

# Delaware County Fair Housing News

March 1999

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## INSIDE

- Who is the Fair Housing Council?
- Fair Housing Accessibility Conference
- Confessions of a Born Again Real Estate Broker by Bernie Carr
- HUD Adopts Occupancy Guidelines
- Council Reaches \$80,000 Settlement in Occupancy Limitation Lawsuit
- HOMEBase Information Service
- Familial Status by Robert J. Breslin, Jr.
- Fair Housing Advertising Guidelines
- Federal Judge Orders Landlord to Sell Property
- Fair Housing for Persons with Disabilities
- Delaware County's Fair Housing Task Force
- Fair Housing Consulting Program Available for Owners, Realtors & Lenders

## What is Fair Housing?

**T**itle VIII of the Civil Rights Act of 1968 is otherwise known as the Fair Housing Act. It states that you cannot be discriminated against in any type of housing related transaction because of your Race, Gender, Religion, National Origin or Color. This Act was amended in 1988 to include Familial Status (i.e. the presence of children under the age of 18 in a family) and Handicap. In the State of Pennsylvania, the Human Relations Act also includes the protected class of Age (for those over 40).

### What Housing is covered?

All single family homes are covered by the act when they are owned by private persons and a real estate broker is used, and all single family homes owned by corporations or partnerships regardless of whether a broker is used. All Multifamily dwellings are covered by the Act, including townhouse and condominium communities. There are two exceptions to this rule. The first is called the "Mrs. Murphy's exemption." This exemption states that if the dwelling has four or less units and the owner lives in one of the units, it is exempt from the Fair Housing Act. The second is for qualified senior housing which is exempt only from the Familial Status provision of the act. To be a qualified senior community you must meet the following standards: Either 100% of the community is 62 or older, or 80% of the households have at least one resident 55 or older. None of this housing is exempt from section 804(c) of the Act which states that you cannot make, print or publish a discriminatory statement. Any exempt housing that violates 804(c) has lost that exemption and can be held liable under the Act.

### Under the Fair Housing Act, it is against the law to:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable or deny that housing is available
- Set different terms, conditions or privileges for the sale or rental of housing
- Advertise in a discriminatory way
- Blockbust -- persuade owners to sell or rent by telling them that minority groups are moving into the neighborhood
- Deny or make different terms or conditions for a mortgage, home loan, home insurance, or other real estate related transaction
- Threaten, coerce or intimidate anyone exercising a fair housing right or assisting others in exercising those rights

# The Fair Housing Council of Suburban Philadelphia

**T**he Fair Housing Council of Suburban Philadelphia is a non-profit civil rights organization that has been advocating and working for freedom of residence since 1956. The Council is the oldest Fair Housing Council in the country and currently serves the areas of Bucks, Chester, Delaware and Montgomery Counties in Southeastern Pennsylvania. We believe that all people have the right to live where they can afford to live.

The Council has a three-pronged approach to eliminating housing discrimination. Through our education programs, the Council provides speakers to community groups and non-profit organizations whose members or staff are interested in learning about fair housing. Staff regularly speak at senior centers, homeless shelters, universities, women's shelters, NAACP meetings, church groups, section-8 recipient training programs, as well as workshops for Realtors, publishers, lawyers, disability advocates, local governments and first time homebuyers. The Council also provides a full array of educational materials and newsletters and has a web site which can be found at [www.fairhousing.com/fhcsp](http://www.fairhousing.com/fhcsp). Council staff are also available to offer assistance and counseling to individual homeseekers and industry professionals with their fair housing questions and problems.

The second main program of the Council is its enforcement program. The Council investigates complaints of housing discrimination by sending

"testers" to rental locations, real estate offices and mortgage institutions. Staff then compare results of the visits to determine whether there was different or similar treatment to the testers. When different treatment is encountered, complaints are filed with the state and federal government alleging housing discrimination. The Council seeks to end the discrimination by monitoring the activities of the one discriminating, training them in fair housing laws to help ensure that they comply with the laws in the future, and reversing the damage that

they have done by breaking those laws by making sure any victims of their discrimination are "made whole" again.

The third main program of the Council is its Compliance Consulting program. This program is a proactive way for the housing provider and lender to assess their performance under fair housing laws. Council staff will help a

company analyze its past business activities and create custom made training programs for staff. The Council also has a "self-testing" program to help housing professionals determine if there are any subtle differences in their policies and practices that could inadvertently be having a discriminatory effect on their customer base.

For more information on any of these programs, becoming a member of the Council, becoming a fair housing tester or how you can become involved in Council activities, please contact the Council office at (610) 604-4411.



