

# Delaware Valley Fair Housing News

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

Spring 2007

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## FHCSF and Chester County Homeowner File Federal Housing Discrimination Lawsuit Against Loags Corner Mobile Home Park and Horning Farm Agency, Inc.

**T**he Fair Housing Council of Suburban Philadelphia (FHCSF) and Chester County homeowner, Glenn Brown, filed a lawsuit in Federal District Court in Philadelphia against Loags Corner Mobile Home Park and Horning Farm Agency, Inc. for violating the federal Fair Housing Act and the Pennsylvania Human Relations Act. FHCSF's enforcement efforts determined that Loags Corner Mobile Home Park and Horning Farm Agency, Inc. are discriminating against families with children in the process of illegally converting its mobile home parks into 55 and over communities.

In September of 2006, FHCSF received a complaint from Glenn Brown who lived by himself in a two bedroom manufactured home in Loags Corner Mobile Home Park in Elverson, PA (Chester County). The community is owned and operated by Horning Farm Agency, Inc. Several years ago, a sign was put up within the community identifying it as a "FUTURE ADULT COMMUNITY" despite numerous young families living there. Mr. Brown purchased another home in October 2006 and listed his manufactured house for sale. Families have expressed an interest in Brown's home but because Loags Corner will not consider any prospective tenants with children, he has been unable to sell it.

FHCSF and Mr. Brown retained the assistance of, Arthur Haywood, Esq. of Haywood LLC, and on April 11<sup>th</sup>, 2007, FHCSF and Mr. Brown filed suit in federal district court against Horning Farm Agency, Inc. James Berry, FHCSF's Executive Director, stated "There are specific HUD guidelines on how to convert existing housing to age restricted housing without violating the familial status provisions of the Fair Housing Act. By ignoring these guidelines, Horning Farm Agency and Loags Corner Mobile Park denied families with children an affordable housing opportunity in Chester County".

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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 or 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 clarifying the process for converting a community to Housing for Older Persons. This memo states that in order to legally convert, 80% of the units must be occupied by someone age 55 or over. Prior to reaching the 80% threshold, a community cannot reserve units for persons 55 and over or advertise itself as a 55 and over community. Families with children who are qualified and want to occupy a unit in the community must be allowed to do so. If a community reaches the 80% threshold without discriminating against families with children, it can legally begin the process of conversion. Loags Corner Mobile Home Park did not achieve the 80% threshold required to begin the process for conversion.

## Justice Department Files Fair Housing Lawsuit Against Lancaster, Pa., Apartment Complex

On February 1st the Justice Department filed a lawsuit against the rental manager and owners of Barrcrest Manor Apartments, an apartment complex in Lancaster, Pa. According to the complaint, which was filed in the U.S. District Court for the Eastern District of Pennsylvania, the defendants refused to rent an apartment to a visually impaired individual who uses a guide dog, in violation of the Fair Housing Act.

"The services of guide dogs are essential to individuals with visual impairments," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "Our fair housing testing program will continue to proactively root out violations of the Fair Housing Act and ensure non-discriminatory treatment."

The Department of Justice conducted its investigation through the use of fair-housing testers -- individuals who pose as renters for purposes of gathering information about possible discriminatory practices in the rental of apartments. The complaint seeks damages to compensate individuals injured by the defendants' conduct, and seeks to ensure that the defendants discontinue their discriminatory practices.

Fighting illegal housing discrimination is a top priority of the Civil Rights Division. This case was brought as part of Operation Home Sweet Home, a concentrated initiative by the Justice Department to expose and eliminate housing discrimination in America.

Individuals who believe that they may have been the victim of housing discrimination by Barrcrest Manor Apartments should call the Justice Department's Housing and Civil Enforcement Section at 1-800-896-7743, ext. 2.

Since Jan. 1, 2001, the Justice Department's Civil Rights Division has filed 217 cases to enforce the Fair Housing Act, 97 of which have alleged discrimination based on disability.

## Guidelines for Advertising in Compliance with the Fair Housing Act

**H**ousing advertisements should not state a discriminatory preference. The following explanations should help you in determining what may and may not be considered discriminatory advertising:

- ◆ Use of words describing 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, the uses 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 that use the legal name of an entity that 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 “Roselawn Catholic 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, 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 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 or 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.
- ◆ 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 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 limits on the number or ages of children, or state a preference for adults, couples, or singles (i.e. mature tenant, perfect for single or couple, ideal for professional). Advertisements describing the property (two bedroom, cozy, family room), services and facilities (no bicycles allowed), or neighborhoods (quiet streets) are not considered discriminatory.

## Housing Discrimination Complaints at an All Time High

**G**overnment agencies received 10,328 housing discrimination complaints, the highest number ever filed in a single year, according to an annual fair housing report released in April by the U.S. Department of Housing and Urban Development. HUD's Fiscal Year 2006 report, which details HUD's enforcement efforts during the year, also found that race and disability top the list of reasons why individuals filed complaints.

