

# Delaware Valley Fair Housing News

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

Spring 2010

The Delaware Valley Fair Housing News is a publication of the Fair Housing Council of Suburban Philadelphia. Funding for this newsletter was made possible by:

**U.S. Department of Housing and Urban Development**

**Delaware County Office of Housing and Community Development**

**Bucks County Department of Community and Business Development**

**The Philadelphia Foundation  
Montgomery County Department of Housing and Community Development**

**Chester County Department of Community Development**

**TD Bank Charitable Foundation**

## In This Issue

- Fair Housing Month 2010: "It's Time to Act"
- Mortgage Fraud Task Force
- Vicarious Liability and the Fair Housing Act
- Mrs. Murphy's Exemption under the Fair Housing Act: What Every Realtor Should Know
- Concord Park in Bensalem: The First Commercially Developed Integrated Housing Community in the United States

## Fair Housing Month 2010: "It's Time To Act"

On April 11, 1968, just one week after the tragic assassination of Rev. Dr. Martin Luther King, Jr., President Lyndon B. Johnson signed the Fair Housing Act. The Fair Housing Act, also known as Title VIII of the Civil Rights Act of 1968, gave people of all races, religions, nationalities, and sexes the right to access the housing of their choice. In 1988, the Fair Housing Act was amended to protect disabled persons as well as families with children from discrimination, in an effort to make sure a wider base of the population is protected. Now, in 2010, the fair housing community is celebrating 42 years of fair housing in America.

With the appointment of U.S. Department of Housing and Urban Development (HUD) Secretary Shaun Donovan in 2009, came a call to "re-energize efforts around fair housing". Secretary Donovan stated, "I think its incumbent upon us to remember that HUD's mission in fair housing is not just enforcement... it is affirmatively furthering fair housing". He went on to say, "we must have a commitment to creating a geography of opportunity in this country that opens up all neighborhoods to be neighborhoods of choice."

According to HUD's most recent data, housing discrimination complaints have been at an all-time high, with 10,552 complaints nationwide. Disability, race and familial status top the list of reasons why consumers are experiencing discrimination. So despite the passing of the Fair Housing Act 42 years ago, discrimination still occurs in America and is perpetuated by the apparent segregation of many communities across the nation.

The Fair Housing Council of Suburban Philadelphia issued a study in 2009 titled "FHCSF Rental Audit: Housing Discrimination Trends in the Philadelphia Region", which analyzed the shared experiences of families with children, people with disabilities and African American home seekers in the greater Philadelphia area in seeking out quality and affordable housing. The data for this study was obtained through the process of "testing", which is a controlled process designed to identify

*(Continued on page 6)*

**FHCSP Board of Directors**

Lisa Gaffney  
*President*

Deborah Cooper  
*Vice President*

Stephanie Cehelsky  
*Treasurer*

Frankie Baughn  
*Secretary*

Nelson Acevedo

Michael Bannon

Kristi Dennis

Elizabeth Moreira, Esq.

Jennifer Perry

**FHCSP Staff**

James Berry  
*Executive Director*

Rachel Wentworth  
*Assistant Director*

Megan Bolin  
*Test Coordinator*

Sarale Sewell  
*Education Specialist*

Lynne Ellison  
*Bookkeeper*

**Contact FHCSP**

Fair Housing Council of  
Suburban Philadelphia

225 S. Chester Road  
Suite 1  
Swarthmore, PA 19081

Phone: 610-604-4411  
Toll Free: 866-540-FAIR (3247)  
Fax: 610-604-4424

Information@fhcsp.com  
www.fhcsp.com

# Vicarious Liability and the Fair Housing Act

The Fair Housing Council of Suburban Philadelphia (FHCSF) recently settled a complaint against apartment owners and their tenants for violating the fair housing act by printing a discriminatory advertisement and denying families with children from housing. The tenants wished to terminate their lease early, and the apartment owners allowed this on the condition that the tenants would help find a prospective renter for the one bedroom apartment. The tenant then placed an ad that stated "no dogs or children", on behalf of the apartment owners. FHCSF found this advertisement, and through further investigation, found that the apartment owners were willing to rent to a couple, but not to a mother and child. The U.S. Department of Housing and Urban Development (HUD) issued a charge of discrimination in this case, and both the apartment owners and the tenants were liable for the discriminatory statements made.

The Fair Housing Act protects people from discrimination in housing based on their race, color, religion, national origin, gender, disability, or familial status. Advertising is also protected under the Fair Housing Act, which makes it illegal to make, print, or publish discriminatory statements in any type of media. Therefore, printing the statement "no children" in a newspaper or internet classifieds would be considered discriminatory advertising and therefore illegal, as it limits housing choice for families with children.