# FHCSP

The Fair Housing Council of Suburban Philadelphia is the Nation's Oldest Fair Housing Council. It has three main programs to help eliminate housing discrimination: Education, Enforcement, and Compliance Consulting

# Fair Housing Accessibility Seminar

## Critical Education for the Homebuilding Industry

Enforcement of the accessibility requirements in the Fair Housing Act is a #1 priority of the U.S. Department of Housing & Urban Development (HUD) and the U.S. Department of Justice (DOJ). Builders, architects, owners/managers of multifamily housing, community development corporations, building code officials, planning commissions and zoning boards across the United States are faced with a dilemma -- How to comply with the Fair Housing Act. They wonder, "What types of residential projects are covered by the Fair Housing Act and to what extent?" and "Why can't I just comply with local building code requirements for accessibility?" Due to the commitment of HUD and DOJ to ensure that those involved in the design and construction of multifamily housing are in compliance with the federal requirements for handicapped accessibility, some are now asking, "What can I expect if one of my projects is under investigation by the federal government?" Now those questions are being answered through an educational program offered by the National Association of Home Builders Research Center.

This 4-hour seminar is based on HUD's Fair Housing Regulations and Accessibility Guidelines and will acquaint the designer and builder of residential townhouse, condominium, and apartment projects with the design and construction requirements contained in the Fair Housing Act. This training is designed to be proactive--to prevent violations of the accessible design requirements before they occur.

### Time & Place

Wednesday April 7, 1999

1:00 to 5:00 PM

Chadds Ford Ramada Inn, Glen Mills, PA

(Note: This will be the only one of these seminars held in Pennsylvania)

Routes 202 & 1

### This Seminar will teach you how to:

- Avoid the significant fines, penalties, damages, construction, sales delays and possible retrofitting of dwelling units due to noncompliance with the Fair Housing Act.
- Comply with the Fair Housing Act's design and construction requirements for accessibility.
- Determine and identify what types of residential projects the Fair Housing Act covers.
- Understand the level and extent of access required on exterior and individual dwellings covered by the Fair Housing Act.

### This seminar will cover:

- Basic design and construction requirements contained in the Accessibility Guidelines.
- Layering of federal, state and local requirements in the accessibility guidelines.
- Legislative and regulatory history of the Act.
- Federal and private enforcement process and activities.

### Those attending will receive:

- The Fair Housing Act Design Manual
- A copy of the Fair Housing Accessibility Guidelines
- Important contact information for follow-up technical assistance on design and construction
- 1998 Directory of Accessible Products

### Cost: FREE

This seminar is available to you at no charge through the cooperative cost-sharing efforts of:

- National Association of Home Builders Research Center
- Home Builders Association of Chester & Delaware Counties
- Fair Housing Council of Suburban Philadelphia
- U.S. Department of Housing & Urban Development
- Delaware County Office of Housing & Community Development
- Chester County Office of Housing & Community Development

**To Register please Call (610) 692-7733**  
**Seating is limited so register early**

# True Confessions of a Born Again Real Estate Broker

## by Bernie Carr

**C**arr Real Estate Company was started back in the 1960's when racial discrimination was a way of life throughout most of the world of real estate. Ignorance prevailed and black was definitely not beautiful. Back in those days, discussion about keeping neighborhoods lily white was open and frank among all parties concerned.

Only after concern by the federal government for the unfairness of things, the subject began to be handled in a more subtle manner with such tactics as coding minorities. Guess who the # 1's were and the # 2's were? I'll leave that to your imagination; but, I'm not referring to "One, if by land; and two, if by sea."

Real estate brokers were put under tremendous pressure by the community to keep the neighborhoods white. Not only could you face financial disaster by not going along with "the program," but you could very well be endangering your life, and that of your family, and the people that worked for you. I will never forget receiving a photograph of my six children in the mail, with the threat that they would end up dead if I "broke" a certain block in a West Philadelphia neighborhood. And, we did indeed install bullet proof glass in the front window of our Philadelphia office back in the 1970's. We eventually closed that office for fear of repercussions from the public for following the law.

These were difficult times, and fair housing was an emotionally charged issue on both sides. I remember a chairman of the state real estate commission named Vince, who said the most common-sense things on the subject at that time and under those circumstances. He said, "Bernie, very few people in this world are without prejudice. The difference is that as licensed real estate professionals, you are required by law to treat everyone exactly the same way, regardless of your prejudices." This I could understand. Fair housing is not a matter of mind control; it is a matter of obeying the law.

Because of education and the persistence of fair housing advocates over the years, things did start to get better. Even the public became somewhat aware that these are the laws of the land that have to be obeyed by everyone, and that it was not the business of the real estate person to make such decisions, and that, indeed, real estate professionals could lose their livelihood if they disobeyed these fair housing laws.

