** are not facially discriminatory and do not violate the Act.

The ADA Brief Overview Handout

The Americans with Disabilities Act: A Brief Overview

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990. Its overall purpose is to make American Society more accessible to people with disabilities. In 2008, the ADA Amendments Act (ADAAA) was passed. Its purpose is to broaden the definition of disability, which had been narrowed by U.S. Supreme Court decisions.

The ADA isdivided into five titles:

1. **EMPLOYMENT** (TITLE I)
   Title I require covered employers to provide reasonable accommodations for applicants and employees with disabilities and prohibits discrimination on the basis of disability in all aspects of employment. Reasonable accommodation includes, for example, restructuring jobs, making work-sites and workstations accessible, modifying schedules, providing services such as interpreters, and modifying equipment and policies. Title I also regulate medical examinations and inquires. For more information, see http://AskJAN.org/links/adalinks.htm#I
2. **PUBLIC SERVICES** (TITLE II)
   Under Title 11, public services (which include state and local government agencies, the National Railroad Passenger Corporation, and other commuter authorities) cannot deny services to people with disabilities or deny participation in programs or activities that are available to people without disabilities. In addition, public transportation systems, such as public transit buses, must be accessible to individuals with disabilities. For more information, see http://AskJAN.org/links/adalinks.htm#II
3. PUBLIC **ACCOMMODATIONS** (TITLE III)
   Public accommodations include facilities such as restaurants, hotels, grocery stores, retail stores, etc., as well as privately owned transportation systems. Title III requires that all new construction and modifications must be accessible to individuals with disabilities. For existing facilities, barriers to services must be removed if readily achievable. For more information, see http://AskJAN.org/links/adalinks.htm#III
4. **TELECOMMUNICATIONS** (TITLE IV)
   Telecommunications companies offering telephone service to the general public must have telephone relay service to individuals who use telecommunication devices for the deaf (TTYs) or similar devices.
5. **MISCELLANEOUS** (TITLE V)

This title includes a provision prohibiting either (a) coercing or threatening or (b) retaliating against individuals with disabilities or those attempting to aid people with disabilities in asserting their rights under the ADA.

The ADA's protection applies primarily, but not exclusively, to individuals who meet the ADA's definition of disability. An individual has a disability if:

1. He or she has a physical or mental impairment that substantially limits one or more of his/her major life activities;
2. He or she has a record of such an impairment; or
3. He or she is regarded as having such an impairment.

As mentioned above, the ADA's definition of disability was broadened by the ADAAA, which went into effect in January 2009. For more information, see Accommodation and Compliance Series: The ADA Amendments Act of 2008 at http://AskJAN.org/bulletins/adaaa1.htm

Other individuals who are protected in certain circumstances include 1) those, such as parents, who have an association with an individual known to have a disability, and 2) those who are coerced or subjected to retaliation for assisting people with disabilities in asserting their rights under the ADA.

While the employment provisions of the ADA apply to employers of fifteen employees or more, its public accommodations provisions apply to all sizes of business, regardless of number of employees. State and local governments are covered regardless of size.

Updated: July 26, 2012

ADA Title: Public Accommodations

Title III covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation, and commercial facilities. Public accommodations are private entities who own, lease, lease to, or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by title III.

Public accommodations must comply with basic nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment. They also must comply with specific requirements related to architectural standards for new and altered buildings; reasonable modifications to policies, practices, and procedures; effective communication with people with hearing, vision, or speech disabilities; and other access requirements. Additionally, public accommodations must remove barriers in existing buildings where it is easy to do so without much difficulty or expense, given the public accommodation's resources.

Courses and examinations related to professional, educational, or trade-related applications, licensing, certifications, or credentialing must be provided in a place and manner accessible to people with disabilities, or alternative accessible arrangements must be offered.

Commercial facilities, such as factories and warehouses, must comply with the ADA's architectural standards for new construction and alterations.

Complaints of title III violations may be filed with the Department of Justice. In certain situations, cases may be referred to a mediation program sponsored by the Department. The Department is authorized to bring a lawsuit where there is a pattern or practice of discrimination in violation of title III, or where an act of discrimination raises an issue of general public importance. Title III may also be enforced through private lawsuits. It is not necessary to file a complaint with the Department of Justice (or any Federal agency), or to receive a "right-to-sue" letter, before going to court. For more information, contact:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, **N.W.**
Disability Rights Section - NYAV
Washington, D.C. 20530

www.ada.gov

(800) 514-0301 (voice)
(800) 514-0383 (TTY)

Fair Housing

Case Studies and Recent Case Summaries

CASE- Discrimination Against Familial Status

The Woodcrest Condominiums are located in Monroe, Michigan and consist of forty-four (44) units. Each of the four buildings in the complex has three floors. In accordance with an Association bylaw, families with children under 18 are prohibited from moving into second and third floor units. In addition, the bylaw requires families who have or adopt a child while living in a second or third floor unit to vacate the unit within a year of the child's birth or adoption. The rules and bylaws also contain a provision specifically prohibiting ‘‘Children" from "loitering or playing in hallways."

The United States alleges that adopting and enforcing a rule that prohibits families with children from living on the second and third floors of a condominium complex violates sections 804(a), (b) and (c) of the Fair Housing Act. It also contends that Woodcrest's rule prohibiting children, only, from loitering or playing (i.e., creating disturbances or obstructions) in hallways violates the Act.

Defendants do not admit liability and are entering into this Agreement solely to resolve disputed claims.

