

# HOUSING JUSTICE

National Housing Law Project

Newsletter August 2012

## HUD Guidance and Settlement Address Housing Discrimination Against Immigrants

The Department of Housing and Urban Development (HUD) recently released guidance on immigration status and housing discrimination under the Fair Housing Act (FHA). Additionally, HUD reached an agreement with the owner of an Alabama apartment complex to settle allegations that the complex maintained a policy of discriminating against housing applicants based on national origin. The guidance and settlement may be helpful for advocates who are assisting immigrant survivors of domestic violence in applying for housing.

### HUD Guidance

On July 13, 2012, HUD's Office of Fair Housing and Equal Opportunity (FHEO) posted on its website a list of frequently asked questions regarding immigration status and housing discrimination. The guidance addresses several questions, including whether immigration status affects the FHA's coverage, whether HUD asks about the immigration status of people who file discrimination complaints, and whether landlords can ask for immigration documents.

The guidance first explains that the FHA protects every person in the United States. Thus, housing discrimination on the basis of race, color, national origin, religion, sex, familial status, and disability is illegal regardless of the immigration status of the tenant or prospective tenant. HUD

explains that national origin discrimination is different treatment because of a person's ancestry, ethnicity, birthplace, culture or language. For instance, people cannot be denied housing opportunities because they have a name or accent associated with a national origin group, because they participate in certain customs associated with a national origin group, or because they are married to or associate with people of a certain national origin.

The guidance provides several examples of conduct that may constitute national origin discrimination. The guidance notes that if a landlord asks for additional identification documents because of a person's national origin, that practice is illegal regardless of the person's immigration status. Other examples of potential national origin discrimination include refusing to rent to applicants whose primary language is not English, steering prospective buyers or renters to certain neighborhoods because of their ancestry or failing to provide the same amenities because a tenant was born in another country.

The guidance states that the FHA prohibits owners from threatening to report tenants to immigration authorities if tenants file a discrimination complaint with HUD. HUD states that this conduct is illegal under FHA provisions that bar owners from interfering with a tenant's exercise of FHA rights. If a tenant is contacted by Immigration and Customs Enforcement (ICE) after filing a HUD complaint, HUD states that the tenant should let ICE know that she is pursuing a fair housing complaint with HUD. HUD notes that it does not ask about immigration status when investigating

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housing discrimination claims.

The guidance addresses landlords' discretion to ask for immigration documents. HUD states that landlords are allowed to request documentation to determine whether an applicant meets the criteria for housing, so long as the same procedure is applied to all applicants. HUD reminds landlords that if they ask for information from one person or group, they must ask for the same information from all applicants. HUD states that landlords can ask for identity documents and run credit checks to ensure ability to pay rent, but notes that a person's ability to pay rent is not necessarily connected to her immigration status. HUD further states that while landlords may request documents to assess an applicant's ability to be a good tenant, "[p]rocedures to screen potential and existing tenants for citizenship and immigration status may violate the Fair Housing Act's prohibitions on national origin discrimination." According to HUD, it will investigate complaints alleging that a landlord asked about a person's immigration status to determine whether national origin discrimination occurred.

Advocates who believe that a housing applicant or tenant has been discriminated against on the basis of her national origin can file a complaint with HUD by visiting [http://portal.hud.gov/hudportal/HUD?src=/topics/housing\\_discrimination](http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination).

### **HUD Settlement**

HUD recently released a conciliation agreement it reached with Chilton Associates, owner of Peachtree Apartments in Clanton, Alabama. HUD alleged that Peachtree discriminated on the basis of national origin by requiring Hispanic applicants to provide documentation of their immigration status, while non-Hispanic applicants were not asked to provide this information.

The agreement alleges that a tester from the Central Alabama Fair Housing Center called Peachtree's office to inquire about their application process. During the call, a manager asked the tester "Are you Hispanic?" When the tester re-

plied in the affirmative, the manager stated that she needed to see her green card or a work visa. The manager also told the tester that her mother needed to provide similar documentation, and that her two sons would be required to provide "Social Security cards and things like that."