They say time heals all wounds. That is true to a certain extent; but, a little bit of action does a lot to help things along. There came a day when we, along with several other large real estate brokers, were tested by members of the Council, then known as the Landsdowne-Upper Darby Fair Housing Council. As a result of this testing, we, along with four other real estate firms, were sued in federal court. The violation allegedly committed by my sales associate was a rather minor infraction compared to the outrageous behavior of the other four brokers. They were successfully

sued, and the expense and fines that they incurred put most of them right out of business.

We were offered to be let out of the suit if we would pay certain legal expenses of the Council and agree to a three year consent decree. At the time, the consent decree was a very bitter pill to swallow, especially when we really felt that we had done no wrong and that the accusation against our associate was so inconsequential compared to some of the others. Among the others was a recorded telephone call where the associate of one of my competitors said to a white tester on the telephone (after he had been called by a black tester) words to this effect: "you'd better get in here quick and get an offer in on this property. The owners will take anything because they are afraid a Nigger is going to buy it."

We were required by the consent decree to keep very, very careful records of the race, nationality, and any information about the origin of all buyers and sellers that dealt with Carr Real Estate. We kept these records for the inspection of the Council on a quarterly basis. This was a very time consuming process and an arduous task for our sales people. In order to set this process in motion, there had to be a big meeting held at the Delaware County Board of Realtors between our entire sales force (about 80 people at the time) and five members of the Council. When we arrived at the meeting, the members of the Council were seated at a head table, and the attitude of my sales people was bitter and angry, to put it mildly. It is the only time I can remember having a problem controlling the people that work for me. The verbal exchange and the meeting were unpleasant at best; but, everyone knew that we had no choice in this matter, and so, we buckled down and did what we had to do in order to survive. But, let me tell you, none of us liked it, not one little bit.

Being good business people and survivors, we followed the consent decree to the letter of the law. We trained our sales people in the laws of fair housing, as no other company I have ever known has done it. All the new people joining the Company are still put through a rigorous training session on this subject. Contractually, any associate coming to work for Carr Real Estate Company is bound under heavy financial penalties to follow these fair housing laws to the letter.

Well, guess what? After the three-year horror period was over, I had a meeting with my partners and managers, and we decided that the consent decree that we had been operating under for the last three years was really a very good thing for our Company. Where our competitors were now being tested and getting themselves into deep financial trouble because of mistakes (intentional or unintentional) and paying dearly for it, we were as clean as a whistle, and as safe as you can be in our profession. I think the Council was a bit astounded when we went to them and asked if we could continue living by the terms of

*(Continued on page 7)*

## HUD Adopts Occupancy Guidelines

**T**he U.S. Department of Housing & Urban Development (HUD) recently issued a statement of policy describing the guidelines it will use in evaluating occupancy limits to determine whether they comply with the Fair Housing Act's prohibition on familial status discrimination. The guidelines effective date was December 18, 1998 and places as standard a March 29, 1991 memo that is referred to as "The Keating Memo."

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. However, the memo also states that the reasonableness of any occupancy policy is rebuttable, and should not imply that they will evaluate compliance solely on the number of people permitted in each bedroom. Rather, it believes that in appropriate circumstances, owners and managers may develop and implement reasonable occupancy requirements based on factors such as the number and size of sleeping areas or bedrooms and the overall size of the dwelling unit.

The following example is used in the memo. Consider two theoretical situations in which a housing provider refused to permit a family of five to rent a two-bedroom dwelling based on a "two people per bedroom" policy. In the first, the complainants are a family of five who applied to rent an apartment with two large bedrooms and spacious living areas. In the second, the complainants are a family of five who applied to rent a mobile home space on which they planned to live in a small two bedroom mobile home. Depending on the other facts, issuance of a charge of discrimination might be warranted in the first situation, but not in the second.

Another example involves the age of the children. The following hypotheticals involve two housing providers who refused to permit three people to share a bedroom. In the first, the complainants are two adult parents who applied to rent a one-bedroom apartment with their infant child, and both the bedroom and the apartment were large. In the second, the complainants are a family of two adult parents and one teenager who applied to rent a one-bedroom apartment. Depending on the other facts, issuance of a charge might be warranted in the first, but not in the second instance.

Other factors HUD will consider include the size of the bedrooms, the configuration of the unit (for example the presence of a den or small extra room), the overall size of the dwelling, capacity of septic, sewer or other building systems, existence of state or local laws, and any pretextual evidence of discrimination by the housing provider. It also states that an occupancy policy that limits the number of children in a unit is less reasonable than one which limits the number of people in a unit.

The information in this article was taken directly from the HUD guidance memo on occupancy standards and is now standard practice on how to deal with occupancy issues. This memo can be found on-line at [www.fairhousing.com/hud\\_resources/keatingmemo.htm](http://www.fairhousing.com/hud_resources/keatingmemo.htm).

