

# Delaware Valley Fair Housing News

Newsletter of the Fair Housing Council of Suburban Philadelphia  
Serving Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties

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## Apartment Complexes in Chester, Lancaster, and Montgomery Counties Pay \$34,224 To Settle Federal Housing Discrimination Lawsuit

**T**he Fair Housing Council of Suburban Philadelphia (FHCSF) settled a federal lawsuit against PMMC Management Company, Audubon Manor Apartments in West Chester, Norris Hills Apartments in Norristown, Goshen Manor Apartments in West Goshen, Highland Manor Apartments in North Coventry, Royersford Gardens in Royersford, Goshen Terrace Apartments in West Goshen, Perkiomen Apartments in Pennsburg, and Miller's Crossing in Millersville for violating the familial status provision of the federal Fair Housing Act and the Pennsylvania Human Relations Act. FHCSF determined, through testing, that PMMC applied occupancy policies that disparately impacted families with children.

Timothy and Christen Moroney contacted FHCSF in July 2005 after the couple received a letter from Audubon Apartments in West Chester stating that their lease would not be renewed. The Moroneys were planning on renewing their lease at the end of October at Audubon Apartments which is owned and managed by PMMC Management Company. The couple and their young child rented a two bedroom apartment in the complex and were expecting a second child. Timothy Moroney was told by Audubon Apartments that the reason for the non renewal was that the complex would only allow three individuals to live in a two bedroom unit. FHCSF investigation confirmed that Audubon Manor Apartments and six other complexes managed by PMMC in Montgomery, Chester, and Lancaster Counties had discriminatory policies that would not allow a family of four to live in a two bedroom apartment.

The Fair Housing Act prohibits discrimination in any aspect of the sale, rental, insuring, financing or advertising of dwellings on the basis of race, color, religion, national origin, sex, familial status (the presence of children in the family), and disability. The U.S. Department of Housing & Urban Development (HUD) issued a statement of policy describing the

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guidelines it will use in evaluating occupancy limits to determine whether they comply with the Fair Housing Act's prohibition on familial status discrimination. This memo states that HUD believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act.

FHCSP and the Moroney's retained the assistance of Arthur Haywood, Esq. of Haywood LLC, and on October 4, 2005 FHCSP and the Moroney's filed suit in federal district court against PMMC. PMMC allowed the couple to remain in their apartment while litigation was ongoing. In order to avoid further expenses, the parties agreed to a settlement in which PMMC paid \$34,224 to the Moroney's and FHCSP. Plaintiff attorney fees are included in that amount as well. PMMC admitted no wrongdoing and changed their occupancy policy at the onset of litigation. In addition, PMMC rental agents will attend fair housing training to ensure continued compliance with the Fair Housing Act. PMMC was represented by Danielle Banks, Esq., of Stradley Ronon Stevens & Young, LLP.

James Berry, FHCSP's Executive Director, stated "Access to housing for families with children continues to be problem 18 years after Congress made it illegal to discriminate based on familial status. Young families should not have to endure the emotional trauma of being told they would have to live elsewhere simply because an apartment manager noticed that they were expecting a baby. We applaud the Moroney's courage to challenge PMMC's discriminatory practice."

## The Fair Housing Council of Suburban Philadelphia Celebrates It's 50th Year!

- ◆ In 1956, the U.S. Supreme Court outlawed bus segregation.
- ◆ In 1956, it would be 7 years before Martin Luther King Jr. would deliver his famous "I Have a Dream" speech calling for equality of all Americans.
- ◆ In 1956, it would be 9 years before the Voting Rights Act, outlawing practices that prevented minorities from voting, would be signed into law.
- ◆ In 1956, it would be 12 years before the Fair Housing Act would outlaw housing discrimination against minorities.
- ◆ In 1956, it would be 32 years before the Fair Housing Act would be expanded to protect families with children and people with disabilities from discrimination in housing.
- ◆ In 1956, over a decade before the passage of the Fair Housing Act, a small group of forward thinking citizens in Eastern Delaware County formed the Committee for Democracy in Housing for Lansdowne and Vicinity in order to advocate for the rights of their minorities neighbors to have equal access to the housing of their choice. This organization evolved to become the Fair Housing Council of Suburban Philadelphia, which continues to work to ensure that all residents of the Greater Philadelphia region are guaranteed an equal right to housing regardless of their race, national origin, religion, gender, disability, or because they have children in their family.