Statement of Agreement

1. The Woodcrest Condominiums Association, its board members, directors, officers and property manager(s) shall immediately rescind any and all bylaws, rules, policies and/or instructions limiting the occupancy of families with children under the age of eighteen (1B) to first floor units in the complex. The Association, its board members, directors, officers and property manager(s) shall immediately cease to enforce any practice or policy, written or unwritten, formal or informal that in any way restricts the occupancy of families with children under 18 to (a) particular building, floor or part of the property.
2. The Woodcrest Condominiums Association, its board members, directors, officers and property manager(s) shall immediately rescind any and all bylaws, rules, policies and/or instructions prohibiting "children," only, (as opposed to persons, generally) from loitering or creating disturbances or obstructions of any kind in hallways or other common areas.
3. Shall immediately cease to enforce any practice or policy, written or unwritten, formal or informal that specifically targets the conduct or behavior of children, as opposed to persons, generally, in hallways and other common areas.
4. The Association shall immediately notify in writing all residents and nonresident owners that any bylaws, rules or instructions limiting families with children under the age of 18 to the first floor, or specifically targeting the conduct or behavior of children in common areas, have been rescinded. New bylaws, rules and/or instructions, without any such limitations on families with children under 18, or on children, generally, will immediately be published and distributed to residents and nonresident owners. Within five (5) days of entry of this Agreement, the Association shall send to the United States a copy of: 1) the notice that the bylaw restricting families with children to the first floor has been rescinded; 2) the notice that the rule and bylaw prohibiting "children," only, from loitering or playing in hallways has been rescinded; and 3) the new bylaw(s), rule(s) and instruction(s), along with proof that all residents and nonresident owners have received copies of each.
5. The Association will immediately notify the real estate community of Monroe, Michigan by: 1) publishing in the major daily newspaper in Monroe; 2) sending a letter to the local Board of Realtors; and 3) sending letters to every agent that has transacted business in or with respect to Woodcrest Condominiums, including Leo Boylan, Sally Jaynes, and Alan L. Haynes, that any bylaws, rules and/or instructions limiting occupancy of families with children under 18 to first floor units or prohibiting children, only, from loitering or playing in hallways have been rescinded and will no longer be enforced. Such notices shall be approved by the United States. The Association shall send a copy of the notices to the United States for approval within five (5) days of entry of this Agreement. The Association shall promptly publish and send the notices after they are approved. The Association shall forward final copies of the notices (i.e., of all advertisements and letters) to the United States following publication and transmittal.
6. No later than ninety (90) days after the date of this Agreement, and annually for the duration of the Agreement, the Association's board members, directors, officers and property manager(s) shall receive fair housing training concerning their obligations under federal, state and local fair housing laws -- including that regarding the familial status provisions of the Fair Housing Act -- by the Fair Housing Center of Metropolitan Detroit (FHCMD). A copy of this Settlement Agreement shall be distributed to each individual who attends the training. All costs associated with the training shall be borne by the Association. The Association shall obtain a certificate of attendance from the FHCMD for each person who receives the training and immediately send the certificates to the United States.

7. The Association's board members, directors, officers and property manager(s) shall comply with the Fair Housing Act, 42 U.S.C. 3601, et seq., and any failure to comply with the Act shall constitute a breach of this Agreement.
8. This Agreement in no way precludes the United States from filing a lawsuit alleging violations of the Fair Housing Act following a charge by the Department of Housing and Urban Development (HUD) on behalf of an aggrieved person, if such person elects, pursuant to 42 U.S.C. 3612, to have his or her claims decided in a civil action. Nor does the Agreement prevent the United States from bringing a future action pursuant to 42 U.S.C. 3614 for subsequent violations of the Act. Moreover, the Agreement does not prevent the United States from filing a brief as *amicus curiae* in any future case involving the Association nor prevent any other parties from filing suit alleging the Association, its board members, officers, directors or employees, have violated the Act.
9. For the term of this Agreement, the Association shall advise counsel for the United States in writing no later than fifteen (15) days after receipt of any written administrative or legal complaint against it, or against any of its employees or agents, alleging discrimination in housing.
10. For the term of this Agreement, the Association shall preserve all records related to this Agreement. including those reflecting the identity, location (by floor and unit number), number and age of children of families with children. Upon reasonable notice to the Association, representatives of the United States shall be permitted to inspect and copy any Association records bearing on compliance with this Agreement.
11. The provisions of this Agreement shall remain in effect for a period of five (5) years after it has been signed by all parties to the Agreement.
12. If, during the term of the Agreement, the United States believes that any of its provisions has been violated, it shall promptly advise counsel for the Association in writing of the nature of the alleged violation, and, within thirty (30) days of receipt of such written notice, the parties shall confer in a good faith effort to resolve the issue. In the event the parties are unable to resolve the issue to the reasonable satisfaction of the United States, the United States may seek to enforce the Agreement, or any provision thereof, in the United States District Court for the Eastern District of Michigan through initiation of a lawsuit. Failure of the United States to enforce the entire Agreement or any provision of it with regard to any deadline contained herein shall not be construed as a waiver by the United States of any right to do so.

CASE - Discrimination based on Race, Color, Familial Status

COMPLAINT

1. AHH is in the business of assisting persons in locating and securing residential rental properties, including single-family homes, townhouses, and apartments. These rental properties are dwellings within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
2. Owners of rental properties list with AHH for a fee, providing AHH with a description of their properties along with corresponding rental terms and conditions. AHH employs leasing agents to use these listings to assist clients in finding rental properties. The leasing agents earn commissions on each property for which they arrange a rental.
3. AHH has listings for single-family homes, townhouses, small apartment buildings and large apartment complexes. The great majority of AAH's listings for single-family homes, townhouses and small apartment buildings are placed by individual owners.
4. A number of the individual property owners listing with AHH have indicated to AHH that they do not wish to have black tenants. Some individual property owners have similarly indicated that they do not wish to have tenants with children. Defendants have honored these discriminatory preferences and instructed AHH employees to honor these preferences as well.
5. To implement the discriminatory preferences described above, defendants engaged in, and instructed AHH employees to engage in, numerous discriminatory practices, including but not limited to the following:
    a. avoiding doing business with black persons, or discouraging such persons from doing business with AHH, where possible;
    b. referring black persons to other large properties (usually apartment complexes where owners had not indicated racial preferences) as opposed to individually owned properties (where owners had indicated racial preferences) where possible, regardless of the preference of the black client;
    c. referring clients with children to properties without restrictions regarding children as opposed to other properties with such restrictions, regardless of the preference of the client; and
    d. Falsely informing black clients, and clients with children, that no rental property meeting the client's description was available in order to preferentially rent to white prospective tenants, or to tenants without children.