Under the agreement, Chilton will adopt non-discriminatory admissions policies and provide fair housing training to its employees. The agreement mandates that Chilton screen all applicants in the same manner with the same criteria irrespective of national origin. Chilton also must develop a limited English proficiency (LEP) plan. The plan must, at a minimum, provide for translation, interpretation and outreach for LEP individuals. These provisions will apply to 9,406 units at 264 properties in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, South Carolina and Tennessee.

Chilton also will donate \$5,000 to the Central Alabama Fair Housing Center and a local Alabama nonprofit organization that serves the Latino community. ■

## **Available Online: Free Housing and Domestic Violence Manual**

The National Housing Law Project is pleased to announce the publication of "Maintaining Safe and Stable Housing for Domestic Violence Survivors: A Manual for Attorneys and Advocates." The manual focuses on the rights of domestic violence survivors who are facing loss of housing, who need to improve their housing safety, or who need to relocate. Topics include breaking the lease; defending against evictions and subsidy terminations; housing discrimination; reasonable accommodations for survivors with disabilities; and housing rights under the Violence Against Women Act.

The Manual is available for free at <http://www.nhlp.org/node/1745>

The Appendices to the Manual contain advocacy documents. Contact [mschultzman@nhlp.org](mailto:mschultzman@nhlp.org) to obtain the Appendices.

## DOJ Obtains \$2 Million Settlement in Case Involving Sexual Harassment of Tenants

On May 8, 2012, the Department of Justice (DOJ) announced a settlement agreement exceeding \$2 million in a lawsuit alleging the sexual harassment of tenants by management in three New York apartment buildings. This is the largest recovery the United States has obtained in a sexual harassment suit under the Fair Housing Act (FHA).

Defendant Stanley Katz owned three apartment buildings where he employed Stephen Katz, his son, as building manager and William Barnason, a level 3 registered sex offender, as superintendent. The lawsuit alleged that the defendants discriminated on the basis of sex and subjected female tenants to severe sexual harassment. The superintendent demanded sexual relations from female tenants, solicited sexual favors in return for rent reductions, engaged in unwanted verbal and physical sexual advances, entered the units of female tenants while intoxicated, and withheld basic services and threatened eviction if tenants did not submit to his demands. The building manager created a hostile environment by repeatedly using vulgar and offensive language directed at the female tenants. The owner was aware of the behavior yet refused to take any steps to address the situation after receiving many complaints from tenants.

In 2010, DOJ filed a lawsuit against the three defendants alleging FHA violations. DOJ sought monetary damages, punitive damages, civil penalties, and injunctive relief. On May 9, 2012, a federal district court approved a consent decree between the United States and the defendants.

Under the consent decree, the defendants will pay \$2,003,000 in monetary damages to six individuals identified as victims of the sexual harassment. The defendants also must pay \$55,000 to the United States as a civil penalty. In addition, the consent decree provides extensive injunctive relief. Stanley Katz, the owner of the buildings, is prohibited from managing the properties. If Stanley wishes to hire an independent manager for the

buildings, the person must be approved by the United States. If Stanley wishes to retain his son as manager, Stephen Katz must complete an educational training program focused on sexual discrimination and approved by the United States. In addition, Stephen must conduct a background check before hiring any agent and provide in-person training to anyone who interacts with tenants. Stanley must require any manager to implement an approved written sexual harassment policy that contains a formal complaint process. In addition, William Barnason is permanently enjoined from entering the properties and from having any involvement in managing or maintaining any other rental housing properties. However, Barnason is permitted to perform maintenance on vacant units in occupied properties if accompanied by an approved individual or on completely unoccupied properties.

To view the complaint and consent decree filed in this case, visit <http://www.justice.gov/crt/about/hce/caselist.php>.

Tenants who have been victims of sexual harassment in housing can file a complaint with HUD at [http://portal.hud.gov/hudportal/HUD?src=/topics/housing\\_discrimination](http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination).

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