

# 2020 FOCUS TOUR

ARKANSAS FAIR HOUSING  
COMMISSION

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EXECUTIVE DIRECTOR

# TOPICS OF DISCUSSION

- ▶ FEDERAL FAIR HOUSING ACT
- ▶ ARKANSAS FAIR HOUSING ACT
- ▶ PROTECTED CLASSES
- ▶ MEDICAL MARIJUANA AND PROPERTY RIGHTS
- ▶ REASONABLE ACCOMMODATION
- ▶ REASONABLE MODIFICATION
- ▶ SERVICE ANIMALS
- ▶ FORMS OF HOUSING DISCRIMINATION
- ▶ MANAGEMENT BEST PRACTICES

# FAIR HOUSING ACT

## CIVIL RIGHTS ACT OF 1968 – TITLE VIII

### ▶ WHAT IS FAIR HOUSING/FAIR LENDING?

- ▶ A PERSON'S RIGHT TO CHOOSE WHERE HE OR SHE WILL LIVE WITHOUT REGARD TO PERSONAL CHARACTERISTICS SUCH AS RACE, COLOR, NATIONAL ORIGIN, SEX, RELIGION, FAMILY STATUS OR DISABILITY STATUS AND REFERS TO ALL ASPECTS OF A REAL ESTATE OR REAL- ESTATE RELATED TRANSACTION.

### ▶ WHAT DOES THE ACT ACCOMPLISH?

- ▶ ON APRIL 11, 1968 (ONE WEEK AFTER THE ASSASSINATION OF DR. KING ON APRIL 4, 1968), CONGRESS PASSED THE FEDERAL FAIR HOUSING ACT, TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968.
- ▶ TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968 PROHIBITED DISCRIMINATION IN THE SALE, RENTAL AND FINANCING OF HOUSING ONLY ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN AND RELIGION.
- ▶ PROTECTIONS AGAINST DISCRIMINATION BASED ON **GENDER** WERE ADDED IN 1974.
- ▶ EFFECTIVE MARCH 12, 1989 EXPANDED COVERAGE OF THE ACT TO PROHIBIT DISCRIMINATION BASED ON **DISABILITY** AND **FAMILIAL STATUS** (THE PRESENCE OR ANTICIPATED PRESENCE OF CHILDREN UNDER THE AGE OF 18 IN A HOUSEHOLD) AND ADDED PROTECTIONS FOR CIVIL RIGHTS WORKERS.

# FAIR HOUSING ACT IN ARKANSAS

- ▶ “IN 1993, THE ARKANSAS LEGISLATURE ENACTED ITS FIRST MODERN CIVIL RIGHTS ACT, THE CIVIL RIGHTS ACT OF 1993.”\*
- ▶ THE ARKANSAS FAIR HOUSING ACT WAS AMENDED IN 2003 TO ADOPT LANGUAGE MORE CONSISTENT WITH EXISTING FEDERAL LEGISLATION AND TO ALLOW THE STATE OF ARKANSAS TO GAIN SUBSTANTIAL EQUIVALENCY STATUS UNDER HUD’S FAIR HOUSING ASSISTANCE PROGRAM.
- ▶ HUD RECOGNIZED THE ARKANSAS FAIR HOUSING ACT, AS BEING “SUBSTANTIALLY EQUIVALENT” AND ALLOWED ARKANSAS TO JOIN OTHER STATES ALREADY PARTICIPATING IN HUD’S FAIR HOUSING ASSISTANCE PROGRAM (FHAP) – A PROGRAM THAT FUNDS GOVERNMENTAL FAIR HOUSING ENFORCEMENT ACTIVITIES.

\*BEINER, THERESA M. “AN OVERVIEW OF THE ARKANSAS CIVIL RIGHTS ACT OF 1993, ARKANSAS LAW REVIEW AND BAR ASSOCIATION JOURNAL, INC., 50 ARK. L. REV. 165.