6. The Greater New Orleans Fair Housing Action Center, Inc. ("FHAC"), a private fair housing group in New Orleans, conducted an investigation of the policies implemented by defendants to evaluate compliance with the Fair Housing Act. As part of this investigation, FHAC conducted a series of tests in July and August of 1996, using testers to compare the treatment afforded by defendants to different types of prospective renters. Testers are persons who, without the intent to rent an apartment or buy a house, gather information about housing for rent or sale in order to help determine whether discriminatory practices are occurring. The FHAC tests revealed evidence of discrimination by defendants as outlined above.
7. The United States Department of Justice conducted further testing in July of 1997 as part of an independent investigation of practices at AHH. This testing confirmed the pattern of discrimination by defendants outlined above.
8. As described above in paragraphs 6 through 10, defendants have engaged in discrimination against persons because of race, color, and familial status in the rental of dwellings, in violation of the Fair Housing Act, by:

    a. Refusing to rent or otherwise making unavailable to rent dwellings to persons because of race, color, or familial status, in violation of 42 U.S.C. § 3604(a);
    b. Making a statement with respect to the rental of a dwelling that indicates discrimination based on race or color, in violation of 42 U.S.C. § 3604(c); and
    c. Representing to persons because of race, color, or familial status that dwellings are not available for inspection or rental when such dwellings are in fact so available, in violation of 42 U.S.C. § 3604(d).
9. The conduct of defendants as described above constitutes:

    a. A pattern and practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq.; and
    b. A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., which denial raises an issue of general public importance.
10. Persons who have been victims of defendants' discriminatory conduct are "aggrieved persons" as defined in 42 U.S.C. § 3602(i).
11. In engaging in the unlawful conduct described above in this complaint, defendants have acted intentionally, willfully, and in disregard for the rights of aggrieved persons.

WHEREFORE, the United States prays that the Court enter an ORDER that:

1. Declares that the actions, policies, and practices of the defendants described herein are in violation of the Fair Housing Act of 1968, as amended, 42 U.S.C. §§ 3601 et seq.;
2. Enjoins the defendants permanently from discriminating against any person with respect to housing on the basis of race, color, or familial status;
3. Enjoins the defendants to take appropriate affirmative steps to ensure that the activities complained of above are not engaged in again by defendants or their agents, and to eliminate, to the extent practicable, the effects of defendants' unlawful housing practices;
4. Awards each person aggrieved by defendants' conduct reasonable compensatory and punitive damages; and
5. Assesses a civil penalty against the defendants in the amount authorized by 42 U.S.C. §§ 3613(e) and 3614(d)(1)(C), in order to vindicate the public interest.

SUMMARY OF RECENT FAIR HOUSING CASES

United States v. Coldwell Banker Joe T. Lane Realty, Inc. (N.D. Ga.)

On February 9, 2010, the court entered a consent order resolving a lawsuit which originated from a complaint filed by the National Fair Housing Alliance (NFHA) with the U.S. Department of Housing and Urban Development (HUD). The original complaint, filed in February 2008 and amended in January 2009 was developed by testing conducted by NFHA of Coldwell Banker Joe T. Lane Realty Inc. in 2003 and2004 and revealed that a real estate agent had steered white testers towards areas that are predominately white and away from areas that are predominately African-American because of race or color, in violation of the Fair Housing Act. According to the complaint, before showing the tester any homes, the agent told the tester that he did not know where to take the tester because he could not tell from talking on the telephone whether the tester was white. The agent said words to the effect that "I didn't know if you were a Caucasian or not over the phone." The complaint also alleges that Coldwell Banker Joe T. Bank Realty is vicariously liable for Mr. Foreman's conduct. The consent order requires that the Defendants Coldwell Banker Joe T. Lane Realty Inc., Coldwell Banker Bullard Realty Company Inc. and Rodney Lee Foreman, one of their former real estate agents, pay $160,000 to settle allegations that they illegally steered prospective homebuyers toward and away from certain neighborhoods based on race and color. The case was referred to the Division after HUD received a complaint, conducted an investigation and issued a charge of discrimination

United States v. Penny Pincher, Inc., Deanna Lynn Cooley, and Michael Law (S.D. Miss.)

On December 17, 2010, the United States filed an amended complaint under the Fair Housing Act in *United States v. Penny Pincher, Inc. et al.* (S.D. Miss.). The complaint alleges that the Penny Pincher, a weekly want-ad newspaper distributed along Mississippi's Gulf Coast, Deanna Lynn Cooley, a landlord, and Michael Law, Ms. Cooley's agent, violated the Fair Housing Act by discriminated against families with children. The complaint alleges that the Penny Pincher, engaged in a pattern or practice of violating the Fair Housing Act or denied rights protected by the act by accepting and publishing 10 advertisements for rental housing that stated illegal preferences against families with children. The suit also charges that, by placing one of those ads and by orally stating an illegal preference against renting to families with children, Lynn Cooley and Michael Law violated the Fair Housing Act. The case was referred to the Division after the Department of Housing and Urban Development (HUD) received a complaint, conducted an investigation, and issued a charge of discrimination.

United States v. S & S Group, Ltd. d/b/a ReMax East-West, et al. (DeJohn) (N.D. Ill.)

On February 17, 2009, the Court entered a Consent Decree resolving *United States v. S & S Group, Ltd. d/b/a ReMax East-West, et al (DeJohn)* (N.D. Ill.). The lawsuit,filed on July 18, 2008, originated from a complaint filed by the National Fair Housing Alliance (NFHA) with the U.S. Department of Housing and Urban Development (HUD). Testing conducted by NFHA of RE/MAX East-West in 2004 and 2005 revealed that DeJohn had steered an Hispanic tester toward homes in predominantly African-American or Hispanic neighborhoods, but had encouraged a similarly situated white tester to look at listings in predominantly white neighborhoods. Both testers had contacted DeJohn about the same advertised listing.

Under the terms of the consent decree, the defendants shall pay $120,000 to the NFHA. The settlement also requires RE/MAX East-West to hire a qualified organization to provide fair housing training to its agents and to maintain records and submit periodic reports to the Justice Department. DeJohn voluntarily surrendered his Illinois real estate license which expires in April 2009. However, the settlement requires DeJohn to comply with similar training and reporting requirements if he decides to become a real estate agent again in Illinois or any other state.

United States and Oxford House Inc. v. Town of Garner, North Carolina, and the Town of Garner Board of Adjustment (E.D.N.C.)

On January 19, 2011, the court entered a consent decree resolving *United States and Oxford House Inc. v. Town of Garner, North Carolina, and the Town of Garner Board of Adjustment* (E.D.N.C.). The complaint, filed on May 19, 2009, alleged that the defendants violated the Fair Housing Act by engaging in a denial of rights to a group of persons or a pattern or practice of discrimination. Specifically, the complaint alleged that defendants violated the Fair Housing Act by refusing to allow up to eight men recovering from drug and alcohol addictions to live together as a reasonable accommodation for their disabilities. The home is chartered by Oxford House Inc., a non-profit organization that assists in the development of self-governing houses in which persons in recovery support one another's determination to remain sober. Under the terms of the consent decree the defendants will pay $105,000 in monetary damages to Oxford House and $9,000 to the United States as a civil penalty. The settlement requires that the town grant the reasonable accommodation requested by Oxford House, submit periodic reports to the government, and train town officials on the requirements of the Fair Housing Act. In December 2010, in connection with the parties' proposed settlement, the town amended its zoning code to establish a procedure for addressing future requests for reasonable accommodations. The case was referred to the Civil Rights Division by HUD.

