

Vermont Fair Housing News

A Publication of

Vermont Human Rights Commission & Fair Housing Project of CVOEO
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WHAT'S INSIDE:

- Around the Nation p. 2
- Vermont HRC FH Cases p. 6
- Online Fair Housing Resources p. 7
- Fair Housing Month p. 8
- Trainings announced for municipal officials, realtors and others p. 8
- New Staff at Fair Housing Project p. 9

Reasonable Accommodations & Modifications in Fair Housing

Housing providers offer a great service to their communities. Housing is a necessity, and providers must perform numerous duties in order to assist a diverse population. Individuals with disabilities may have housing needs that others may not have. Federal and state law prohibit housing discrimination against persons with disabilities - housing providers must allow for reasonable modifications or provide reasonable accommodations when requested to allow a person with a disability to fully enjoy the use of the premises. In Vermont, fair housing laws apply to all landlords except where: (1) the owner or a member of the owner's immediate family live in one of the units in a building with three or fewer units; or (2) the owner is a religious organization which limits the rental of its dwellings to persons of the same religion. (Note that the religious restriction must be stated in written policies and procedures of the organization and membership in the religion must not be restricted on the basis of race, color or national origin.)

Reasonable Modifications

At times, a tenant with a disability may need to change the physical arrangement of his/her dwelling in order to enjoy the use of the home to the same extent that others could enjoy it.

When a person with a disability requests a reasonable *modification*, he/she is requesting that a structural change be made to the premises. For example, a person who requires the use of a wheelchair may request that a ramp be put in; a person with a disability that limits reaching high places may request that shelves be lowered. If the premises do not receive direct federal funding, the landlord must allow the modification, but the person requesting the modification must pay for the modification and may be required to remove any modifications when she/he departs. However, if the housing provider receives direct federal funding, the housing provider must pay for the modification.

Reasonable Accommodations

A person with a disability may need a change in a housing provider's rules



Around the Nation

HUD CHARGES MISSISSIPPI HOUSING AUTHORITY, PROPERTY MANAGERS, AND APARTMENT COMPLEX WITH VIOLATING FAIR HOUSING ACT

The U.S. Department of Housing and Urban Development (HUD) announced in early January that it has charged the Mississippi Regional Housing Authority, Sun Belt Management Company, Inc., and Oakridge Park Apartments, Ltd., in Biloxi, Mississippi with denying a disabled resident an available first-floor apartment in violation of the federal Fair Housing Act.

The Fair Housing Act makes it unlawful to refuse to make reasonable accommodations when such accommodation may be necessary to afford a person with disabilities equal opportunity to use and enjoy a dwelling.

Mary Waltman has physical disabilities that severely limit her ability to walk and climb stairs. Ms. Waltman agreed to accept a second-floor apartment at Oakridge Park with the understanding that she would be transferred to a first-floor apartment when one became available.

During her tenancy, Ms. Waltman fell several times trying to negotiate the stairs to her unit. When a first-floor apartment became available, Ms. Waltman asked to move to the first-floor apartment. The respondents denied Ms. Waltman's request to move, stating she had to remain in her original unit for a full year before she could transfer. Instead, Oakridge Park Apartment leased the first-floor unit to a new tenant who did not have a disability. The denial prompted Ms. Waltman to move out of the apartment and to file a complaint with HUD.

Kim Kendrick, HUD's Assistant Secretary for Fair Housing and Equal Opportunity, said, "One in five Americans has a disability. It's important that property managers, landlords, and other housing providers, including housing authorities, understand that the Fair Housing Act requires them to make reasonable accommodations that afford a person with a disability an equal opportunity to use and enjoy a

dwelling. No person with a disability should have to endure what Ms. Waltman was subjected to."

The HUD charge will be heard by an administrative law judge (ALJ) if no party elects to have the case heard in federal court. The ALJ may award damages to the complainant for injuries she suffered as a result of the alleged discrimination, including damages for emotional distress, humiliation, and loss of civil rights. The judge may also order injunctive and other equitable relief to prevent further discrimination. Additionally, the judge may impose a maximum civil penalty of \$16,000 for each violation for a first offense and order payment of attorneys' fees. Penalties greater than \$16,000 may be assessed if a respondent has a history of housing discrimination.