**"[T]he Department believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act." [ ] "However, the reasonableness of any occupancy policy is rebuttable..."**

*The Keating Memo  
U.S. Dept. of H.U.D.*

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## \$80,000 Settlement in Radnor Occupancy Limitation Lawsuit

**W**hen Ali & Donna Makki moved to the area, they took the first apartment they could find. The apartment was in Radnor, a prestigious main line community that a friend said they would really like. The Makki's did really like the area, but the apartment was not all that nice. So in 1993, soon after the birth of their first son, they began looking for a new apartment. Their first choice was spacious Broadlawn Apartments. Situated on over 20 acres were 76 buildings with 316 units. The complex was located directly across the street and they could see the beautiful lawns from the window of their apartment. Donna would walk through the property on sunny days enjoying the open space and shade trees. Best of all, the price was right. But, when they visited the management office, they were bluntly informed that they could not live there because they had an infant son. They were told that it had nothing to do with discrimination, but that the complex simply had a policy of no more than 2 persons in a 2 bedroom apartment. It was then that it occurred to Donna that she had never seen children playing on the property.

The Council investigated. A fair housing tester saying that the apartment would be for herself, her husband and their child, was told that obtaining an apartment in the complex

*(Continued on page 6)*

Community Housing and Human Relations Board  
Establishes Housing Services and Opportunities Clearinghouse  
for Delaware County Residents

## HOMEBase



With funding from the Delaware County Office of Housing and Community Development the CHHRB has established a "One Stop Shop" for affordable housing opportunities and housing assistance services in Delaware County. The new program, entitled **HOMEBase**, will enable Delaware County residents to call one number to inquire about a variety of housing services to meet their needs.

When a caller connects to **HOMEBase**, they speak confidentially with a trained staff-person about their current housing situation. Housing needs are discussed; options are explored; and after a search of the database, referrals are made to programs appropriate to their needs and circumstances. The **HOMEBase** database includes agencies within the Delaware County and the region offering programs such as: transitional housing; emergency rental assistance; first time home-buyers programs; low-cost rentals, accessible housing for the disabled; housing counseling; credit/debt management and repair; housing mediation and legal services; fair housing education and advocacy; neighborhood food closets and co-ops; home modifications and services for victims of domestic violence, to name a few.

**To learn more about HOMEBase  
please call CHHRB at (610) 565-7711**

*(Broadlawn Continued from page 5)*

would be impossible because they had a policy of only 2 persons in a 2 bedroom apartment. A second fair housing tester saying that the apartment would be for himself, his wife and their 31 year old daughter was also told about the 2 person per 2 bedroom policy, but was told that if they didn't put the daughter on the lease, and if she was just a "frequent visitor," it would be O.K. for them to have the apartment.

The Council filed a complaint in October 1993 at the Pennsylvania Human Relations Commission alleging housing discrimination. Not only did the 2 persons in a 2 bedroom apartment policy have a "disparate impact" on families with children, but Broadlawn seemed to only apply that policy to families with children.

In June 1995 the Commission made a finding of Probable Cause of housing discrimination in the case. In February 1996, since Broadlawn refused to make changes to its policy and it was unlikely that PHRC would adjudicate this case in the foreseeable future, the Council filed a lawsuit in federal district court. In September 1997, after four years of fighting, and within a week of the scheduled court date, the Council and the Makki's, represented by attorney Clifford A. Boardman, agreed to settle with Broadlawn for \$80,000. They admitted no guilt, but they did however agree to change their policy. Their policy now is 2 persons per bedroom for all persons with familial status, i.e. families with children. All others are still allowed only 2 persons in a 2 bedroom apartment. After 2 years, Broadlawn can file a motion to decrease with the court if they can allege the existence of hardship attributable to this occupancy policy. If Broadlawn does not prevail in its motion, they must pay the Council's attorney's fees and costs for investigating their motion. All of Broadlawn's staff will be trained in fair housing laws, and they have been required to remove the question from their rental application asking potential tenants, "Are you expecting a birth?" The \$80,000 settlement will be split between the Makki's and the Council and used to pay attorney's costs and fees in the case. The Council will use its remaining portion to continue its fight against housing discrimination.

# Familial Status

by Robert J. Breslin, Jr., Esq.

**A**s an attorney I almost always find myself and my clients sitting across from members of the Fair Housing Council of Suburban Philadelphia arguing my clients right to rent their units to whomever they deem worthy.

Irrespective of one's capitalist perspective on the subject, both Federal and State Law prohibit discrimination in renting for a wide variety of reasons, most of which are now firmly imbedded in law and in our culture, e.g., race, creed, color, religion, nationality and sex.

The area, seemingly, least known and understood, deals with Familial Status. This article will attempt to give a broad overview of both the subject matter and the law in an effort to sensitize the landlord to the issues he faces. Obviously the best advice for the landlord is to consult with your attorney before apartments or units are advertised for leasing in order to insure the policy to be imposed complies with the law.