For the second year in a row, race and disability were virtually tied as the most common bases of housing discrimination reported to HUD and state and local government agencies funded through its Fair Housing Assistance Program (FHAP). Of the more than 10,000 complaints filed, 40 percent alleged racial discrimination while nearly the same percentage alleged discrimination against persons with disabilities. Complainants, according to the report, most often alleged discrimination in the terms and conditions of the sale or rental of housing, or refusal to rent.

The report was released as a part of National Fair Housing Month, which occurs every April to mark the signing of the Fair Housing Act. This year's theme, for the 39th anniversary of the law, informs housing providers and the public that *"Fair Housing: It's Not an Option...It's the Law."*

"This report shows the importance of HUD's continued enforcement, education, and outreach activities to ensure that all Americans have access to housing opportunities," explained Kim Kendrick, HUD Assistant Secretary for Fair Housing and Equal Opportunity. "As diverse as this country is, we still see instances where individuals are denied housing because of the color of their skin or because they have physical disabilities that require certain accommodations. Not only is that not acceptable morally, it is against the law."

The report describes HUD's enforcement activities, including summaries of several cases that HUD or FHAP agencies investigated during FY 2006. For example:

- A case that resulted in a \$40,000 settlement for an African-American woman in Pennsylvania who was allegedly denied the opportunity to rent a house because of her race.
- A case that resulted in a \$7,500 settlement for a couple in Illinois who were allegedly denied the opportunity to rent an apartment because they had a child.
- A case that resulted in a \$15,000 settlement for a man with a disability in Hawaii who was allegedly denied permission to make structural modifications that he needed in order to use and enjoy his dwelling.

The report also details HUD's efforts to:

- **Educate housing providers and the public about fair housing.** For example, in FY 2006, HUD awarded Fair Housing Initiatives Program (FHIP) grants totaling \$18.1

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## HUD Reaches \$30,000 Settlement With Bensalem, PA Apartment Complex Owner and Management Company

**T**he U.S. Department of Housing and Urban Development announced on December 11th that it had negotiated a settlement that will pay over \$30,000 to an African-American couple who alleged that a Bensalem, PA, apartment complex refused to rent to them because of their race. The couple, Talitha Fleming and William Murray, filed a complaint with HUD in August 2005 alleging that Country Commons Apartments, a 352-unit HUD-subsidized apartment complex owned by Richlieu Associates and managed by AIMCO, denied them tenancy at the complex while giving preferential treatment to applicants of Russian descent.

To resolve the allegations, Country Commons and AIMCO agreed to pay the couple \$10,000, plus their monthly rent and security deposit at their current residence until a unit becomes available at Country Commons. After a unit becomes available, Country Commons and AIMCO will pay the couple's rent for the first 18 months of their tenancy. Country Commons and AIMCO also will restore passed over African Americans to the top of the waiting list.

As required by the Fair Housing Act, HUD attempted conciliation and, as part of the conciliation agreement, Country Commons Apartments, Richlieu Association, and AIMCO, in addition to the aforementioned, agreed to:

- ◆ Immediately discontinue the use of the current waiting list to fill vacancies. HUD has provided guidelines for the establishment of a nondiscriminatory waiting list and will monitor the performance of Country Commons in establishing the waiting list. Until a new waiting list is created, Country Commons is not permitted to fill any vacancies without first receiving approval from HUD.
- ◆ Contact the other African-American applicants whose applications were denied to determine if they still have an interest in residing at Country Commons. If they are still interested, Country Commons is required to work with them to get them in a position where they are eligible for residency there. Those applicants will be placed at the top of the new waiting lists in the order in which they become eligible for tenancy.
- ◆ Ensure that Country Commons Apartment has software in place to maintain electronic waiting lists. Waiting lists must include the name of the head of household, date and time the applicant submitted the application, annual income, and need for accessible features.
- ◆ Require the Community Manager and the Assistant Community Manager at Country Commons to attend a sensitivity training program on how to deal effectively with members of the protected classes set forth in the Fair Housing Act.

"Housing discrimination based on race is bad enough. HUD has an additional obligation to make sure that all HUD-funded property is open to everyone regardless of race," said Kim Kendrick, HUD's Assistant Secretary for Fair Housing and Equal Opportunity. "This settlement is a victory not only for Ms. Fleming and Mr. Murray, but it makes sure that housing at Country Commons is open to all persons regardless of race."