United States v. Wheeling Housing Authority (N.D. W. Va.)

On January 14, 2011, the United States filed a complaint in *United States v. Wheeling Housing Authority* (N.D. W. Va.), a Fair Housing Act election referral from HUD. The complaint alleges that the Wheeling Housing Authority discriminated against the complainants, an African-America n family on the basis of race, by failing to respond, when the complainants became the target of racial harassment by a neighboring family.

United States & Stadtlander v. Warren Properties, Inc. (S.D. Ala.)

On December 27, 2010, the court entered a consent decree requiring Defendants Warren Properties Inc., Warren Village (Mobile) Limited Partnership and Frank R. Warren to pay $1.25 million to resolve the United States' lawsuit alleging that the defendants violated the Fair Housing Act by refusing to grant a tenant's requests for a reasonable accommodation. This settlement is the largest ever obtained by the Department in an individual housing discrimination case.

The complaint, filed on April 29, 2009, alleged that the defendants refused to permit a tenant with a mobility impairment - an impairment which required him to use crutches and leg braces -- to move to a ground-floor apartment near the front of the building in a 196-unit apartment complex in Mobile, Alabama. The suit also alleged that the tenant suffered severe injuries - resulting in the tenant being hospitalized, undergoing surgery, and having to use a wheelchair -- as a result of falling down the stairs that led to the second-floor apartment where the tenant resided.

Under the consent decree, the defendants must pay $1,195,000 in monetary damages to the tenant, along with an additional $55,000 to the United States. The defendants must hire a reasonable accommodation facilitator to handle requests for reasonable accommodations from more than 11,000 housing units in 85 properties managed by Warren Properties Inc. in 15 states. The defendants must also attend fair housing training, implement a non-discrimination policy, and comply with specified notice, monitoring and reporting requirements. The case was originally referred to the Division after the Department of Housing and Urban Development (HUD) received a complaint, conducted an investigation, and issued a charge of discrimination. This case was litigated primarily by the United States Attorney for the Southern District of Alabama.

Fair Housing of the Dakotas v. Goldmark Property Management Co. (D. N.D.)

On November 2, 2010, the Division filed an amicus brief in *Fair Housing of the Dakotas v. Goldmark Property Management Co.* No. 09•cv-58 (D. N.D.), a putative class action challenge brought under the Fair Housing Act to a rental management company's animal assistance policies. The United States' brief was filed in support of plaintiffs' opposition to defendant's summary judgment motion and argued that: (1) the FHA bars landlords from requiring that assistance animals have special training in order to be accepted as a reasonable accommodation. Emotional support or companion animals, which do not have special training, may be required accommodations under the FHA; (2) the FHA may require landlords to waive generally applicable pet fees for assistance animals if necessary to ensure a disabled tenant an equal opportunity to use and enjoy a residence; and that (3) fees that are applied to non-specially trained assistance animal for persons with mental disabilities but waived for "service animals" for persons with physical disabilities, are not generally applicable and discriminate on the basis of disability.

United States v. Acme Investments, Inc., et al. (E.D. Mich.)

On July 7, 2010, the court entered a Consent Decree resolving all claims in *United States v. Acme Investments, Inc. et al.* (E.D. Mich.). The complaint, filed by the United States and the U.S. Attorney's Office for the Eastern District of Michigan on March 3, 2010, alleged a pattern or practice of racial discrimination in violation of the Fair Housing Act by the owner and property manager, Laurie Courtney Ivanhoe House Apartments located in Ann Arbor, Michigan. The complaint alleged discrimination against African Americans in the rental and inspection of apartments. The case was developed through testing conducted by the Fair Housing Center of Southeastern Michigan, which filed suit on July 16, 2009, alleging the same violations. The cases were later consolidated by the court. Under the settlement, the defendants will pay $35,000 in damages to three victims who the United States contends were discriminated against because of their race at Ivanhoe House Apartments; pay $7,50 0 in a civil penalty to the United States; and pay $40,000 to the Fair Housing Center of Southeastern Michigan as damages for the non-profit's efforts in testing and investigating the apartment complex. The settlement also requires the defendants and their employees to undergo fair housing training, conduct self-testing of the apartment complex, and provide periodic reports to the Justice Department and the Fair Housing Center of Southeastern Michigan. This case was handled jointly by the United States and the U.S. Attorney's Office for the Eastern District of Michigan. The consent decree will remain in effect for three years.

United States v. Autumn Ridge Condominium Association, Inc., et al. (N.D. Ind.)

On October 22, 2010, the court entered a consent order in *United States v. Autumn Ridge Condominium Association, Inc., et al.* (N.D. Ind.), a Fair Housing Act pattern or practice/election case alleging discrimination on the basis of race and familial status. The complaint, filed on July14, 2008, alleged that the Condominium Association and the members of its Board of Directors in located in Munster, Indiana, maintained a written policy that prohibited families with minor children from living in the condominium complex The complaint further alleged that members of the Board made oral statements indicating a preference against families with children and that the policy was enforced in a discriminatory manner to exclude African-Americans from living in the condominium complex. The consent order, provides for monetary relief in the amount of $106,500 to compensate seven aggrieved persons, and a $13,500 civil penalty. The consent order also provides for extensive injunctive relief, including fair housing training, reporting requirements, and the resignation of the president of the condominium board. The case was referred to the Division after the Department of Housing and Urban Development (HUD) received a complaint, conducted an investigation, and issued a charge of discrimination.

United States v. Burgundy Gardens LLC (S.D.N.Y.)

On December 6, 2010, the United States Attorney for the Southern District of New York filed a Fair Housing Act complaint in *United States u. Burgundy Gardens UC* (S.D.N.Y.). The complaint alleged Burgundy Gardens Apartments, a 96- unit complex located in Valley Cottage, discriminated against African-Americans seeking to rent apartments at Burgundy Gardens Apartments. The complaint alleges that the defendants have engaged in a pattern of racially discriminatory practices since 1997, including, failing to inform African-American prospective tenants about available units, while informing non-African- American prospective tenants that units were available. The complaint also alleges that African- Americans were quoted higher rental rates and that the defendants failed to show available apartments to African- Americans which showing units to similarly-situated non- African -Americans.