Prohibitions against Familial Status Discrimination were added to Title VIII by the Fair Housing Amendment of 1988. Familial Status is defined as "one or more individuals under the age of 18 living with a parent, person having legal custody of such individual (s), or the designee of such parent or legal custodian". Also included is any person who is pregnant or about to secure legal custody of someone under the age of eighteen.

Thus, housing providers may no longer refuse to deal with families because their households include children or because during occupancy a baby is born or a child is brought into the unit (exception is housing for older persons).

Landlords cannot segregate families with children in certain areas of a housing complex or exclude families with children from units from the upper floors of a high rise building for safety reasons, nor can they charge higher security deposits or rental charges on families with children. They cannot be denied access to recreational facilities and services although reasonable health and safety rules relating to the facilities may be imposed on all users.

Advertising may no longer indicate any preference, limitation, or discrimination based on Familial Status. Use of photos or words in the advertising suggesting an adult

community or singles community is prohibited.

Occupancy standards represent a different can of worms. While recognizing housing providers may develop and implement reasonable occupancy requirements such standards must be judged in light of such factors as "the number and size of sleeping areas or bedrooms and the overall size of the dwelling unit". HUD has set a presumptively reasonable standard of two persons per bedroom subject to the above. Arguments to limit occupancy based on the availability of limited parking and the lack of recreational facilities also have failed. The argument that the increase in the number of a complex's residence will result in the over taxing of existing facilities and plants (water, heating, sewer, cesspools, electric, etc.) may or may not fail but will be reviewed by HUD on a case by case basis.

The long and short is that Congress (Federal and State) has determined there exist a shortage of housing units available to families with children which effectively bars or limits them in renting which problem needed corrective measures. Efforts to avoid renting to families with children will be met with close scrutiny. Legal battles are both costly and time consuming and a determination of discrimination may result in the requirements of corrective measures, compensatory and punitive damages along with the paying of the other side's attorneys fees and costs. Prevention is therefore worth more than a pound of cure.

*Robert J. Breslin Jr., Esq. is a partner at the Law Firm of Pappano & Breslin located at 3305 Edgmont Ave., Brookhaven, PA 19015*

*(True Confessions... Continued from page 4)*

the decree and having them voluntarily monitor and test us to make sure that we stayed on track.

Well, that was a long time ago, and the relationship has just gotten better and better over the years. If you had told me 25 years ago that my name would appear as an Honorary Advisor to this group of "DO GOODERS," I would have bet you a million dollars and would have been very sure that I would win. Well, here I am, and very glad to be a member, and grateful for the education and the assistance that I have received from this group of wonderful people all these years. Who Knows? Maybe this is how "DO GOODERS" get born ...

**"Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with—(1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.**

**Sec. 802  
[42 U.S.C. 3602] of  
the Fair Housing Act**

# Fair Housing Advertising Guidelines

**T**here has been much confusion in the past few years regarding what is legal and what is illegal to use in real estate advertising. There have also been many arguments about who can be held responsible for illegal advertising and whether or not the advertising constitutes first amendment protections or not. The following information should be helpful in sorting out these issues.

Firstly, both the publisher and the advertiser can be held liable for discriminatory housing advertising. Discriminatory housing advertising is not protected under the first amendment of the constitution for freedom of speech, because housing advertising is considered commercial speech and therefore not covered. If the publisher of a newspaper accepts an advertisement from a housing provider that states "no children," both the newspaper and the housing provider can be held liable. However, it is not the publishers responsibility to make sure the housing provider's statements are accurate for advertising not discriminatory on its face. For example, if the owner of an apartment complex wants to advertise the complex as "housing for older persons," the publisher cannot be held liable if the complex is found not to be a qualified senior facility, but the owner of the complex can be held liable for the discriminatory advertising.

Secondly, what does constitute discriminatory advertising? Housing advertisements should state no discriminatory preference or limitation on account of any of the protected classes. Let's start with race, color or National Origin.

Use of words describing the housing, the current or potential residents or the neighbors or neighborhood in racial or ethnic terms (i.e., white family home, no Irish) will create liability for discriminatory advertising. However, advertisements which are facially neutral will not create liability. For example, the use of phrases such as master bedroom, rare find, or desirable neighborhood are not

considered discriminatory.

Advertisements should contain no explicit preference, limitation or discrimination on account of religion (i.e. no Jews, Christian home).

Advertisements which use the legal name of an entity which contains a religious reference (for example, Roselawn Catholic Home), or those which contain a religious symbol (such as a cross), standing alone, may indicate religious preference. However, if such an advertisement includes a disclaimer (such as the statement "This Home does not discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status") it will not be considered discriminatory advertising. Advertisements containing descriptions of properties (apartment complex with chapel), or services (kosher meals available) do not on their face state a preference for persons likely to make use of those facilities, and are not considered discriminatory. The use of secularized terms or symbols relating to religious holidays such as Santa Claus, the Easter Bunny, or St.Valentine's Day, or phrases such as Merry Christmas, Happy Easter or the like are not considered discriminatory advertising.