It happens on occasion that tenants will act on behalf of a property owner, landlord, property manager or real estate professional to help find a replacement tenant. In these instances, the tenant can be considered an "agent". This could also include any other individual who acts on behalf of the property owner, landlord or property manager including maintenance workers, friends, relatives, neighbors and others. Case law dictates that not only can the tenant be held liable for any discriminatory advertising, but the owner, landlord, manager, real estate professional or any other entity that the tenant may be representing can be held "vicariously liable" for the actions of that tenant, as demonstrated in Meyer v. Holley Et Al. 537 U.S. 280. In the case mentioned above, HUD determined that the apartment owners were held liable not only for their own discriminatory actions, but held vicariously liable for the discriminatory remarks of their tenants who were acting as agents on their behalf.

The Fair Housing Act does not dictate whether or not a property owner, landlord, property manager or real estate professional can have

*(Continued on page 5)*

# Mrs. Murphy's Exemption under the Fair Housing Act: What Every Realtor Should Know

The Fair Housing Act (the Act) protects people from discrimination in housing on the basis of race, color, religion, national origin, gender, disability and familial status. Age (above 40) is also protected in the Commonwealth of Pennsylvania. Generally, the Act applies to all types of housing, with just a few exemptions. One of the exemptions to the Act is commonly called "Mrs. Murphy's" Exemption.

Mrs. Murphy's Exemption states that if a dwelling has four or less rental units and the owner lives in one of those units, that dwelling is exempt from the Fair Housing Act. This exemption does not apply to advertising, as it would still be illegal to publish a discriminatory advertisement for housing. Furthermore, the exemption also does not apply when a Realtor® is involved as an agent of a "Mrs. Murphy" property.

"Mrs. Murphy" is the hypothetical elderly widow who has converted a portion of her home into a rental apartment to supplement her limited income. She lives in the home, and rents the apartment. In this hypothetical scenario, Mrs. Murphy is exempt from the Fair Housing Act as long as she does not use the services of a Realtor® or advertises in a discriminatory fashion. Section 804(c) of the Fair Housing Act makes it illegal "to make, print, or publish ... any notice or statement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination". Furthermore, Realtors® are presumed to be professionally trained in the fair housing laws, and therefore aware that housing discrimination of any kind is prohibited.

In certain situations, Realtors® may find themselves in disagreement with property owners who may have preferences for certain tenants to live in their properties. For example, if a property owner – who lives in a duplex and rents one unit upstairs from them – hires a Realtor® and requests that no children be permitted to live in the upstairs apartment. Normally this rental situation would be exempt, were it not for the Realtor® acting as an agent for that property owner. However, since the Realtor® is involved, this property loses the exemption and would be subject to the fair housing laws, therefore not allowing the Realtor® or property owner to deny families with children from renting the unit. In cases like this, a Realtor® has the responsibility to inform the property owner that they obey fair housing laws and cannot assist them in limiting occupancy.

One other aspect of Mrs. Murphy's exemption is that it never applies to race-based housing discrimination. The 1866 Civil Rights Act, which

*(Continued on page 7)*

## What Is Fair Housing?

The U.S. Department of Housing and Urban Development (HUD) estimates that each year 2.5 million people are victims of housing discrimination.

The Fair Housing Act prohibits discrimination in housing on the basis of:

- Race
- Color
- Religion
- National Origin
- Sex
- Disability
- Familial Status (presence of children under 18 in the household)

The Fair Housing Act covers all housing related transactions, including:

- Rentals
- Sales
- Mortgage lending
- Homeowner's insurance
- Advertising
- Zoning
- Appraisals

The Pennsylvania Human Relations Act additionally protects people from discrimination in housing on the basis of age (above 40).

If you or someone you know feels victimized by housing discrimination, contact FHCSF at:

Phone: 610-604-4411  
Toll Free: 866-540-FAIR (3247)  
information@fhcsp.com

FHCSF can help investigate your complaint and assist you in determining what action should be taken.

## Who is FHCSP?

### FHCSP's Mission:

To educate and advocate for equal access to quality, affordable housing for everyone in Southeast Pennsylvania

FHCSP is the oldest fair housing council in the nation, established in 1956

FHCSP serves the Greater Philadelphia area, including Bucks, Chester, Delaware, Montgomery Counties and the City of Philadelphia

FHCSP is a Qualified Fair Housing Enforcement Organization (QFHO), as designated by HUD, and additionally provides education for both consumers as well as the housing industry

Since its inception, FHCSP has eliminated discrimination at

# 46,783

housing units, making them available to members of the protected classes

# Concord Park in Bensalem: The First Commercially Developed Integrated Housing Community in the United States

Located in Bensalem, Bucks County, Concord Park was the first commercially developed integrated housing community in the United States. Warren L. Swartzbeck, long-time member of the Fair Housing Council of Suburban Philadelphia, was a resident at Concord Park and was employed by Concord Park Homes in the 1950's, working with a group of devoted individuals who believed that housing should be available to everybody without regard to race. This was prior to the passing of the Fair Housing Act, so the group faced many obstacles in getting this housing community built and occupied at that time, given societal prejudice and the lack of civil rights for African Americans at the time. However, they overcame many of these obstacles and were successful in creating the first integrated housing community in the United States.