United States v. William E. **Brewer and Lena P. Brewer (E.D. Tenn.)**

On April 16, 2007, the Court approved and entered the Consent Order resolving *United States v. William E. Brewer and Lena P. Brewer* (E.D. Tenn.), a Fair Housing Act pattern or practice case which alleged sexual harassment discrimination. The Consent Order requires the Defendants to pay $110,000 in monetary damages to nine women, and a $15,000 civil penalty. The Consent Order also requires the Defendants to transfer all managerial responsibilities to an independent manager. The complaint, which was filed on December 22, 2005, alleged that from at least 2004 through the present, Defendant Mr. Brewer had subjected female's tenants to severe, pervasive, and unwelcome sexual harassment, entering the dwellings of female tenants without permission or notice, and threatening to evict female tenants when they refused or objected to his sexual advances. The Division commenced its investigation of the defendants in late 2004 based on a referral from the City of Knoxville.

United States v. City of Columbus (S.D. Ind.)

On June 17, 2010, the court entered a Consent Decree resolving *United States city of Columbus* (S.D. Ind.), a Fair Housing Act pattern or practice suit. The complaint, filed on September 30, 2009 alleged that the City discriminated on the basis of disability when it denied a permit for the operation of a home for recovering addicts. Under the terms of the decree, the city will adopt a procedure for processing reasonable accommodations to its zoning ordinance, and pay $18,000 in monetary damages to the providers of the proposed home and a $6,000 civil penalty to the United States. The consent decree also requires standard injunctive relief with respect to training, record-keeping, and reporting.

United States v. City of Satsuma, et al. **(S.D. Ala.)**

On September 16, 2010, the court entered a consent decree in *United States v. City of Satsuma, et al.* (S.D. Ala.), a Fair Housing Act pattern or practice land use case that was referred by HUD. The complaint filed on May 7, 2008 alleged the city of Satsuma, Ala., and the city's Board of Adjustment, discriminated against individuals with disabilities. The complaint alleged that the defendants discriminated against three persons on the basis of their disabilities by refusing to allow them to reside together in a group home. The suit charged that Satsuma refused to make reasonable accommodations in its rules, policies, practices or services, which were necessary to afford the residents an opportunity to use and enjoy their home. The three adult residents lived in a single-family home with supportive services provided by professional care-givers. The City's zoning ordinance permitted five unrelated persons to reside together in single-family homes in residential districts of the City. Under the consent decree, the city agreed to pay $59,000 in damages to the operator of a group home for three women with intellectual disabilities and the trustees of the three residents, as well as a $5,500 civil penalty to the government. As part of the settlement, the city also adopted amendments to its zoning laws.

United States v. Coldwell Banker Joe T. Lane Realty, Inc. (N.D. Ga.)

On February 9, 2010, the court entered a consent order resolving a lawsuit which originated from a complaint filed by the National Fair Housing Alliance (NFHA) with the U.S. Department of Housing and Urban Development (HUD). The original complaint, filed in February 2008 and amended in January 2009 was developed by testing conducted by NFHA of Coldwell Banker Joe T. Lane Realty Inc. in 2003 and 2004 and revealed that a real estate agent had steered white testers towards areas that are predominately white and away from areas that are predominately African-American because of race or color, in violation of the Fair Housing Act. According to the complaint, before showing the tester any homes, the agent told the tester that he did not know where to take the tester because he could not tell from talking on the telephone whether the tester was white. The agent said words to the effect that "I didn't know if you were a Caucasian or not over the phone." The complaint also alleges that Coldwell Banker Joe T. Bank Realty is vicariously liable for Mr. Foreman's conduct. The consent order requires that the Defendants Coldwell Banker Joe T. Lane Realty Inc., Coldwell Banker Bullard Realty Company Inc. and Rodney Lee Foreman, one of their former real estate agents, pay $160,000 to settle allegations that they illegally steered prospective homebuyers toward and away from certain neighborhoods based on race and color. The case was referred to the Division after HUD received a complaint, conducted an investigation and issued a charge of discrimination.

United States v. Dalton Township, Michigan (W.D. Mich.)

On February 10, 2011, the court entered a consent decree resolving *United States v. Dalton Township* (W.D. Mich.). The complaint, filed on alleged July 28, 2010, alleged that the Township violated the Fair Housing Act and the Americans with Disabilities Act when it refused to grant a reasonable accommodation permitting the operation of a group home for persons recovering from drug and alcohol addiction. Under the terms of the consent decree the sober home is allowed to operate. The decree also provides for $55,000 in damages to the owner of the property and a $7,500 civil penalty to the United States. The lawsuit arose as a result of a complaint filed with the U.S. Department of Housing and Urban Development (HUD) by the owner and operator of a group home known as "Serenity Shores."

United States v. Flanagan (N.D. Ill.)

On January19, 2011, the Court entered a consent order resolving *United States v. Flanagan* (N.D. Ill.), a pattern or practice race discrimination case based on evidence generated by the Department's fair housing testing program. The complaint, filed on November 23, 2009, alleged that the defendant, Terrence Flanagan, discriminated on the basis of race in connection with the rental of a single-family home in Orland Park, a suburb of Chicago, in violation of the Fair Housing Act. Under the terms of the consent order, the Defendant will pay a total of $35,000 in damages and penalties and will be enjoined from personally renting properties for the term of the Decree. The Defendant admits making statements to testers indicating that he preferred not to rent the house he had advertised for rent to African Americans. The settlement also prohibits the defendant from personally managing or renting any properties for its five-year term.

United States v. Georgian Manor, et al. (N.D. Ga.)