Advertisements for single family dwellings or separate units in a multi-family dwellings should contain no explicit preference, limitation or discrimination based on gender. Use of the term master bedroom does not constitute a violation of either the gender discrimination provisions or the race discrimination provisions. Terms such as "mother-in-law suite" and "bachelor apartment" are commonly used as physical descriptions of housing units and are not considered discriminatory advertising.

Real estate advertisements should not contain explicit exclusions, limitations or other indications of discrimination based on handicap (i.e., no wheelchairs). Advertisements containing descriptions of the property (great view, fourth-floor walk-up, walk-in closets), services or

**"...It shall be unlawful...to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination.**

**The Fair Housing Act  
Sec. 804 (c)**

# Federal Judge Orders East Lansdowne Landlord to Sell Property

In July 1998 a federal Judge found Mrs. Eliza Keulian, an East Lansdowne apartment owner, in contempt of court and ordered her to sell her property because of her lack of regard for the judge's previous orders and her inability to manage her property in compliance with the Fair Housing Act.

In 1991, the Council settled a federal lawsuit filed against Mrs. Keulian. At that time she was asking homeseekers on the telephone what color they were and then explaining that she would not rent to Blacks. In 1993, the Council began receiving complaints that Mrs. Keulian was telling homeseekers that children were diseased: they had mumps, chicken pox & measles, and that she would not rent to them. The Council conducted an investigation and found evidence that she was indeed saying these things.

A complaint was filed in 1993 with the Pennsylvania Human Relations Commission (PHRC), and Mrs. Keulian was notified that a complaint had been filed against her. She then wrote a letter to the Commission apologizing for her behavior and promising never to do it again. However, Mrs. Keulian refused to attend any meetings at PHRC or discuss terms of settlement of the complaint. In June 1993, the Commission made a finding of "Probable Cause" on the case.

In 1994 the Council again began receiving complaints against Mrs. Keulian. When Andrew & Allicia Totdahl met Mrs. Keulian, she saw that Allicia was 8 months pregnant and told her she was wasting her time, she doesn't rent to children because they are filthy. She then looked at Andrew and informed him that it didn't matter anyway, because she doesn't rent to "people of color." Over the next several months, the Council received five other complaints of discrimination by Mrs. Keulian. So in 1996, the Council filed a lawsuit in federal court in hopes of ending this problem. On March 14, 1997 a federal jury found Eliza Keulian liable for housing discrimination and awarded seven plaintiffs and the Fair Housing Council a total of \$28,000.

On June 5, 1997, Federal District Judge Anita B. Brody issued an injunction against Mrs. Keulian stating that she may no longer manage her property. Mrs. Keulian's attorney, Edward C. Harkin, had been appointed to manage all aspects of her rental units for a period of five years. The judge stated in the injunction that "It is expected that Mr. Harkin will engage a professional real estate management firm during his tenure that will take over all aspects of rental management and maintenance and that he will oversee same for a period not to exceed one year. Thereafter, the management firm will take over all functions regarding the rental, management and maintenance functions." Mrs. Keulian was also ordered to pay all attorney's fees and costs the Council spent on the case.

In October, 1997 the Council again began receiving complaints about Mrs. Keulian. The Council's investigation uncovered further acts of familial status discrimination and possibly racial discrimination and found that she was still managing her property. The Council filed motions of contempt of court against both Mrs. Keulian and her attorney. In July 1998, the Judge found Mrs. Keulian in contempt of court and ordered her to sell the property. Mrs. Keulian agreed to sell the property, the new owner was to hire a professional firm, and the building was to be renovated to correct township code violations.

"It's unfortunate that this had to happen," stated Council Executive Director James Berry. "The Council has been dealing with Mrs. Keulian for more than seven years. She has had ample time to change her policies and practices, yet her behavior has showed that she is completely unwilling to do so. The Council is not here to put landlords out of business, but in this case it was the only way to gain compliance with the Fair Housing Act."

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*(Continued from page 8)*

facilities (jogging trails), or neighborhoods (walk to bus-stop) are not considered discriminatory advertising. Advertisements describing the conduct required of residents ("non-smoking," "sober") are not considered discriminatory advertising. Advertisements containing descriptions of accessible features are lawful (wheelchair ramp).

Advertisements may not state an explicit preference, limitation or discrimination based on familial status. Advertisements may not contain limitations on the number or ages of children, or state a preference for adults, couples or singles. Advertisements describing the property (two bedroom, cozy, family room), services and facilities (no bicycles allowed) or neighborhoods (quiet streets) are not facially discriminatory and are not considered discriminatory advertising.