HUD ANNOUNCES \$63,000 SETTLEMENT IN RACIAL HOUSING DISCRIMINATION CASE

HUD announced in late January that it had obtained a \$63,000 settlement in a housing discrimination case involving a White family who was forced to move from their Alabama home after a visit from their African-American neighbors. HUD alleged that the family's landlord told the tenants that they had to leave if they intended to have African-American visitors.

A formal investigation conducted by HUD showed that Melissa Jones and her fiancé entered into a lease agreement with owners Wilbur and Julie Williams to rent their property in Tallassee, Alabama. Four months later, while Ms. Jones and her fiancé were talking with African-American neighbors in the front yard, the Williamses drove by and saw the couples talking. Later that same day, Ms. Williams called Ms. Jones and allegedly said, "If y'all want to have African-Americans to visit, we're going to ask you to move ... We're not having those people at our property. We own the property and...that's never happened and we're not going to start today with it happening." Ms. Williams allegedly made similar discriminatory comments on at least two other

occasions. Based on these statements, Ms. Jones and her family vacated the property.

HUD charged the Williamses with violating the federal Fair Housing Act for making discriminatory statements and for intimidating and coercing Ms. Jones and her family into vacating the property prior to the end of their lease.

A Consent Order, filed with the HUD Office of Administrative Law Judges, requires the Williamses to pay Ms. Jones and her family \$53,000 for compensatory damages and attorneys' fees, and a \$10,000 civil money penalty to the federal government. The Williamses must also take part in fair housing training and are enjoined from any further violations of the Fair Housing Act.

"America has struggled hard to promote and sustain racially integrated neighborhoods," said Bryan Greene, HUD's General Deputy Assistant Secretary for Fair Housing and Equal Opportunity. "A person has the right to associate with whomever they choose, regardless of their race. When anyone interferes with this right...HUD will not hesitate to act."

\$275,000 SETTLEMENT REACHED IN TEXAS SEXUAL HARASSMENT DISCRIMINATION CASE

Two female tenants, along with the Austin Tenants' Council and Texas Workforce Commission/Civil Rights Division, have agreed to settle a fair housing discrimination lawsuit filed against landlord Henry Carter.

The lawsuit alleges that Carter, who managed more than 30 rental properties, violated state and federal fair housing laws by engaging in a pattern of sexually harassing female tenants. Carter allegedly subjected his female tenants to unwanted verbal sexual advances and unwanted sexual touching; granted and denied tangible housing benefits in exchange for sexual favors; took adverse action against female tenants when they refused or objected to his sexual advances; and denied the rental of a dwelling based on the sex of the potential tenant.

After conducting an investigation, the Texas Workforce Commission/Civil Rights Division determined that reasonable cause existed

to believe that a discriminatory housing practice had occurred. This decision was significant because charges of sexual harassment are often difficult to prove.

Under the Consent Decree and Court Order, signed by a Texas judge on December 8, 2008, landlord Carter must pay \$275,000 to the plaintiffs. Additionally, Carter is permanently prohibited from managing rental property, and any of his sons who manage rental property on his behalf are required to attend fair housing training.

After waiting more than five years for a resolution to her discrimination complaint, plaintiff Chenitha Burleson stated that, for her, "peace of mind" was the most important outcome of this settlement.

JUSTICE DEPARTMENT RESOLVES LAWSUIT ALLEGING RACE DISCRIMINATION AT ROSEVILLE, MICHIGAN APARTMENT COMPLEX

On December 8, 2008, a federal district court entered a consent order in United States v. Regent Court Apartments, a federal Fair Housing Act case that alleged discrimination on the basis of race. The complaint alleged that the defendants, the owners and manager of a 102-unit apartment complex in Roseville, Michigan, engaged in a pattern or practice of discrimination on the basis of race, and a denial of rights to a group of persons in violation of the Fair Housing Act. The complaint alleged that White testers were offered apartments immediately while African-American testers were told that there would be a long wait for an apartment to become available. The consent order includes injunctive relief as well as a requirement that the defendants contract with a local fair housing organization to conduct compliance testing during the order's three-year term. Under the order, the defendants will pay \$25,000 each to three identified aggrieved persons, a \$55,000 civil penalty, and \$40,000 to an unidentified victim fund. The owners of the apartments have also terminated the employment of the defendant resident manager.

JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF DISABILITY DISCRIMINATION AGAINST TOWN OF ST. JOHN, INDIANA

On March 17, 2009, the United States filed a proposed Consent Decree in United States v. Town of St. John, Indiana, a Fair Housing Act case alleging discrimination on the basis of disability. The complaint, filed on September 21, 2007, alleged that the Town violated the Fair Housing Act by refusing to grant a variance to a St. John resident who wanted to allow one unrelated person with a disability to live with him in his single-family home. The resident’s home had been modified to be accessible for his wife who had suffered from multiple sclerosis for ten years until her death. The resident sought to provide a home to another individual with multiple sclerosis to help the individual avoid being institutionalized. Under the proposed settlement, the Town is required to grant the requested variance, provide fair housing training to Town officials directly involved in making zoning and land-use decisions, and send periodic reports to the Justice Department. The Town is also required to pay a \$10,000 civil penalty to the United States. ▪

VERMONT HUMAN RIGHTS COMMISSION

The mission of the Vermont Human Rights Commission is to promote full civil and human rights in Vermont. The Commission protects people from unlawful discrimination in housing, state government employment and public accommodations. The Commission pursues its mission by:

- Enforcing laws
- Mediating disputes
- Educating the public
- Providing information and referrals
- Advancing effective public policies on human rights

or policies. This is called a reasonable *accommodation*. When a person with a disability requests a reasonable accommodation, he/she is requesting a change, exception, or adjustment to a rule, policy, practice or service. For example, a person with limited vision may request to keep a guide dog to assist him/her even though the provider has a “no pets” housing policy. A person with limited walking ability might request a parking space close to his/her housing unit, although the housing provider provides all tenants with parking spaces on a “first-come, first-served” basis. The housing provider should provide the tenant with a space close to his/her unit. Note that the housing provider is responsible for the costs associated with a reasonable accommodation and must provide it unless the accommodation presents an undue financial and administrative burden or if it would entail a fundamental alteration to the provider’s operations.

Case Synopsis: Shapiro v. Cadman Towers, Inc., 51 F. 3rd 328 (2d Cir. 1995) — This case involved a request for the waiver of a first-come/ first-served policy for allocating parking spaces at an apartment complex. An individual, whose debilitating multiple sclerosis made it difficult for her to walk and, at times, rendered her incontinent, requested that her landlord waive the policy in order for her to park close to her apartment. The landlord denied her request and told her to put her name on a waiting list for a parking space. The court, however, found the requested accommodation reasonable because “without a parking space the complainant is subjected to continued risk of injury and humiliation from her inability to walk distances and her incontinence.” The court noted that the accommodation requested by the tenant was necessary to afford the tenant an equal opportunity to use and enjoy her dwelling.

How to Make a Request

The individual making a request for a modification or an accommodation must do so clearly, in such a manner that a reasonable person would understand that the request is being made because of a disability. The request must be closely related to the person’s disability: An individual with a wheelchair could reasonably request that a ramp be in-

stalled; an individual with limited hearing could not reasonably request installation of a ramp in order to assist his/her hearing.

A valid request may take many forms – it can be made orally, on a landlord’s standardized form, or written on plain paper. However, the housing provider may **not** deny the request simply because the request does not comply with the provider’s formalized procedures for requesting modifications/accommodations. For example, if a landlord has a standardized form for processing accommodation/modification requests, and a tenant *orally* requests a modification rather than using the form, the landlord cannot deny the request simply because the tenant did not use the standardized form.

Case Synopsis: Orlando Colon-Jimenez et al v. GR Management Corp. et al, 218 Fed. Appx. 2, 3 (1st Cir. 2007) — Two apartment complex tenants with mental disabilities requested that they be transferred from a noisy area to a quieter apartment. Although the landlord was aware that the tenants had disabilities, the tenants did not tell their landlord that their mental disabilities necessitated the requested transfer. The landlord did not transfer the tenants. The court found that the landlord’s “general ‘awareness’ of the tenants’ disabilities does not transform a request to move to a different apartment into a request for a reasonable accommodation. It is the requesters’ responsibility to put housing providers on notice by making a sufficiently direct and specific request for a reasonable accommodation.