On November 12, 2010, the court entered a partial consent order in *United States v. Georgian Manor ,et al.* (N.D. Ga.). The order requires realtors Harry Norman Realtors (HNR) and Jennifer Sherrouse to collectively pay $5,000 to the complainant fair-housing group, $30,000 to a settlement fund, and a $25,000 civil penalty. It also requires injunctive relief, including training and reporting. The pattern or practice/election laws suit charged that the realtors advertised a "no- child policy" at a unit for sale in the Georgian Manor Condominiums in Atlanta and that they refused to show the unit to potential buyers with children in violation of the Fair Housing Act. A prior partial consent order entered on April 8, 2010 with the unit owners who followed the discriminatory rules of the condominium association required them to pay $7,500 to the complainant, $2,500 civil penalty to the United States and abide by a general injunction. The Division is continuing to litigate claims against the Georgian Manor Condominium Association which published the discriminatory rules for allegedly having maintained policies for 20 years that discouraged families with children from living in the building. The case was referred to the Division after the Department of Housing and Urban Development (HUD) received a complaint from Metro Fair Housing, conducted an investigation, and issued a charge of discrimination.

United States & FHCO v. Hadlock (D. Or.)

On January 27, 2010, the court issued an order granting the motion for partial summary judgment filed by the United States and the Fair Housing Council of Oregon (FHCO) in *United States & FHCO v. Hadlock* (D. Or.), a Fair Housing Act election case referred by HUD. The original complaint, filed on July 9, 2008, alleged that Virginia Ruth Hadlock, the owner and manager of several single-family homes in Klamath Falls, Oregon, discriminated against testers sent by FHCO on the basis of familial status. The court found that Ms. Hadlock had violated 3604(a) and (c) with respect to the testers by making several statements indicating a preference against renting to families with children.

United States v, Halvorsen, et al. (E.D. Wis.)

On February 29, 2008, the Court entered a consent order in *United States v. Halvorsen* (E.D. Wis.). The complaint, filed in October 2006, alleged that the defendants violated the Fair Housing Act when they refused to negotiate for the sale of a single- family house to the homebuyer (complainant 1), an African American woman, who is a principal in the Milwaukee public schools. Specifically, the complaint alleged that Defendant Halvorsen asked the real estate agent (complainant 2) who was attempting to help the homebuyer (complainant 1) find a house, whether her client was black and told the agent that she did not want to sell her house to black persons. The complaint alleged that Ms. Halvorsen also told Defendant Hasenstab, the real estate agent with Defendant RE/MAX 100 whom she retained to list her home, that she did not want to sell her home to black persons. When the Defendants learned that the agent (complainant 2) was attempting to schedule an appointment to show the home to her client (complainant 1), they amended the listing agreement to exclude the agent from showing the home. The agent (complainant 2) was not able to show the home to the homebuyer (complainant 1), and the Defendants sold the home to a white person.

Under the consent order, the Defendants will pay $30,000 to homebuyer (complainant 1) and $5,000 to the real estate agent (complainant 2). The order also enjoins the Defendants from further discrimination, requires Defendant Hasenstab to receive fair housing training, and requires Defendant RE/MAX 100 to train its agents and report discrimination complaints to the United States. The consent order will remain in effect for three years.

The case was referred to the Division after the Department of Housing and Urban Development (HUD) received a complaint, conducted an investigation and issued a charge of discrimination.

United States v. Henry (E.D. Va.)

Virginia Beach landlord Dr. John Crockett Henry and Henry LLC, have agreed in a consent decree to pay up to $361,000 to settle a lawsuit alleging violations of the Fair Housing Act. The consent decree, entered on May 13, 2008, calls for training, a nondiscrimination policy, record keeping and monitoring. In addition, the defendants will pay $84,000 to compensate three former tenants of the defendants, and will establish a $235,000 fund to compensate any additional victims subsequently identified by the United States. The defendants will also pay $42,000 in a civil penalty to the United States. Five other individual victims intervened in the lawsuit, and have reached a separate monetary settlement of their claims against the defendants. The initial lawsuit, filed in July 2007, alleged that Dr. Henry and Henry LLC, violated the Fair Housing Act by refusing to rent apartments to families with three or more children. The defendants imposed more restrictive rules and regulations on African-American tenants than other tenants; verbally harassed African-American tenants with racial slurs and epithets; and evicted tenants by enforcing a limit of two children per family at the premises.

United States v. Joyce, et al. (M.D. Pa.)

On March 25, 2010, the court entered a consent order resolving *United States v. Joyce, et al.* (M.D. Pa.), a pattern or practice lawsuit in Scranton, Pennsylvania alleging discrimination against families with children. Under the terms of the consent order, defendants Gerard Joyce, Katie Joyce, Daniel Joyce, Normandy Holdings, LLC, Lofts at the Mill, LP, and Lofts GP, LLC, are required to $15,000 to a mother and father who were denied housing because they had a one-year old daughter. The defendants must also pay an additional $20,000 to the government as a civil penalty. The settlement calls for numerous corrective measures, including training, a nondiscrimination policy, record keeping and monitoring. The Department's complaint, filed on June 23, 2008, originated from an investigation by the Secretary of the Department of Housing and Urban Development (HUD), alleging that the owners, property managers, and management company for "The Mill" luxury apartments violated the Fair Housing Act by refusing to rent apartments to persons with children and by advertising discriminatory, "21 yrs. or older," tenant policies in multiple Scranton newspapers. A subsequent series of tests undertaken by a local fair housing organization, in coordination with HUD, revealed that the Joyces regularly communicated a preference for tenants without children to housing applicants. On November 16, 2009, the court granted the United States' motion for summary judgment on liability.

United States v. Kelly, et al. (S.D. Miss.)

On November 18, 2010, the United States filed a complaint under the Fair Housing Act against the property manager and owner of Shamrock Apartments in *United States v. Kelly, et al.* (S.D. Miss.), a Fair Housing Act election referral from HUD. The complaint alleges that the defendants discriminated on the basis of race and color when the property manager, while acting as agent for the owner for Shamrock Apartments, located in Vicksburg, refused to renew the lease of a white tenant because of her biracial daughter and her association with African Americans.

United States v. Krause, et al. (W.D. Wash.)

On October 21, 2010, the United States filed a complaint and a proposed consent decree in *United States v. Krause, et al.* (W.D. Wash.), alleging that the owners and manager of Mountain View Apartments engaged in a pattern or practice of discrimination against families with children in violation of the Fair Housing Act. During tests conducted by the Housing Section's Testing Unit, the rental manager stated that there were one or more buildings at Mountain View where children were not allowed to reside, and that the reason children were not allowed in those buildings was because of the perception that children were too noisy, and out of consideration for older residents who did not want to live near young children. On December 16, 2010, the court entered the consent decree which contains provisions for injunctive relief and a $12,500 civil penalty.

United States v. The Latvian Tower Condominium Association, Inc. (D. Neb.)