## FAIR HOUSING ACT IN ARKANSAS, CONT.

- ▶ WITH THE CIVIL RIGHTS ACT OF 1993, ARKANSAS BEGAN TO PAVE THE WAY FOR THE ARKANSAS FAIR HOUSING ACT TO SPECIFICALLY COVER DISCRIMINATION IN HOUSING AND HOUSING-RELATED TRANSACTIONS.
- ▶ THROUGH THE CONCERTED EFFORTS OF COMMUNITY LEADERS, THE REAL ESTATE COMMUNITY AND GOVERNMENT AND CITY OFFICIALS, THE ARKANSAS GENERAL ASSEMBLY PASSED THE ARKANSAS FAIR HOUSING ACT BY ACT 1785 OF 2001 APRIL 19, 2001.
- ▶ THE ARKANSAS FAIR HOUSING ACT WAS AMENDED IN 2003 TO ADOPT LANGUAGE MORE CONSISTENT WITH EXISTING FEDERAL LEGISLATION AND TO ALLOW THE STATE OF ARKANSAS TO GAIN SUBSTANTIAL EQUIVALENCY STATUS UNDER HUD'S FAIR HOUSING ASSISTANCE PROGRAM.
- ▶ TO ENFORCE THE PROVISIONS OF THE ACT, THE ARKANSAS GENERAL ASSEMBLY CREATED THE **ARKANSAS FAIR HOUSING COMMISSION** AS A QUASI-JUDICIAL, REGULATORY AGENCY CHARGED WITH INVESTIGATING AND RESOLVING COMPLAINTS ALLEGING DISCRIMINATION IN HOUSING AND HOUSING-RELATED TRANSACTIONS BASED ON RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, DISABILITY AND FAMILY STATUS.

# PROTECTED CLASSES

## ▶ RACE

- ▶ Race discrimination involves treating someone unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture or certain facial features).

## ▶ COLOR

- ▶ Color discrimination involves treating someone unfavorably because of skin color or complexion.
- ▶ (e.g.) Black American w/light complexion vs. Black American w/darker complexion.

## ▶ NATIONAL ORIGIN

- ▶ This involves treating someone unfairly because of his/her place of origin or ancestry, or because the person has the physical, cultural or linguistic characteristics of a specific or particular national origin group.

## ▶ RELIGION

- ▶ Discrimination based upon religion involves treating someone unfairly because of his/her religious observance and practices and beliefs.

## PROTECTED CLASSES, CONT.

### ▶ SEX

- ▶ Treating a person unfavorably because of their gender (male or female). (e.g.) refusing to lease or sell to a person of a particular sex; or to single women, (though one rents to single men); and Sexual Harassment

### ▶ FAMILIAL STATUS

- ▶ Refusing to rent to families with children or imposing different terms and conditions on those tenants. It also applies to women who are pregnant or families who may be trying to foster or adopt children.

### ▶ DISABILITY

- ▶ It is treating a person unfavorably because of his/her physical or mental disability - *any* impairment which substantially limits one or more major life activities.

## § 3. PROTECTIONS FOR THE MEDICAL USE OF MARIJUANA.

- ▶ (A) A QUALIFYING PATIENT OR DESIGNATED CAREGIVER IN ACTUAL POSSESSION OF A REGISTRY IDENTIFICATION CARD SHALL NOT BE SUBJECT TO ARREST, PROSECUTION, OR PENALTY IN ANY MANNER OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING WITHOUT LIMITATION A CIVIL PENALTY OR DISCIPLINARY ACTION BY A BUSINESS, OCCUPATIONAL, OR PROFESSIONAL LICENSING BOARD OR BUREAU, FOR THE MEDICAL USE OF MARIJUANA IN ACCORDANCE WITH THIS AMENDMENT **IF** THE QUALIFYING PATIENT OR DESIGNATED CAREGIVER POSSESSES NOT MORE THAN TWO AND ONE-HALF OUNCES (2 1/2 OZ.) OF USABLE MARIJUANA.
- ▶ (B)(1) A QUALIFYING PATIENT OR DESIGNATED CAREGIVER IS PRESUMED TO BE LAWFULLY ENGAGED IN THE MEDICAL USE OF MARIJUANA IN ACCORDANCE WITH THIS AMENDMENT IF THE QUALIFYING PATIENT OR DESIGNATED CAREGIVER IS IN **ACTUAL** POSSESSION OF A REGISTRY IDENTIFICATION CARD **AND** POSSESSES AN AMOUNT OF USABLE MARIJUANA THAT DOES NOT EXCEED THE AMOUNT ALLOWED UNDER THIS AMENDMENT.