## FHCSP Welcomes New Board Members

**A**t its 51<sup>st</sup> Annual Meeting on February 26, 2007 FHCSP's membership elected six new members to the Board of Directors. FHCSP's board maintains an active role in providing insights, setting strategy, opening doors, promoting the agency and its mission, and raising funds. FHCSP is pleased to have the following join current board members **Christine Joes**, President, **Carrie Miluski**, Treasurer, and **Carolyn Johnson**, Esq.:

- ◆ **Frankie Baughn**, Secretary, is Marketing Coordinator of the Don't Borrow Trouble Suburban Philadelphia anti predatory lending education campaign. She previously was Project Manager for the Philadelphia Council for Community Advancement. Frankie is a board member and officer of The Wharton Club of Philadelphia and is Chair of the University of Pennsylvania's Secondary School Committee
- ◆ **Carolyn Capistrano** is the Code Enforcement Manager for the Borough of Norristown where she works with multiple departments, outside agencies, groups and individuals to implement community preservation/code enforcement efforts. Previously, Carolyn investigated housing discrimination complaints as a Housing Specialist for the Lancaster County Human Relations Commission.
- ◆ **Debbie Cooper**, Vice President, is the Consumer Credit Counseling Services of Delaware Valley's Vice President of Community Outreach and Education is responsible for developing, coordinating, implementing and evaluating education programs and for building partnerships. Debbie also serves on the Board of The PA Jumpstart Coalition, the Montgomery County Housing Partnership and the Advisory Board of Healthy Neighborhoods.
- ◆ **Kristi Dennis** is the Director of the American Red Cross Homeless Shelter in Levittown, Bucks County where she oversees and maintains the operation of an 85 bed homeless shelter. Kristi was a Case Manager at the Reading/Berks Emergency Shelter. She has also been responsible for coordinating Bucks County's most successful housing seminars.
- ◆ **Lisa Gaffney** is the Housing Director at the Chester Economic Development Authority and coordinates the development of housing and manages homeownership projects. Lisa is the former Executive Director of Chester Community Improvement Project where she administered housing rehabilitation programs. She currently serves on the boards of the Pennsylvania Housing Finance Agency and Chester Housing Authority.
- ◆ **Jennifer Perry** is a Compliance Specialist with the United Spinal Association. She provides accessibility training to architects and code enforcement officials and also provides technical assistance to these individuals. Jennifer is also involved in the model code accessibility development process via her International Code Council (ICC) committee work. She provides plan review services for accessibility compliance and performs accessibility site assessments to ensure compliance with state and/or federal accessibility requirements.

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million to 102 groups. The grants will be used to conduct fair housing enforcement and education activities in FY 2007. During FY 2006, FHIP recipients conducted 697 public events that provided 250,799 people with fair housing information. In addition, HUD launched a media campaign to inform survivors of Hurricanes Katrina and Rita of their rights under the Fair Housing Act. Between January 1, 2006, and September 30, 2006, the campaign received the equivalent of \$1.6 million in donated media.

- **Increase the stock of accessible housing for persons with disabilities.** In FY 2006, HUD obtained agreements from several public housing authorities to make a share of their housing accessible to persons with disabilities. For example, HUD entered into a Voluntary Compliance Agreement with the Chicago Housing Authority (CHA). As part of the agreement, CHA will make 1,325 of its 25,000 housing units accessible for persons with mobility impairments and another 525 units accessible for persons with vision and hearing impairments. HUD also used its Fair Housing Accessibility FIRST program to train 1,185 architects, builders, developers, and other housing professionals on the accessible design and construction requirements of the Fair Housing Act.

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that the CDA does not make Web sites immune from liability under the Fair Housing Act or from liability under state and local laws that HUD has certified as substantially equivalent to the Fair Housing Act.

In order to ensure that Web sites do not provide an open market for unlawful discriminatory conduct, HUD will continue to investigate allegations that Web sites have published discriminatory advertisements on the Internet and, where there is cause to believe discrimination has occurred, will issue a Determination of Reasonable Cause. As required by the Fair Housing Act, HUD will attempt conciliation in each case. I recommend that proposed conciliation agreements include provisions designed to prevent discriminatory advertisements from being posted to the Web site; this may include the Web site agreeing to practices such as screening, filtering, pop-up warnings, or user self-certification.

This guidance does not change the established procedures for processing these cases. Regional Directors should continue to process these cases in accordance with current guidelines.”





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## **HUD Issues Position on Fair Housing Act Application to Internet Advertising**

The following is a memo issued by HUD's Deputy Assistant Secretary for Enforcement and Programs regarding the application of the Fair Housing Act to Internet Advertising:

"Section 804(c) of the Fair Housing Act makes it illegal "to make, print, or publish, or cause to be made, printed, or published, any notice or statement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, sex, disability, or familial status." This prohibition applies to all advertising media, including newspapers, magazines, television, radio, and the Internet. Just as the Department has found newspapers in violation of the Fair Housing Act for publishing discriminatory classifieds, the Department also has concluded that it is illegal for Web sites to publish discriminatory advertisements.

Some Web sites assert that they are exempt from liability under Section 804(c) of the Fair Housing Act because of a provision in the Communications Decency Act ("CDA"), 47 US. C. § 230, which limits the liability of interactive computer services for content originating with a third party user of the service. Although the CDA does not state an intent to limit liability under the Fair Housing Act or other civil rights statutes, some believe that Section 230 of the CDA gives Internet publishers immunity from lawsuits brought under federal and state civil rights statutes. However, HUD has concluded

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