Responding to a Request

What should a housing provider do when a modification or accommodation is requested? First, whether the request is oral or written, discuss it thoroughly with the person requesting it. **Do not ignore the request.** The process of requesting and discussing a modification or an accommodation should involve good faith interaction on both sides. If the individual’s disability is not readily apparent, a landlord may ask for only:

- Verification that the individual is a person

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with a disability. **A housing provider should never ask an individual to identify his/her disability.** The verification could be a document showing that the person receives SSI or SSDI benefits or a physician’s or other professional’s note stating simply that the individual is a person with a disability.

- A description of the modification or accommodation requested; and
- An explanation of how the requested modification or accommodation mitigates the limitation caused by the requester’s disability.

If the requested accommodation is reasonable, the housing provider must grant the request. If a requested modification is reasonable, the housing provider must allow the tenant to implement the modification or, if the landlord receives direct federal funding, the landlord must pay for and implement the modification. Failure of a housing provider to comply could result in an enforcement action by the Vermont Human Rights Commission, the Department of Housing & Urban Development, or the Civil Rights Division of the Justice Department. The tenant may seek an end to discriminatory practices as well as monetary and other relief. The individual could also file a court complaint. ▪

ADDITIONAL INFORMATION:

Joint Statement of the Department of Housing and Urban Development and the Department of Justice – Reasonable Modifications under the Fair Housing Act
March 5, 2008
www.hud.gov/offices/ftheo/disabilities/reasonable_modifications_mar08.pdf

Joint Statement of the Department of Housing and Urban Development and the Department of Justice – Reasonable Accommodations under the Fair Housing Act
May 17, 2004
www.usdoj.gov/crt/housing/joint_statement_ra.pdf

RECENT VERMONT HRC FAIR HOUSING CASES

The Vermont Human Rights Commission closed eleven housing cases since publishing the Fall 2008 issue of Fair Housing News. There have been three “reasonable grounds” determinations and four “no reasonable grounds” determinations. Additionally, four settlement agreements were reached during the past six months.

DETERMINATIONS

- The Commission found reasonable grounds to believe that a housing authority had discriminated against a person with a disability because it did not provide a sufficient number of accessible parking spaces to meet the needs of its tenants with disabilities. The housing authority immediately added additional accessible parking spaces to meet the needs of its tenants. A final settlement has not been reached between the parties.
- An African-American man alleged that a private landlord refused to rent an apartment to him and his family because of his race and color. The Human Rights Commission found reasonable grounds to believe the charging party had been discriminated against because of his color and race. The parties reached a post-determination settlement whereby the property owner paid the charging party \$15,000 in damages and received training in fair housing law.
- The Commission found there were reasonable grounds to believe that a landlord discriminated against a family with a minor child when the landlord charged additional rent based on the number of people living in each rental unit. The landlord charged a base rent and then added an additional amount for each person living in the unit over the number of bedrooms in the unit. (That is, if two adults with a minor child wanted to rent a two bedroom apartment from this landlord, they would pay an additional \$50 per month because there would be three people living in a two bedroom unit.) The Commission found that this practice had a disparate impact on persons living with minor children, meaning that the policy was more likely to negatively affect families with minor children. A post-determination settlement is being negotiated with the two parties.
- Of the Commission’s four “no reasonable grounds” determinations during the last six months, one case involved discrimination based on race, one was based on sex, one was based on a person intending to occupy a rental unit with a minor child and one was an allegation of retaliation. The facts are not available to the public in charges where the HRC finds “no reasonable grounds.”

SETTLEMENT AGREEMENTS

The Commission approved four pre-determination conciliation agreements (PDCA).

- Two of the settlement agreements involved the same housing authority. The two charges alleged that the housing authority failed to properly consider reasonable accommodation requests from persons with disabilities. The agreements required the housing authority’s staff to attend fair housing training and to grant the reasonable accommodation requests made by the charging parties.
- A charge alleging discrimination based on receipt of public assistance was settled when the landlord agreed to send a letter of apology and \$500 to the charging party. Additionally, the landlord agreed to consider the charging party for a tenancy when another apartment becomes available in the future.
- The Commission approved a predetermination conciliation agreement involving a landlord who allegedly refused to rent an upstairs apartment to a family with minor children because the property owner believed that tenants with children make too much noise and disrupt tenants in units below them. The responding party agreed to pay the charging party \$2100 in damages and attend fair housing training.