## § 3. PROTECTIONS FOR THE MEDICAL USE OF MARIJUANA. CONT. AND § 6. SCOPE.

- ▶ (f)(1) A SCHOOL OR LANDLORD SHALL NOT REFUSE TO ENROLL, REFUSE TO LEASE TO, OR OTHERWISE PENALIZE AN
  - ▶ INDIVIDUAL SOLELY FOR HIS OR HER STATUS AS A QUALIFYING PATIENT OR DESIGNATED CAREGIVER UNLESS DOING SO WOULD PUT THE SCHOOL OR LANDLORD IN VIOLATION OF FEDERAL LAW OR REGULATIONS.
  
- ▶ (b) THIS AMENDMENT DOES NOT REQUIRE:
  - ▶ (5) A LANDLORD TO PERMIT A QUALIFYING PATIENT TO SMOKE MARIJUANA ON OR IN LEASED PROPERTY, EXCEPT THAT A LANDLORD MAY NOT PROHIBIT THE MEDICAL USE OF MARIJUANA THROUGH MEANS OTHER THAN SMOKING ON LEASED PROPERTY BY A QUALIFYING PATIENT.

## § 504 OF THE REHABILITATION ACT OF 1973

- ▶ PROHIBITS DISCRIMINATION ON THE BASIS OF DISABILITY IN FEDERALLY-ASSISTED PROGRAMS OR ACTIVITIES.
- ▶ NO OTHERWISE QUALIFIED INDIVIDUAL WITH A DISABILITY IN THE UNITED STATES. . .SHALL, SOLELY BY REASON OF HER OR HIS DISABILITY, BE EXCLUDED FROM PARTICIPATION IN, BE DENIED THE BENEFITS OF, OR BE SUBJECTED TO DISCRIMINATION UNDER ANY PROGRAM, SERVICE OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE OR UNDER ANY PROGRAM OR ACTIVITY CONDUCTED BY ANY EXECUTIVE AGENCY OR BY THE UNITED STATES POSTAL SERVICE.
- ▶ PROHIBITS DISCRIMINATION ON THE BASIS OF DISABILITY IN ANY PROGRAM OR ACTIVITY THAT RECEIVES FINANCIAL ASSISTANCE FROM ANY FEDERAL AGENCY, INCLUDING HUD AS WELL AS IN PROGRAMS CONDUCTED BY FEDERAL AGENCIES INCLUDING HUD.
- ▶ \*PROVISIONS REQUIRE HOUSING PROVIDERS RECEIVING FEDERAL FUNDS TO PAY FOR ACCOMMODATIONS
- ▶ SECTION 109 ADDED GENDER TO THE LIST OF PROTECTED CLASSES AND PROHIBITS DISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX OR RELIGION IN PROGRAMS AND ACTIVITIES RECEIVING FINANCIAL ASSISTANCE FROM HUD'S COMMUNITY DEVELOPMENT AND BLOCK GRANT PROGRAM.