On March 3, 2010, the court entered a consent order resolving *United States v. Latvian Tower Condominium Association, Inc. et al.* (D. Neb.), a Fair Housing Act pattern or practice/election case alleging discrimination on the basis of familial status. The complaint, filed on October 29, 2008, alleged Latvian Tower Condominium Association, Inc. (LTCA) and its president, Karl Tegtmeyer, violated the Fair Housing Act by interfering with the sale of a home because they did not want the owners of the unit to sell the condominium to a family with children. The lawsuit also alleged that the condominium association maintained rules that barred the sale or rental of condominiums to families with children. The consent order requires the defendants to pay $112,500 to victims of discrimination and an additional $15,000 to the government as a civil penalty.

United States v. Marti (D. R.I.)

On April 8, 2010, the court entered the consent orde1· in *United States v. Donna Marti, et al.* (D.R.I.), a Fair Housing Act election referral from the Department of Housing and Urban Development (HUD). The complaint, filed on September 25, 2009, alleged that Donna Marti, the Velna Marti Irrevocable Income Trust, and their real estate professionals, violated the Fair Housing Act on the basis of familial status by refusing to rent a single- family home located in Cranston, Rhode Island to families because they had children. The complaint also alleged a violation of 42 U.S.C. § 3604(c) based on the rental notice published on the internet site "Craigslist," which stated "[n]o cats, dogs, or children please," and statements made to the Complainants that the owners refused to rent to families with children. The Consent Order provides $9,500 in damages to two aggrieved persons, injunctive relief, monitoring for three years, and training in the provisions of the Fair Housing Act.

United States v. Pearl River Gardens, LLC (S.D.N.Y.)

On March 10, 2011, the United States Attorney's Office filed a complaint in *United States v. Pearl River Gardens, LLC* (S.D.N.Y.), a Fair Housing Act pattern or practice case. The complaint alleges that the owner of Pearl River Gardens, a residential apartment complex in Rockland County, discriminated against persons on the basis of race or color. Among other things, defendants are alleged to have misrepresented the availability of apartments, quoted African American prospective tenants higher rental rates than quoted to non-African Americans, and failed to negotiate with African American prospective tenants for the rental of avai1ab1e apartments.

United States v. Polk County (M.D, Fla.)

On November 30, 2010, the court entered an order approving the consent decree in *United States v. Polk County* (M.D. Fla.), a Fair Housing Act pattern or practice group home case al1eging discrimination on the basis of disability. The complaint, filed on September 30, 2010, alleged the defendant violated the Fair Housing Act when it denied New Life Outreach Ministries the right to operate a faith-based transitional residency program in Lakeland, Fla., for homeless men with disabilities, including those in recovery from drug and alcohol abuse. The consent decree requires the defendants to pay $400,000 in monetary damages and civil penalties. The consent decree also provides for comprehensive injunctive relief, including training for Polk County's Board of Commissioners.

United States & Intermountain Fair Housing Council v. Riverwalk Condominiums, LLC (D. Idaho)

On March 2, 2011, the court entered a consent decree in *United States & Intermountain Fair Housing Council v. Riverwalk* Condominiums, *UC* (D. Idaho), an election/pattern or practice case. The complaint, filed on August 26, 2009, alleged that the defendants failed to design and construct Greensferry Road condominiums, located in Post Falls, with the accessibility features required by the Fair Housing Act. Under the consent decree Riverwalk Condominiums LLC will pay a total of $13,500 to an individual with a disability who inquired about housing at Riverwalk and to the Intermountain Fair Housing Council (IFHC), a non-profit fair housing organization that assisted the individual and helped document accessibility barriers at the complex. The defendants shall also retrofit the complex to make it more accessible and pay $5,000 in civil penalties to the United States.

United States v. Sabbia, et al. (N.D. Ill.)

On September 20, 2010, the U.S. Attorney's Office for the Northern District of Illinois filed a complaint in *United States v. Sabbia, et al.* (N.D. Ill.), a Fair Housing Act election case which was referred to the Division by the Department of Housing and Urban Development (HUD). The complaint alleges that the owners, listing agent and listing broker of a five- bedroom 8,000 square foot single family home in Chicago, Illinois discriminated on the basis of race (African-American), in violation of 42 U.S.C. "3604(a), 3605 and 3617, by refusing to sell the home to the complainants and their two children.

United States v. S &S Group, Ltd. d/b/a ReMax East-West, et al. (DeJohn) (N.D. Ill.)

On February 17, 2009, the Court entered a Consent Decree resolving *United States v. S & S Group, Ltd. d/b/a ReMax East-West, et al (DeJohn)* (N.D. Ill.). The lawsuit, filed on July 18, 2008 , originated from a complaint filed by the National Fair Housing Alliance (NFHA) with the U.S. Department of Housing and Urban Development (HUD). Testing conducted by NFHA of RE/MAX East-West in 2004 and 2005 revealed that DeJohn had steered an Hispanic tester toward homes in predominantly African-American or Hispanic neighborhoods, but had encouraged a similarly situated white tester to look at listings in predominantly white neighborhoods. Both testers had contacted DeJohn about the same advertised listing.

Under the terms of the consent decree, the defendants shall pay $120,000 to the NFHA. The settlement also requires RE/MAX East-West to hire a qualified organization to provide fair housing training to its agents and to maintain records and submit periodic reports to the Justice Department. DeJohn voluntarily surrendered his Illinois real estate license which expires in April 2009. However, the settlement requires DeJohn to comply with similar training and reporting requirements if he decides to become a real estate agent again in Illinois or any other state.

United States v. Donald Sterling, et al. (C.D. Cal.)

On November 12, 2009, the Court entered a consent order resolving a pattern or practice lawsuit in *United States v. Sterling* (C.D. Cal.). The complaint, filed on August 7, 2006, alleged that Donald Sterling, Rochelle Sterling, the Sterling Family Trust, and the Korean Land Company, L.L.C. violated the Fair Housing Act on the basis of race, national origin and familial status by refusing to rent to non-Korean prospective tenants, misrepresenting the availability of apartment units to non-Korean prospective tenants, and providing inferior treatment to non-Korean tenants in the Koreatown section of Los Angeles. The complaint also alleged that the Sterling Defendants refused to rent to African-American prospective tenants and misrepresented the availability of apartment units to African-American prospective tenants in the Beverly Hills section of Los Angeles. In addition, the complaint alleged that the Sterling Defendants refused to rent to families with children and misrepresented the availability of apartment units to families with children throughout the buildings that they own or manage in Los Angeles County. The United States also alleged that the Sterling Defendants made statements and published notices or advertisements in connection with the rental of apartment units that expressed a preference for Korean tenants in the Koreatown section of Los Angeles and expressed discrimination against African-Americans and families with children in Los Angeles County.