# Exotic Mortgages and Their Impact on Consumers

**T**he mortgage market that borrowers see today is flooded with enticing products boasting record low introductory rates, interest only-loans, option adjustable-rate mortgages (ARMs), no money down, and no income documentation required. Originally considered “nontraditional” mortgages because of their high risk and small pool of qualifying borrowers, these products are cropping up nationwide and becoming mainstream. As lenders increasingly and excessively target borrowers with these dangerous products, the potential risk of payment shock, negative amortization, loss of equity, and ultimately loss of home will also continue to escalate for borrowers.

Common types of exotic mortgages:

- ◆ **Forty Year Mortgage:** These products are similar to a 30-year fixed rate mortgage, except the borrowers stretch the payments out for an extra 10 years. By extending the length of the mortgage, the borrower increases the amount of interest paid over the life of the loan. On a \$300,000 mortgage at an interest rate of 6.25%, a home buyer would spend an additional \$170,030.42 using a 40-year mortgage.
- ◆ **Interest Only Loan:** With an interest-only loan, lenders allow borrowers to pay just the interest portion of their mortgage during the first, say, 10 years of their commitment. After that, the loan essentially becomes a new mortgage with new interest and principal payments stretched out over just 20 years. Should home prices stagnate or depreciate homeowners would build up no equity during the interest-only years. Also, monthly payments jump significantly once the principal payment period begins. Many of these loans also carry variable interest rates, further increasing a borrowers risk for higher monthly obligations.
- ◆ **Negative Amortization Loan:** This interest-only product allows buyers to pay less than the full amount of interest necessary to cover the costs of the mortgage. The difference between a full interest payment and the amount actually paid each month is added to the balance of the loan. This is the riskiest mortgage lenders offer. Should housing prices stagnate or fall, buyers would find themselves “upside down” or in “negative equity”, meaning they would owe money to the lender if they sold their homes.
- ◆ **Option Payment (or Flex-ARM) Mortgage:** This is a cross between a hybrid ARM, which offers a lower fixed rate during the first five or seven years, and a negative amortization loan. Each month the lender sends the borrower a payment coupon that calculates four possible payment options: a negative amortization, an interest-only, a 30-year fixed, and a 20-year fixed. The homeowner then decided how much to pay. The risk is similar to an interest only or negative amortization loan in that a customer can end up with either no equity or owing more than their home is worth.

These exotic mortgage products are recommended and may be beneficial for some very specific types of higher income and sophisticated borrowers. For example,

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interest-only or option payment loans can be a good option for professionals who receive bonus payments as part of their compensation. This product would allow them to make minimum payments during most of the year when cash is tight and then put down several thousand dollars toward principal when they get their bonus checks. Forty-year mortgages can be good for first-time buyers who know they will not be staying in the house for more than a few years and who can't afford the higher monthly payment associated with a 30-year mortgage. However, a 2006 study by the Consumer Federation of America indicated that many exotic mortgages are made to consumers that are much more vulnerable than the type of borrowers for whom these products are beneficial. For example, more than 35% of interest-only and option payment borrowers earn under \$70,000 annually, and more than 12% earn under \$48,000. Many exotic mortgage consumers have only average or weaker credit scores. For example, more than half (53.8%) of option payment borrowers and nearly two-fifths (38.0%) of interest-only borrowers have credit scores below 700. Racial minorities are more likely than whites to receive exotic mortgages. African Americans are 30.4% more likely than non-African-Americans to receive payment option mortgages, and 11.7% more likely to receive interest-only mortgages. Finally, the Consumer Federation study found that the majority of exotic mortgages (79.0% of interest-only and 57.5% of option payment loans) are used to purchase homes, indicating that the increased use of these products is related to the rapidly escalating cost of housing.

Too many borrowers are increasingly relying on exotic mortgages as a means to buy homes they could not otherwise afford. It is important to be aware that while these products offer initial lower monthly payments than traditional fixed-rate loans, when these loan terms reset consumers can be vulnerable to payment shocks, making their homes suddenly unaffordable and potentially ruining their finances.