## § 504 OF THE REHABILITATION ACT OF 1973, CONT. DEFINED

- ▶ PERSONS WITH DISABILITIES, PERSONS ASSOCIATED WITH PERSONS WITH DISABILITIES, AND OTHER PERSONS ENGAGED IN CERTAIN PROTECTED ACTIVITIES UNDER THE LAW.
- ▶ AN INDIVIDUAL WITH A DISABILITY IS ANY PERSON WHO HAS A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES.
- ▶ SECTION 504 DOES NOT REQUIRE THAT A PERSON WITH A DISABILITY BE ACCEPTED WITHOUT REGARD TO ELIGIBILITY REQUIREMENTS OR HIS OR HER ABILITY TO MEET STANDARD, NONDISCRIMINATORY TENANT SELECTION AND SCREENING CRITERIA.
- ▶ IT ONLY REQUIRES THAT A PERSON WITH A DISABILITY BE EVALUATED USING THE SAME OBJECTIVE CRITERIA THAT ARE APPLIED TO PERSONS WITHOUT DISABILITIES, PROVIDED SUCH CRITERIA ARE NONDISCRIMINATORY AND SUBJECT TO REASONABLE ACCOMMODATIONS AND THE PROVISION OF APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO ENSURE EFFECTIVE COMMUNICATION.

## § 504 OF THE REHABILITATION ACT OF 1973, CONT. REASONABLE ACCOMMODATION

- ▶ A REASONABLE ACCOMMODATION IS A CHANGE, EXCEPTION, OR ADJUSTMENT TO A RULE, POLICY, PRACTICE, OR SERVICE THAT MAY BE NECESSARY FOR A PERSON WITH DISABILITIES TO HAVE AN EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING, INCLUDING PUBLIC AND COMMON USE SPACES, OR TO FULFILL THEIR PROGRAM OBLIGATIONS. PLEASE NOTE THAT THE ADA OFTEN REFERS TO THESE TYPES OF ACCOMMODATIONS AS “MODIFICATIONS.”
- ▶ ANY CHANGE IN THE WAY THINGS ARE CUSTOMARILY DONE THAT ENABLES A PERSON WITH DISABILITIES TO ENJOY HOUSING OPPORTUNITIES OR TO MEET PROGRAM REQUIREMENTS IS A REASONABLE ACCOMMODATION.
- ▶ IN OTHER WORDS, REASONABLE ACCOMMODATIONS ELIMINATE BARRIERS THAT PREVENT PERSONS WITH DISABILITIES FROM FULLY PARTICIPATING IN HOUSING OPPORTUNITIES, INCLUDING BOTH PRIVATE HOUSING AND IN FEDERALLY-ASSISTED PROGRAMS OR ACTIVITIES.
- ▶ REASONABLE ACCOMMODATIONS MAY INCLUDE, FOR EXAMPLE, THOSE WHICH MAY BE NECESSARY IN ORDER FOR THE PERSON WITH A DISABILITY TO USE AND ENJOY A DWELLING, INCLUDING PUBLIC AND COMMON USE SPACES.
- ▶ WHAT CONSTITUTES A “MAJOR LIFE ACTIVITY”?
  - ▶ .....caring for one’s self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks and learning, such disabilities as AIDS (or related illness), blindness or visual impairment, cancer, deafness or hearing impairment, diabetes, heart disease and mental illness **are all included.**
  - ▶ It is also includes the failure to properly design and construct a dwelling in a manner consistent with ADA or Fair Housing Act Design Standards which would allow a person with a physical disability to enjoy the full use and benefit of a property.