The consent order requires the Defendants to: (1) pay a total of $2.725 million in monetary damages and civil penalties; (2) implement a self-testing program over the next three years to monitor their employees' compliance with fair housing laws at their Los Angeles County properties; (3) maintain non-discriminatory practices and procedures; and (4) obtain fair housing training for their employees who participate in renting, showing, or managing apartments at the Los Angeles County properties. The order settles the claims of the United States and the private plaintiffs.

United States v. Stonecleave Village Ass'n, Inc. (D. Mass.)

On December 7, 2010, the court entered a consent decree in *United States u.Stonecleave Village Ass'n, Inc.* (D. Mass.), a Fair Housing Act pattern or practice/election case. The complaint alleged that a condominium association in Methuen, Massachusetts discriminated against several families with children on the basis of familial status by imposing fines on them after their children were caught playing outside on the common area. The enjoins the Association from discouraging children from playing on the common areas. In addition, the decree requires the Association to implement a new policy regarding violations of condo rules, undergo Fair Housing Act training, and pay a total of $150,000 ($130,000 in damages to be divided among six families with children and $20,000 as a civil penalty). The case was handled by the United States Attorney's Office.

United States v. Summerhill Place, LLC et al. (W.D. Wa.)

On March 8, 2011, the court entered a consent decree resolving *United States v. Summerhill Place, LLC* (W.D. Wash.), a pattern or practice/election case alleging rental discrimination in violation of the Fair Housing Act. The complaint, which was filed in June 2010, alleged that Summerhill Place's owners, managers, and former on-site manager discriminated in housing by steering Indian tenants away from one of the five apartment buildings at Summerhill, treating tenants from India less favorably than other tenants and discouraging African-Americans, Hispanics, and families with children from living at Summerhill. The consent decree requires the defendants to pay $85,000 to tenants and prospective tenants who were harmed by the discriminatory practices, pay $25,000 to the government as a civil penalty, create a common recreational area for tenants, including children, provide fair housing training to the defendants' employees, and develop and maintain non-discrimination policies.

United States v. Testa Family Enterprises, et al. (N.D. Ohio)

On October 12, 2010, the United States Attorney's Office for the Northern District of Ohio filed a Fair Housing Act pattern or practice/election complaint in *United States v. Testa Family Enterprises, et al.* (N.D. Ohio), alleging discrimination on the basis of familial status. The complaint names as defendants Testa Family Enterprises Ltd. LLC, the owner of Royal Arms Apartments, which is a 26- unit apartment building in Ravenna, Ohio, and its manager Christine Testa. The complaint alleges that the defendants discriminated against the mother of a 4- year old son and a 10-month old daughter and the Fair Housing Advocates Association by refusing to rent upper. level units to families with young children. The case was referred to the Division after the Department of Housing and Urban Development (HUD) received a complaint, conducted an investigation, and issued a charge of discrimination.

United States and Oxford House Inc. v. Town of Garner, North Carolina, and the Town of Garner Board of Adjustment (E.D.N.C.)

On January 19, 2011, the court entered a consent decree resolving *United States and Oxford House Inc. v. Town* of *Garner, North Carolina, and the Town of Garner Board of Adjustment* (E.D.N.C.). The complaint, filed on May 19, 2009, alleged that the defendants violated the Fair Housing Act by engaging in a denial of rights to a group of persons or a pattern or practice of discrimination. Specifically, the complaint alleged that defendants violated the Fair Housing Act by refusing to allow up to eight men recovering from drug and alcohol addictions to live together as a reasonable accommodation for their disabilities. The home is chartered by Oxford House Inc., a non-profit organization that assists in the development of self-governing houses in which persons in recovery support one another's determination to remain sober. Under the terms of the consent decree the defendants will pay $105,000 in monetary damages to Oxford House and $9,000 to the United States as a civil penalty. The settlement requires that the town grant the reasonable accommodation requested by Oxford House, submit periodic reports to the government, and train town officials on the requirements of the Fair Housing Act. In December 2010, in connection with the parties' proposed settlement, the town amended its zoning code to establish a procedure for addressing future requests for reasonable accommodations. The case was referred to the Civil Rights Division by HUD.

United States v. Triple H. Realty, et al. (D.N.J)

On April 30, 2009 the Court entered a consent decree resolving *United States v. Triple H. Realty, et al.* (D.N.J.). The complaint alleged that the defendants tried to force Hispanic and African-American tenants to transfer from one building to another to make room for Orthodox Jews whom were courted as tenants in 2002 2004. The complaint also alleged that the buildings in which non-Jewish tenants lived were in the rear of the property and had fewer amenities and were less well maintained than buildings at the front of the property that housed the new Jewish tenants. The United States also alleged that the incoming Jewish tenants paid less rent than non-Jewish tenants for comparable apartments. Pursuant to the consent decree the defendants are required to pay $170,000 to compensate identified victims and an additional $30,000 to the United States as a civil penalty.

United States, NFHA & LIHS v. Uvaydov (E.D.N.Y.)

On November 29, 2010, the court entered a settlement agreement and order in *United States, NFHA &UHS v. Uvaydov* (E.D.N.Y.). The complaint, filed on September 23, 2009, by the United States alleged that the defendants violated the Fair Housing Act on the basis of race by telling fair housing testers sent by Long Island Housing Services, Inc. (LIHS) that they did not want to rent their single-family home to African-America ns. The settlement agreement requires the defendants to attend fair housing training, retain a management company to handle any further rental activity and pay $20,000 to the National Fair Housing Alliance (NFHA) and LIHS. The case was referred to the Division after tl1e Department of Housing

and Urban Development (HUD) received a complaint, conducted an investigation, and issued a charge of discrimination.

United States v. Wheeling Housing Authority (N.D. W. Va.)

On January 14, 2011, the United States filed a complaint in *United States v. Wheeling Housing Authority* (N.D. W. Va.), a Fair Housing Act election referral from HUD. The complaint alleges that the Wheeling Housing Authority discriminated against the complainants, an African-American family on the basis of race, by failing to respond, when the complainants became the target of racial harassment by a neighboring family.