*Information in this article reprinted with permission from a presentation by the National Community Reinvestment Coalition, entitled "Trends in the Marketplace: Exotic Mortgages and Their Impact on Low to Moderate Income Communities". For more information visit [www.ncrc.org](http://www.ncrc.org).*



## Don't Borrow Trouble Suburban Philadelphia Ad Campaign

The goal of the Don't Borrow Trouble campaign is to prevent predatory lending practices by empowering consumers with the knowledge and tools needed to avoid being victimized by predatory lenders. To achieve this goal, Don't Borrow Trouble Suburban Philadelphia has created a wide-spread public education and outreach campaign (via television, radio, newspaper, billboards, interior bus ads, brochures, doorhangers, posters, etc.). In addition to materials in English, they have also produced two Spanish posters and a brochure.

To order posters, brochures, or doorhangers for your organization for community distribution, please e-mail [info@dontborrowtroublesepa.org](mailto:info@dontborrowtroublesepa.org) or call (888) 275-8843.

## New Home Loan Data Confirms Serious Fair Lending Concerns Exist

**T**he National Community Reinvestment Coalition (NCRC) believes that the new home loan data and the Federal Reserve study on the home loan data reveal significant and continuing racial disparities in lending. In addition, high cost subprime lending appears to have become riskier in 2005, indicating that minorities and working class Americans are disproportionately receiving more dangerous high cost loan products. The one saving grace in these disturbing trends is the moderating influence that the Community Reinvestment Act (CRA) has on the amount of high cost lending. But CRA only applies to a segment of the lending industry.

Even after controlling for a number of borrower and lender factors (including borrower incomes and loan amounts), the Federal Reserve study reveals a greater proportion of high cost loans for minorities than whites. After imposing a number of controlling factors, the difference in high cost home purchase lending remained significant: 23.3% of the loans for African-Americans versus 14.6% for whites. The figure, after applying controls, was 18.2% for Hispanics in 2005.

John Taylor, President and CEO of NCRC, asserts, "This is the second year in the row that persistent racial difference in lending remain after controlling a number of factors. The study also states that racial differences are greater for some lenders than others. Yet, the study does not indicate which lenders had the worst disparities or what the Federal Reserve and the other regulatory agencies are going to do about lenders that are discriminating. Last year, the Federal Reserve identified 200 lenders (making half the loans in the industry) that needed to be further investigated by the federal government for possible discrimination. Yet, the federal agencies have done nothing to date and the racial disparities continue."

High cost lending is also becoming riskier. Piggyback lending (or offering both first and second mortgages to borrowers) increased 57% from 2004 to 2005. The increase in piggyback lending also accounted for half of the increase in higher-priced loans. Borrowers in rapidly appreciating markets are getting into too much debt with first and second mortgage loans accounting for as much as 100 percent of the value of their homes. This so-called exotic mortgage lending is a ticking time bomb that will cause severe hardship and increases in foreclosure rates if the economy experiences a downturn. Moreover, those least able to afford it—minorities and borrowers in working class neighborhoods—disproportionately receive this piggyback lending.

The Federal Reserve study shows that the CRA lowers the amount of high cost, risky loans made by banks and thrifts. CRA imposes an obligation on banks and thrifts to make safe and sound loans to low- and moderate-income communities. CRA-covered banks and thrifts made substantially fewer high cost loans and piggyback loans than companies not covered by CRA. The moderating influence of CRA on loan prices needs to be expanded by applying CRA to mortgage companies and large credit unions.

Taylor concludes, "We need better home loan data that contains creditworthiness information and other key underwriting variables so we can really identify the factors contributing to racial disparities in lending. We need real enforcement by the federal agencies of the anti-discrimination laws. Finally, we need a Congress that will get serious about a strong federal anti-predatory and anti-discrimination lending law."

# Conversion to Housing for Older Persons Under the Fair Housing Act

**T**he Fair Housing Act exempts “housing for older persons” from the Act’s prohibition of discrimination against families with children in two categories: 100% of the occupants must be 62 years of age or older or 80% of the occupied units must be occupied by at least one person who is 55 or older. The Fair Housing Council occasionally receives questions from housing providers concerning whether it is legal to convert an existing community to housing for older persons under the Fair Housing Act. Recently, the U. S. Department of Housing and Urban Development (HUD) issued a memo clarifying this issue.

According to the memo:

“The Fair Housing Act (the Act) and the Housing for Older Persons Act of 1995 (HOPA) amending it, excludes from the Act’s prohibitions against familial status discrimination communities and facilities that have met certain conditions demonstrating an affirmative intent to provide housing for older persons.

A question has arisen regarding whether an existing community or facility can become housing for older persons after May 3, 2000, the expiration date of the transition period provided for in HUD’S HOPA regulations, 24 CFR § 100.305(e).