## § 504 OF THE REHABILITATION ACT OF 1973, CONT. REASONABLE MODIFICATION

- ▶ UNDER THE FAIR HOUSING ACT, A REASONABLE MODIFICATION IS A STRUCTURAL CHANGE MADE TO EXISTING PREMISES, OCCUPIED OR TO BE OCCUPIED BY A PERSON WITH A DISABILITY, IN ORDER TO AFFORD SUCH PERSON FULL ENJOYMENT OF THE PREMISES.
- ▶ REASONABLE MODIFICATIONS CAN INCLUDE STRUCTURAL CHANGES TO INTERIORS AND EXTERIORS OF DWELLINGS AND TO COMMON AND PUBLIC USE AREAS.
- ▶ EXAMPLES INCLUDE:
  - ▶ installation of a ramp into a building;
  - ▶ lowering the entry threshold of a unit; or
  - ▶ the installation of grab bars in a bathroom.
- ▶ UNDER THE FAIR HOUSING ACT, PROHIBITED DISCRIMINATION INCLUDES A REFUSAL TO PERMIT, AT THE EXPENSE OF THE PERSON WITH A DISABILITY, REASONABLE MODIFICATIONS OF EXISTING PREMISES OCCUPIED OR TO BE OCCUPIED BY SUCH PERSON IF SUCH MODIFICATIONS MAY BE NECESSARY TO AFFORD SUCH PERSON FULL ENJOYMENT OF THE PREMISES.

## § 504 OF THE REHABILITATION ACT OF 1973, REASONABLE MODIFICATION/ACCOMMODATION, CONT.

- ▶ A PROVIDER IS ENTITLED TO OBTAIN INFORMATION THAT IS NECESSARY TO EVALUATE IF A REQUESTED REASONABLE ACCOMMODATION OR MODIFICATION MAY BE NECESSARY BECAUSE OF A DISABILITY.
- ▶ IF A PERSON'S DISABILITY IS OBVIOUS, READILY APPARENT, OR OTHERWISE KNOWN TO THE PROVIDER, AND IF THE NEED FOR THE REQUESTED ACCOMMODATION OR MODIFICATION IS ALSO READILY APPARENT OR KNOWN, THEN THE PROVIDER MAY NOT REQUEST ANY ADDITIONAL INFORMATION.
- ▶ IF THE DISABILITY AND/OR THE DISABILITY-RELATED NEED FOR THE REQUESTED ACCOMMODATION OR MODIFICATION IS NOT KNOWN OR OBVIOUS, THE PROVIDER MAY REQUEST ONLY INFORMATION THAT IS NECESSARY TO EVALUATE THE DISABILITY AND/OR DISABILITY-RELATED NEED FOR THE ACCOMMODATION.
- ▶ THIS INFORMATION MAY BE FROM THE REQUESTING INDIVIDUAL, MEDICAL PROFESSIONAL, A PEER SUPPORT GROUP, A NON-MEDICAL SERVICE AGENCY, OR A RELIABLE THIRD PARTY WHO IS IN A POSITION TO KNOW ABOUT THE INDIVIDUAL'S DISABILITY.
- ▶ IN MOST CASES, AN INDIVIDUAL'S MEDICAL RECORDS OR DETAILED INFORMATION ABOUT THE NATURE OF A PERSON'S DISABILITY IS NOT NECESSARY FOR THIS INQUIRY AND MAY BE INAPPROPRIATE.

## § 504 OF THE REHABILITATION ACT OF 1973, REASONABLE MODIFICATION/ACCOMMODATION, CONT.

- ▶ A HOUSING PROVIDER CAN DENY A REQUEST FOR A REASONABLE ACCOMMODATION OR MODIFICATION IF THE REQUEST WAS NOT MADE BY OR ON BEHALF OF A PERSON WITH A DISABILITY OR IF THERE IS NO DISABILITY-RELATED NEED FOR THE ACCOMMODATION OR MODIFICATION.
- ▶ A REQUEST FOR A REASONABLE ACCOMMODATION OR MODIFICATION MAY BE DENIED IF PROVIDING THE ACCOMMODATION OR MODIFICATION WOULD IMPOSE AN **UNDUE FINANCIAL AND ADMINISTRATIVE BURDEN** ON THE HOUSING PROVIDER OR IT WOULD FUNDAMENTALLY ALTER THE NATURE OF THE HOUSING PROVIDER'S PROGRAM.
- ▶ THE DETERMINATION OF UNDUE FINANCIAL AND ADMINISTRATIVE BURDEN MUST BE MADE ON A CASE-BY-CASE BASIS INVOLVING VARIOUS FACTORS.
- ▶ IF AN UNDUE BURDEN OR FUNDAMENTAL ALTERATION EXISTS, THE HOUSING PROVIDER IS STILL REQUIRED TO PROVIDE ANY OTHER REASONABLE ACCOMMODATION UP TO THE POINT THAT WOULD NOT RESULT IN AN UNDUE FINANCIAL AND ADMINISTRATIVE BURDEN ON THE PARTICULAR HOUSING PROVIDER AND/OR CONSTITUTE A FUNDAMENTAL ALTERATION OF THE PROGRAM.