Hopefully the above information will help guide you through the mire of confusing information available from various sources today regarding real estate advertising. The information in this article was taken directly from the HUD guidance memo on advertising and is standard practice on how to deal with advertising issues. This memo can be found on-line at [www.fairhousing.com/hud\\_resources/hudguid2.htm](http://www.fairhousing.com/hud_resources/hudguid2.htm).

# Fair Housing and Persons with Disabilities

**T**he Fair Housing Act protects people with mental and physical disabilities from housing discrimination. A disability is defined as “a physical or mental impairment which substantially limits one or more of a person’s major life activities.” A person’s major life activities include caring for one’s self, walking, seeing, hearing, speaking, breathing, learning and working.

There are two terms that housing providers and disabled persons should become familiar with in reference to the Fair Housing Act. These terms are Reasonable Accommodations and Reasonable Modifications. Reasonable Accommodations are a change in rules, policies, practices or services to allow a person with a disability equal opportunity to use and enjoy a dwelling. For example, allowing a person in a wheelchair a handicapped parking place even though all other persons park on a first come first served basis, waiving a no pet policy for a person with a support animal, or allowing a co-signer for a person with a developmental disability. However, waiving these policies for persons with disabilities does not mean you must change them for everyone.

A Reasonable Modification is allowing a person with a disability to modify their premises if those modifications are necessary to afford the individual full enjoyment of the premises. This means that a tenant may modify the dwelling according to individual need, thereby getting the most out of their home. This includes the interior and exterior of a building or a unit, and public or common-use areas. Thus, even if the landlord has no obligation to do so, he must permit the tenant to make reasonable modifications to main entrances and lobbies of apartment buildings and other common-use and public areas necessary to full enjoyment of living there. If the laundry room is not accessible, for example, someone with a mobility impairment might not have full enjoyment of the premises.

These modifications are made at the tenant’s expense not the landlord’s expense. A landlord can require that the tenant use a certified contractor to do the work, and he can require that the tenant restore the premises to their original condition upon the tenant’s vacating the premises if the modification will interfere with the landlord’s or the next tenant’s use and enjoyment of the premises. If the modification will not interfere, it is unreasonable for the property to be restored. For example, doorways that have been made wide enough for wheelchair access do not have to be restored but lowered cabinets in the kitchen may be required to be restored if the landlord so desires.

Where it is necessary to ensure, with reasonable certainty, that funds will be available to pay for restorations, the landlord may negotiate payment by the

tenant into an interest-bearing escrow account. Such payments may be made over a reasonable period; the amount must be reasonable and cannot exceed the cost of the restorations. The interest accruing in the account belongs to the tenant. A landlord may not routinely *require* an escrow account, however; such a decision must be on a case-by-case basis. For example, if the proposed modifications are minor and restorations will be unnecessary or the tenant can provide assurances that he will be able to carry out those that are necessary, then it would be unreasonable for the landlord to require an escrow account. On the other hand, if the tenant wishes to make extensive modifications that must be restored and cannot give satisfactory assurance that restorations will be carried out, the landlord may require an escrow account. Such an agreement should always be in writing.

Landlords may inquire into applicant’s ability to meet tenancy requirements. This means a landlord may ask whether a prospective tenant will be able to pay the rent, whether he is willing to comply with the building’s rules and other questions relating directly to tenancy -- provided he asks all other applicants the same questions. In addition, a landlord may also ask the following five questions, *as long as he asks them of all applicants.*

First, if a landlord is providing housing designed for and occupied by people with disabilities or with a particular type of disability, he may ask whether the applicant qualifies for a dwelling that is available only to people with disabilities or with a particular type of disability.

Second, a landlord who provides this type of housing may ask if an applicant qualifies for a priority available to people with handicaps or with a particular type of handicap. A landlord may ask an applicant three other questions: (1) whether they are currently an illegal abuser or addict of a controlled substance; (2) whether they have been convicted of the illegal manufacture or distribution of a controlled substance, and (3) whether their tenancy poses a “direct threat to the health or safety of others.” Again, landlords must ask **all** applicants the same questions if they want to ask applicants with disabilities any of these five questions.

A landlord may not ask a prospective tenant, resident, subtenant, guest, invitee or any associate of a tenant whether they have any type of disability. A landlord also cannot inquire about the nature or severity of a disability. Nor may a landlord ask a tenant or applicant any questions that would require the tenant to waive his right to confidentiality regarding his medical condition or history. A landlord is not entitled to see a prospective tenant’s medical records. If a tenant is requesting a reasonable



*(Continued on page 11)*

# Delaware County's Fair Housing Task Force

Federal guidelines require each government entity receiving Community Development Block Grant Funds take steps to **“affirmatively further fair housing.”** One of the first steps in this process is to develop an **Analysis of Impediments** to Fair Housing. As a result of Delaware County's Analysis of Impediments a Fair Housing Action Plan was developed for the county. This plan is being implemented by the **Fair Housing Task Force**.