The Department’s HOPA regulations established a transition period to provide a mechanism for communities or facilities to become housing for older persons, if they had abandoned or did not achieve such status before HOPA. The transition period allowed a community or facility that did not yet meet all of the HOPA requirements to deny housing to families with children in order to get 80 percent of its units filled by at least one person 55 or older. During the transition period, if a housing facility or community demonstrated an intent to be housing for older persons and adopted age verification procedures, it could reserve all unoccupied units for occupancy by at least one person 55 or older. If an eligible family with children wanted to occupy a vacant unit during the transition period, a community or facility that had not yet met the 80 percent threshold could have legally refused to admit the family. However, at the end of the transition period, any community that failed to have 80 percent of its units occupied by at least one person at least 55 years of age had to cease reserving unoccupied units for persons over 55 years of age and could no longer discriminate against families with children.

This memorandum provides clarification on how communities that did not convert to “housing for older persons” by May 3, 2000, can become housing for older persons. There are two ways to establish housing for older persons after the transition period: conversion and new construction.

First, an existing community or facility can convert to “housing for older persons” if 80 percent of its occupied units become occupied by at least one person 55 years of age or older. Unlike during the transition period, housing providers cannot discriminate

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against families with children in order to achieve 80 percent occupancy by persons 55 or older. In other words, a community or facility cannot reserve unoccupied units for persons 55 or older, advertise itself as housing for older persons, or evict families with children in order to reach the 80 percent threshold. If a family with children seeks to occupy a vacant unit in an existing facility before it has met all of the requirements necessary to become housing for older persons, the community or facility must permit the family to live there. Additionally, the facility may not make existing families with children feel unwelcome or otherwise encourage those families to move. While the facility or community may not take any measures deliberately designed to discourage families with children from continuing to reside in the community, nothing prevents the offering of positive incentives that might lead some families to seek housing elsewhere. If the community or facility achieves the 80 percent threshold, ***without discriminating against families with children***, it may then publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons 55 years or older and comply with verification of occupancy rules. The facility or community cannot publish such policies or procedures in advance of meeting the 80 percent threshold (without discrimination) as such policies and procedures would have a chilling impact upon potential applicants or current occupants who are families with children.

A second way to establish housing for older persons is to construct a new housing community or facility and meet the three requirements set forth in HOPA: (1) 80 percent of the occupied units are occupied by at least one person 55 years of age or older; (2) the housing community or facility publishes and adheres to policies and procedures that demonstrate an intent to provide housing for persons 55 years or older; and (3) the community or facility complies with rules issued by the Secretary for verification of occupancy through reliable surveys and affidavits. Newly-constructed housing includes a facility or community that has been entirely unoccupied for at least 90 days prior to re-occupancy, due to renovation or rehabilitation. Newly-constructed housing is permitted to discriminate against families with children until 25 percent of its units are occupied. If, at that time, the housing community or facility does not have a resident 55 years or older in at least 80 percent of occupied units, then the community or facility may not discriminate against families with children.”

*The information in this article was taken directly from the HUD memo on conversion to housing for older persons under the Fair Housing Act. You can read the original memo online at [www.fairhousing.com/include/media/pdf/conversiontohousingforolderpersons.pdf](http://www.fairhousing.com/include/media/pdf/conversiontohousingforolderpersons.pdf)*





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## FHCSP Settles Complaint Against Top of the Ridge Mobile Home Park

**T**he Fair Housing Council of Philadelphia (FHCSP) settled a complaint filed with the U.S. Department of Housing and Urban Development against Top of the Ridge Mobile Home Park in Bensalem, PA, for refusing to allow disabled residents to have emotional support animals as a reasonable accommodation. Through the use of testers FHCSP found that Top of the Ridge had a written policy of not allowing dogs as a reasonable accommodation except in the case of tenants who obtain dogs that have completed "special training" and who submit a detailed medical history to the manager.

To correct these violations, Top of the Ridge has agreed to not discriminate against applicants or residents because of their disability or the disability of anyone associated with them or treat persons with disabilities less favorably than others because of their disability. In addition, Top of the Ridge has agreed to change the written rules and regulations to indicate that it will make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, including making an exception to its "no pets" policy to accommodate persons with disabilities. Finally, Top of the Ridge agreed to pay \$1,500 to FHCSP for the cost of investigating the complaint.