## § 504 OF THE REHABILITATION ACT OF 1973, REASONABLE MODIFICATION/ACCOMMODATION, CONT.

- ▶ WHEN A HOUSING PROVIDER DENIES A REQUESTED ACCOMMODATION OR MODIFICATION, THE PROVIDER SHOULD DISCUSS WITH THE REQUESTER WHETHER THERE IS AN ALTERNATIVE ACCOMMODATION OR MODIFICATION THAT WOULD EFFECTIVELY ADDRESS THE REQUESTER'S DISABILITY-RELATED NEEDS WITHOUT A FUNDAMENTAL ALTERATION TO THE PROVIDER'S OPERATIONS AND WITHOUT IMPOSING AN UNDUE FINANCIAL AND ADMINISTRATIVE BURDEN.
- ▶ THE HOUSING PROVIDER SHOULD RECOGNIZE THAT THE INDIVIDUAL REQUESTING THE ACCOMMODATION OR MODIFICATION IS MOST FAMILIAR WITH HIS OR HER DISABILITY AND IS IN THE BEST POSITION TO DETERMINE WHAT TYPE OF AID OR SERVICE WILL BE EFFECTIVE TO MEET A DISABILITY-RELATED NEED.
- ▶ KEEP IN MIND:
  - ▶ A provider has an obligation to provide prompt responses to reasonable accommodation requests.
  - ▶ An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.
  - ▶ A failure to reach an agreement on an accommodation request is in effect a decision by the provider not to grant the requested accommodation.
- ▶ WHEN A PERSON WITH A DISABILITY BELIEVES THAT HE OR SHE HAS BEEN SUBJECTED TO A DISCRIMINATORY HOUSING PRACTICE, INCLUDING A PROVIDER'S WRONGFUL DENIAL OF A REQUEST FOR REASONABLE ACCOMMODATION, HE OR SHE MAY FILE A COMPLAINT WITH FHEO.



## § 504 OF THE REHABILITATION ACT OF 1973, CONT. SERVICE/ASSISTANCE ANIMALS

- ▶ AN ASSISTANCE ANIMAL IS AN ANIMAL THAT WORKS, PROVIDES ASSISTANCE, OR PERFORMS TASKS FOR THE BENEFIT OF A PERSON WITH A DISABILITY, OR THAT PROVIDES EMOTIONAL SUPPORT THAT ALLEVIATES ONE OR MORE IDENTIFIED EFFECTS OF A PERSON'S DISABILITY. AN ASSISTANCE ANIMAL IS NOT A PET.
- ▶ INDIVIDUALS WITH A DISABILITY MAY REQUEST TO KEEP AN ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION TO A HOUSING PROVIDER'S PET RESTRICTIONS.
- ▶ HOUSING PROVIDERS CANNOT REFUSE TO MAKE REASONABLE ACCOMMODATIONS IN RULES, POLICIES, PRACTICES, OR SERVICES WHEN SUCH ACCOMMODATIONS MAY BE NECESSARY TO AFFORD A PERSON WITH A DISABILITY THE EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING.