The full text of these investigative reports and PDCAs can be read at hrc.vermont.gov. ■

Fair Housing Speakers Available

(FH 101, FH Real Estate, FH Advertising)

Both the CVOEO Fair Housing Project and the Vermont Human Rights Commission have staff available to speak about Vermont's fair housing laws to groups, organizations or at events.

To schedule a speaker please contact:

The CVOEO Fair Housing Project 802-864-3334 x109

Email: dfuoco@cvoeo.org

OR

The Vermont Human Rights Commission 1-800-416-2010 or 802-828-2480

TTY 802-828-1493 or 877-294-9200

Email: ellen.maxon@state.vt.us

ON-LINE RESOURCES FOR FAIR HOUSING

There are many online resources for information about fair housing issues. Here are some useful websites that will provide you with information and instruction.

Vermont Human Rights Commission

hrc.vermont.gov

CVOEO Fair Housing Project

www.cvoeo.org

Click on HOUSING, then FAIR HOUSING PROJECT

National Fair Housing Advocate On-Line

www.fairhousing.com

News, resources, cases, statutes and a lot more information about fair housing issues across the country.

National Fair Housing Alliance

www.nationalfairhousing.org

An organization devoted to promoting fair housing laws nationwide.

Fair Housing Law

www.fairhousinglaw.org

A site with information about fair housing laws and enforcement resources.

National Association of Realtors Field Guide to Fair Housing

www.realtor.org/libweb.nsf/pages/fg705

A guide to fair housing specifically aimed toward realtors.

Vermont Department of Housing & Community Affairs Fair Housing Page

www.dhca.state.vt.us/Housing/fairhousing.htm

A discussion of fair housing as it applies to Vermont communities and municipalities.

Department of Housing & Urban Development Office of Fair Housing & Equal Opportunity

www.hud.gov/offices/fheo/index.cfm

Connects to HUD resources about enforcement of federal fair housing laws.

Federal Fair Housing Act

www.usdoj.gov/crt/housing/title8.htm

The text of the federal Fair Housing Act.

Vermont Fair Housing & Public Accommodations Act

[www.leg.state.vt.us/statutes/sections.cfm?](http://www.leg.state.vt.us/statutes/sections.cfm?Title=09&Chapter=139)

[Title=09&Chapter=139](#)

The text of the Vermont Fair Housing & Public Accommodations Act.

Findlaw

www.findlaw.com

Findlaw is a general resource and search engine for legal issues, including civil rights issues, federal and state statutes and court cases.

Bazon Center for Mental Health Law

www.bazon.org/issues/housing/index.htm

Bazon has extensive resources and informational documents regarding aspects of mental health law, including extensive information about reasonable accommodations and service animals.

There are many other webpages for nationwide, state and local fair housing organizations. Just type "fair housing" into any search engine to locate these other resources.

APRIL: FAIR HOUSING MONTH

April was Fair Housing Month. Many organizations involved with fair housing issues engaged in community activities designed to increase the public's awareness of housing discrimination. Even though the federal Fair Housing Act was passed 41 years ago, housing discrimination continues today. The Vermont Human Rights Commission investigates over 30 cases of alleged housing discrimination each year. In addition to formal investigations, the staff fields dozens of calls regarding housing discrimination.

- Champlain Valley Office of Economic Opportunity (CVOEO) and the Vermont Human Rights Commission (HRC) worked with several organizations on a gubernatorial and legislative fair housing proclamation which was signed by the governor on April 9, 2009.
- CVOEO and HRC provided local elementary and high school students with educational programs about the history of fair housing. Students also learned the basic elements of what is and what is not considered housing discrimination under the law.
- CVOEO ran an advertising campaign on buses in Rutland and Burlington.
- HRC monitored Craigslist for possible discriminatory language in rental ads. When HRC found ads that contained words or phrases that were illegal (such as "couples" or "singles"), it emailed the person or organization that placed the ad. The purpose of the contact was to alert property owners to the problem and provide guidance to avoid a possible discrimination charge. The basic advice was "describe the property - not the people who can live there." Most property owners were grateful for the guidance this communication provided them.
- Vermont Legal Aid and HRC staff appeared on several TV shows to discuss fair housing principles.

