

Celebrating



Emerging Fair Housing Issues

2018

Fair Housing Conference



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National Housing Law Project

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Domestic Violence and Fair Housing

Fair Housing Laws

- Federal Fair Housing Act, 42 U.S.C. § 3601, et seq.
- CA Fair Employment and Housing Act, Cal. Gov. Code § § 12900, et seq.
- Prohibit discrimination in the renting, leasing, buying/selling, or occupying of a dwelling because of a person's membership in a protected class

Domestic Violence and Sex

- Survivors are not a protected class under the Fair Housing Act or FEHA, but most are female.
- HUD 2016 Nuisance/Crime-Free Ordinance Guidance, at 4:
 - “From 1994 to 2010, approximately 80 percent of the victims of intimate partner violence in the nation are women.”

Examples of Discriminatory Policies

- Evictions or terminations based on violence against a survivor can violate fair housing laws.
- Examples of intentionally discriminatory policies:
 - Policies based on gender stereotypes may violate the Fair Housing Act (FHA)
 - Example from 2011 HUD memo: An owner does not rent to women with a history of domestic violence because he assumes they will reconcile with their abusers
 - Treating women differently because of their status as survivors of DV may violate the FHA.
 - Ex: A landlord evicts a DV survivor because the abuser broke into her unit and she called the police, but does not evict another tenant after a stranger broke into his unit and he called the police
 - Ex: A landlord evicts a survivor because of damage caused to her unit by her abuser, but does not evict a male tenant due to damage caused by a break-in.

Examples of Discriminatory Policies

- HUD's 2011 DV memo:
 - A neutral policy that negatively affects DV survivors may violate the FHA because of its disparate impact on women.
 - Example:
 - Women are disproportionately affected by a housing provider's zero-tolerance policy.
 - The housing provider could make exceptions to the zero-tolerance policy for DV survivors in order to avoid a disparate impact on women.

Nuisance and Crime-Free Ordinances

- Local laws that penalize landlords and tenants when police are called too many times to the premises within a time period
 - Impose fines or criminal charges on owners
 - Nuisance activities range from violent crime to disorderly conduct
 - After citation, landlords pressured to evict tenant and abate “nuisance”
- These laws harm and punish domestic violence survivors who seek help from the police (e.g., calling 911)
- See ACLU’s “I Am Not a Nuisance” Website

HUD 2016 Nuisance Ordinance Fair Housing Guidance

- Nuisance and crime-free ordinances can violate the Fair Housing Act by disproportionately impacting certain groups.
 - Example: Each year, women comprise nearly 80 percent of persons subjected to domestic violence.
 - Jurisdictions cannot rely on stereotypes about people engaging in nuisance or criminal activities to defend ordinances.
- Jurisdictions can violate the Fair Housing Act by intentionally using the adoption or enforcement to discriminate (e.g. selective enforcement).

HUD 2016 Nuisance Ordinance Fair Housing Guidance

- State and local governments conducting an Assessment of Fair Housing should evaluate nuisance and crime-free ordinances, and how they're enforced.
 - Before AFFH Rule suspension, but still a valid issue to look into for the Analysis of Impediments
- Suggests repealing ordinances that penalize survivors or other crime victims for calling 911 or other emergency services.

Cal. Gov. Code § 53165

- Local agencies are prohibited from requiring a landlord to terminate a tenancy based upon an act against a tenant or a tenant's household member that constitutes domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult, or based on the number of calls made to an emergency (911) system regarding such acts.
- Local agencies include entities such as counties, cities, and towns.

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Thank You!

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