## § 504 OF THE REHABILITATION ACT OF 1973, CONT. SERVICE/ASSISTANCE ANIMALS

- ▶ THE FAIR HOUSING ACT REQUIRES A HOUSING PROVIDER TO ALLOW A REASONABLE ACCOMMODATION INVOLVING AN ASSISTANCE ANIMAL IN SITUATIONS THAT MEET ALL THE FOLLOWING CONDITIONS:
  - ▶ A REQUEST WAS MADE TO THE HOUSING PROVIDER BY OR FOR A PERSON WITH A DISABILITY;
  - ▶ THE REQUEST WAS SUPPORTED BY RELIABLE DISABILITY-RELATED INFORMATION, IF THE DISABILITY AND THE DISABILITY-RELATED NEED FOR THE ANIMAL WERE NOT APPARENT AND THE HOUSING PROVIDER REQUESTED SUCH INFORMATION; AND
  - ▶ THE HOUSING PROVIDER HAS NOT DEMONSTRATED THAT:
    - ▶ Granting the request would impose an undue financial and administrative burden on the housing provider
    - ▶ The request would fundamentally alter the essential nature of the housing provider's operations
    - ▶ The specific assistance animal in question would pose a direct threat to the health or safety of others despite any other reasonable accommodations that could eliminate or reduce the threat
    - ▶ The request would not result in significant physical damage to the property of others despite any other reasonable accommodations that could eliminate or reduce the physical damage.
- ▶ A REASONABLE ACCOMMODATION REQUEST FOR AN ASSISTANCE ANIMAL MAY INCLUDE, FOR EXAMPLE:
  - ▶ A request to live with an assistance animal at a property where a housing provider has a no-pets policy or
  - ▶ A request to waive a pet deposit, fee, or other rule as to an assistance animal.

# FORMS OF HOUSING DISCRIMINATION

- ▶ CHARGING A HIGHER SECURITY DEPOSIT AND/OR RENT THAN THAT CHARGED TO TENANTS WHO DO NOT BELONG TO THAT PROTECTED CLASS
- ▶ SEGREGATING APARTMENT COMPLEXES BY PUTTING ALL BLACK AMERICANS IN ONE BUILDING, ALL LATINOS IN ANOTHER BUILDING AND ALL CAUCASIAN TENANTS IN A THIRD BUILDING
- ▶ INSTITUTING A POLICY THAT PEOPLE WITH DISABILITIES CAN ONLY LIVE ON THE FIRST FLOOR
- ▶ REFUSING TO DO REPAIRS OR PROVIDE SERVICES TO TENANTS OF A PARTICULAR PROTECTED CLASS WHILE PROVIDING THOSE SERVICES TO OTHER TENANTS

## FORMS OF HOUSING DISCRIMINATION, CONT.

- ▶ OFFERING UNEQUAL TERMS IN MORTGAGE RATES, SERVICES OR HOME INSURANCE BASED ON THE APPLICANT'S PROTECTED CLASS
- ▶ NEIGHBORHOOD HATE CAMPAIGNS AIMED AT INTIMIDATING NEIGHBORS OF COLOR TO LEAVE THE COMMUNITY
- ▶ POTENTIAL NEIGHBORS INTIMIDATING REAL ESTATE PROFESSIONALS WHO SHOW HOMES TO PEOPLE OF COLOR
- ▶ THREATEN, COERCE, INTIMIDATE OR INTERFERE WITH ANYONE EXERCISING A FAIR HOUSING RIGHT OR ASSISTING OTHERS WHO EXERCISE THAT RIGHT;
- ▶ ADVERTISE OR MAKE ANY STATEMENT THAT INDICATES A LIMITATION OR PREFERENCE BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, FAMILIAL STATUS OR DISABILITY.

# MANAGEMENT BEST PRACTICES

- ▶ WHEN A FAIR HOUSING COMPLAINT IS LODGED AND FILED WITH HUD AND WITH THE AFHC, THE INVESTIGATION PROCESS BEGINS.
- ▶ THE PARTIES WILL HAVE AN OPPORTUNITY TO PROVIDE INFORMATION THAT WILL AFFIRM OR REFUTE THE ALLEGATIONS IN QUESTION.
- ▶ MAINTAINING GOOD RECORDS IS KEY TO ENSURING THAT ALL NECESSARY INFORMATION IS AVAILABLE AND WILL PROVIDE PROTECTION WHEN SPECIFIC HOUSING PRACTICES COME INTO QUESTION.