The Analysis of Impediments for Delaware County noted seven goals necessary to help overcome barriers to fair housing. These include:

- 1) Increased Education and Awareness about state and federal fair housing laws;
- 2) Enhancement of Real Estate marketing to reach members of ethnic and racial minority groups;
- 3) Increased affordable housing options and opportunities;
- 4) Increased access to fair lending and reduction in lending discrimination;
- 5) Changes in attitudes which contribute to prejudice and discrimination in housing;
- 6) Reduction in environmental risk factors in housing;
- 7) Increased housing opportunities and accessibility for persons with mental, physical and developmental disabilities.

Each of these goals are divided into several different objectives and action steps covering a five year time frame with different agencies and groups responsible for implementing each action step. The agencies and groups responsible for the different action steps include: the Fair Housing Council of Suburban Philadelphia (FHCSF); the Community Housing and Human Relations Board (CHHRB); the Delaware Valley Association of Realtors; the Delaware County Planning Department; Delaware County Association of Retarded Citizens (DELARC); Freedom Valley Disability Center and the Delaware County Housing Authority.

The Fair Housing Task Force meets on the last Monday of each month from 9-11 AM at the Penn State Cooperative Extension office in Smedley Park in Springfield. The Task Force is currently implementing Year Two of the County's Fair Housing Plan. If you would like to provide input on the planning process, would like to join the Task Force, or would like a complete copy of the County's Fair Housing Analysis or the Fair Housing Plan please call Ed Dougherty at CHHRB, (610) 565-7711 or e-mail at [chhrb@libertynet.org](mailto:chhrb@libertynet.org).

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*(Disabilities Continued from page 10)*

modification or a reasonable accommodation, the landlord may request some type of proof that the accommodation or modification is necessary. For example, a copy of the application for the handicapped parking permit, or a letter from a doctor stating that the accommodation or modification is necessary.

If the person refuses or is unable to comply with the tenancy rules that apply to all tenants, or if the person's "tenancy would constitute a direct threat to the health or safety of the other individuals or whose tenancy would result in substantial physical damage to the property of others" the person may be denied tenancy. However, if a reasonable accommodation would eliminate the threat or enable the tenant to comply with standard tenancy rules, the law requires that landlord to provide such an accommodation. Important to deciding if an accommodation is reasonable is whether the benefit of continued housing to the tenant outweighs the burdens and costs the landlord must insure to make the accommodation.

The Council has found that disability issues can often only be dealt with on a case by case basis because individuals with disabilities vary significantly in their abilities and needs. If you have questions regarding these issues it is better to seek counseling on the matter before a decision is made that might violate the persons civil rights. The Council is always available to discuss particular issues.

**“Housing  
Discrimination is an  
ugly part of  
America's past,  
it is illegal,  
it is intolerable,  
and it has no place  
in our  
present or our  
future.”**

**HUD Secretary  
Andrew Cuomo**



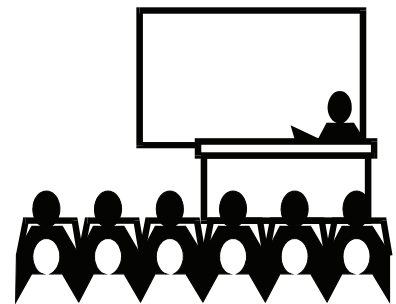
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## **Fair Housing Consulting Program Available for Owners, Realtors & Lenders**



The Council is excited to announce its new Fair Housing & Fair Lending Compliance Consulting Program. Jan Chadwick, the Council's Assistant Director has been responsible for developing the program. Ms. Chadwick has recently been certified by the National Fair Housing Alliance as a Fair Lending Trainer, and is currently the only trainer so certified in the state of Pennsylvania. She has also developed an intensive program of Fair Housing training for both Realtors and Landlords.

The intention of the program is to work with mortgage institutions and housing providers to help them minimize the risk that a complaint of housing discrimination is filed against them. Mortgage institutions and housing providers are at a greater risk today of having a fair housing complaint filed against them than ever before. There is considerable misunderstanding about what 'fair housing' really is and many consulting agencies discuss only customer service related issues that are not really fair housing. Yet mortgage institutions and housing providers can be held responsible for a single discriminatory act even if there was *no intention* to discriminate. In addition, many "legitimate business practices" can have the *effect* of discriminating against minorities. The Council's program provides comprehensive on-site training in every aspect of fair housing or fair lending law for all employees of an organization. These trainings can be tailored to the specific needs of your organization and can include up to date discussions of recent fair housing and fair lending cases. If you would like more information about the Council's Consulting Program, contact the Council at (610) 604-4411.