• FREE TRAININGS OFFERED •

Removing Barriers to Strengthen Communities: Affordable Housing and Affirmatively Furthering Fair Housing at the Local Level

September 10, 2009*

Northwest and Chittenden County Regional Planning Commissions

October 1, 2009*

Central Vermont Regional Planning Commission

January 14, 2010*

Southern Windsor and Windham County Regional Planning Commissions

**Exact time and location to be determined.*

Designed to provide relevant information to realtors, lenders, affordable housing developers, property managers, and municipal officials, this workshop will:

- provide an introduction to Vermont and federal fair housing laws;
- address the current regulatory barriers to fair housing choice in Vermont;
- examine the legal requirements impacting municipal zoning practices;
- review available tools that enable municipalities to comply with those requirements; and
- explore planning concepts designed to encourage the development of affordable housing.

All municipalities receiving community development grants from the Vermont Community Development Program must complete a fair housing training as a condition of funding. Any municipality dealing with issues such as affordable housing, group homes, residential care facilities, requests for accessibility modifications, or seeking VCDP funding, cannot afford to miss this workshop.

Presented by:

Ellen Maxon: Civil Rights Investigator, Vermont Human Rights Commission (HRC)

Julie Kelliher: General Counsel, Vermont Department of Housing and Community Affairs (DHCA)

Kevin Stapleton: Director, CVOEO Fair Housing Project (FHP)

How to Register – Call Dani Fuoco, CVOEO Fair Housing Project, 802-864-3334 x 109 or email dfuoco@cvoeo.org

New Staff at Fair Housing Project

The Fair Housing Project of the Champlain Valley Office of Economic Opportunity (CVOEO) is pleased to announce the hiring of two new staff members to lead the project. Dani Fuoco joined the Fair Housing Project as the Education and Outreach Coordinator in November 2008. A graduate of the University of Vermont (UVM), Dani brings two years of program planning and organizing experience from the Center for Community and Neighborhoods. She also served as a Team Leader for the CEDO AmeriCorps VISTA program in Burlington. Dani replaces Kim Iannelli, who left the Fair Housing Project in order to pursue another opportunity within CVOEO.

Bekah Mandell stepped down as the Fair Housing Project Director in January 2009 to pursue teaching opportunities. Before departing, she trained Kevin Stapleton, the new Project Director. Kevin comes to the Fair Housing Project from UVM, where he is a Masters candidate in applied economics. His graduate research explores the impact of inclusionary zoning and other local development policies on the availability of fair and affordable housing. Prior to graduate school, Kevin spent a decade in nonprofit management.

Kevin and Dani continue the Fair Housing Project's commitment to eradicate housing discrimination. Building on FHP's long history of education and outreach, they are working to develop new trainings that will help housing authorities, advertisers and town officials better understand their responsibilities under fair housing laws. In addition, Kevin and Dani are expanding their outreach and education to Vermont's growing immigrant and refugee populations, including providing custom-designed programs to meet the needs of audience diversity. They are also creating partnerships with local refugee organizations and translating housing information into languages other than English.

The staff at the Fair Housing Project is available to provide custom trainings or workshops as needed. For more information, please contact Kevin at (802) 864 – 3334 x 102 or kstapleton@cvoeo.org.

CONTACT US!

The Vermont Fair Housing News is published twice annually, in the spring and fall. Please contact us if you would like to:

- Receive the Vermont Fair Housing News
- Submit ideas for articles
- Give us feedback
- Request a free fair housing speaker, training or workshop

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E-Mail: ellen.maxon@state.vt.us

HRC GOES ELECTRONIC ONLY!

Due to budgetary constraints (and sound ecological practices), the Human Rights Commission has decided to publish this newsletter electronically and distribute it through email rather than printing hard copy. Please help us by forwarding this copy to your friends and business associates. If you are not on our email list, contact jerri.lamson@state.vt.us and you will be added. HRC does not distribute its email list and will use your email address only to send you the Vermont Fair Housing News. Thank you for your help!

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