# MANAGEMENT BEST PRACTICES, CONT.

## ▶ *MAINTAIN GOOD RECORDS!!!*

- ▶ SUCH AS.....
  - ▶ AVAILABILITY LISTS
  - ▶ GUEST CARDS
  - ▶ WAITING LISTS
  - ▶ RENTAL APPLICATION LOGS
  - ▶ ALL OTHER INFORMATION THAT WILL DOCUMENT YOUR GOOD
  - ▶ MANAGEMENT PRACTICES

## MANAGEMENT BEST PRACTICES, CONT.

- ▶ **AVAILABILITY LISTS** SHOULD BE CONSISTENTLY MAINTAINED, MADE AVAILABLE POTENTIAL TENANTS AND INCLUDE:
  - ▶ THE ADDRESS AND APARTMENT NUMBER OF EACH UNIT KNOWN TO BE AVAILABLE OR IS REASONABLY EXPECTED TO BE AVAILABLE FOR RENTAL WITHIN A SPECIFIC TIME FRAME (I.E., THIRTY (30) DAYS);
  - ▶ THE MONTHLY RENT FOR EACH UNIT;
  - ▶ THE SECURITY DEPOSIT FOR EACH UNIT;
  - ▶ THE DATE MANAGEMENT WAS FIRST INFORMED THAT IT WOULD BE
- ▶ AVAILABLE FOR RENT; AND
  - ▶ THE DATE THAT UNIT WILL BE AVAILABLE FOR RENT TO A NEW TENANT.

## MANAGEMENT BEST PRACTICES, CONT.

- ▶ **GUEST CARDS** WILL HELP MAINTAIN A RECORD OF ALL PERSONS WHO INQUIRE ABOUT RENTAL UNITS AND SHOULD INCLUDE:
  - ▶ THE DATE OF THE VISIT;
    - ▶ THE VISITOR'S NAME, ADDRESS, DAYTIME AND EVENING TELEPHONE
- ▶ NUMBERS;
  - ▶ AND INCLUDE WHETHER THAT PERSON WAS PROVIDED WITH AN
- ▶ APPLICATION, SHOWN AN APARTMENT, ETC.



## MANAGEMENT BEST PRACTICES, CONT.

- ▶ **WAITING LISTS** WILL HELP YOU MAINTAIN A RECORD OF ALL PERSONS WHO INQUIRE ABOUT RENTAL UNITS AND ARE INFORMED THAT THERE ARE NO CURRENT VACANCIES. THIS LIST SHOULD INCLUDE:
  - ▶ THE DATE OF THE VISIT OR TELEPHONE CALL;
  - ▶ THE VISITOR'S OR CALLER'S NAME, ADDRESS, DAYTIME AND EVENING
- ▶ TELEPHONE NUMBERS;
  - ▶ THE DATE THE PERSON WISHES TO MOVE; AND
  - ▶ ANY OTHER RELEVANT INFORMATION, SUCH AS A PREFERENCE REGARDING THE NUMBER OF BEDROOMS.
- ▶ THIS LIST SHOULD ALSO NOTE THE DATE, TIME AND EMPLOYEE WHO INFORMED PERSONS ON THE WAITING LIST OF VACANCIES AND THE MANNER AND NUMBER IN WHICH EACH ATTEMPT WAS MADE.

## MANAGEMENT BEST PRACTICES, CONT.

- ▶ **RENTAL APPLICATION LOGS** WILL HELP TO MAINTAIN A DAILY RECORD OF:
  - ▶ APPLICANT'S NAME;
  - ▶ WHETHER THE APPLICATION WAS APPROVED OR REJECTED;
  - ▶ THE BUILDING AND UNIT NUMBER OCCUPIED FOR EACH APPROVED
- ▶ TENANT; AND
  - ▶ A DETAILED EXPLANATION FOR ALL REJECTED APPLICANTS.

# QUESTIONS

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