The idea to build an integrated housing community was conceived by Morris Milgram, who was a firm believer in social justice and felt that housing should be made available to everyone without prejudice. Mr. Milgram was able to recruit a diverse group of friends to help with the project, including an experienced builder in Bucks County named George Otto, who also helped put up the capital to purchase the land in Bucks County. The group also solicited the advice of organizations with similar goals, such as the American Friends Service Committee and FHCSP, known at the time as the Committee for Democracy in Housing of Lansdowne and Vicinity.

The builders successfully built an attractive three bedroom rancher, to be used as the model home for prospective buyers to tour. The construction of the model home was similar to the construction of other housing communities in the area. Despite a widespread advertising campaign however, only a handful of people who toured the sample home were willing to commit a down-payment. The major obstacle that the builders faced was that white buyers did not want to live next door to African Americans. On the other hand, African Americans homebuyers were being turned down at other housing communities, so there were few other options for them aside from Concord Park.

In order to uphold the goal of creating a truly integrated housing community, a committed salesperson named Stuart Wallace was recruited. Mr. Wallace held similar beliefs as the rest of the founding members of the Concord Park community, and eagerly moved his family into the community. By using innovative advertising and sales techniques, Mr. Wallace actively sought out white homebuyers who were willing or eager to live in an integrated community. It was the feeling at the time that, while there were white homebuyers who were willing to live in an integrated community, generally

white homebuyers were not willing to live in a community where they were not the majority. Therefore, Concord Park adopted a policy of trying to get a 55% white majority, with a 45% African American minority. The construction of the 139 planned housing units was timed based on the ability to fill the homes with buyers who met that quota ratio.

Originally, the construction of all the homes in Concord Park was planned to be completed within two years. In order to meet the quota to achieve the desired level of integration, the construction slowed down and was completed in three years instead. However, by 1957, Concord Park was successfully completed and occupied, and achieved its original goal of racial integration in a primarily white suburban community.

Mr. Milgram and Mr. Otto were partners in the development of Concord Park who worked together for ten years to promote other interracial communities. In 1956, both men were awarded the annual Fellowship Award by Philadelphia Mayor Richardson Dilworth because of their work to develop Concord Park. They continued their efforts of building single family homes and promoting integration within the developments in other areas in Pennsylvania, New Jersey, Delaware, Connecticut and Illinois. Two successfully integrated projects that these men completed were in Princeton, NJ and Newtown, PA.

The Concord Park community was a success, both socially and financially. Despite the setbacks in the building process, the original investors gained a 9% return per year on their investment, proving that integration was not bad for business. However, despite the success in creating Concord Park and the passing of the Fair Housing Act, social change is slow. Today, Concord Park is comprised of nearly 95% of African American residents, while surrounding higher-income communities are about 95% white. "It has become obvious that if we are ever to disrupt this pattern of segregation, new techniques need to be devised to convince both buyers and builders that it is worth their while to consider their moral principles, such as was done at Concord Park," says Mr. Swartzbeck. "While we are retired, we retain our interest in promoting equal rights and we are extremely grateful that the Fair Housing Council of Suburban Philadelphia continues to expand its programs along these lines."

This article was contributed by Warren L. Swartzbeck, longtime member of the Fair Housing Council of Suburban Philadelphia.

## Vicarious Liability and the Fair Housing Act

*(Continued from page 2)*

agreements with tenants to help find and screen home-seekers. However, owners, landlords, managers or real estate professionals should be aware that they can be held liable for any discriminatory statements made by tenants. It is always best to proceed with caution into any agreement to advertise or show housing with tenants or other entities that may not be fully aware of what they can and cannot say to a home-seeker.

### 42 Years of Fair Housing

2010 marks the 42nd anniversary of the Federal Fair Housing Act.

On April 11, 1968, President Lyndon B. Johnson signed the Civil Rights Act of 1968. Title VIII of the Act is commonly known as the Fair Housing Act.

*"We must open the doors of opportunity. But we must also equip our people to walk through those doors."*

*-President Lyndon B. Johnson*

After a few failed attempts at trying to gain approval for the fair housing bill, President Johnson finally succeeded in urging Congress to pass fair housing legislation, only after the tragic assassination of Rev. Dr. Martin Luther King, Jr. on April 4, 1968.

*"The law needs help... In the end, for laws to be obeyed, men must believe they are right."*

*-Rev. Dr. Martin Luther King, Jr., 1958*

**Donate to FHCS**

The Fair Housing Council of Suburban Philadelphia is eligible to receive designated United Way funds through the Donor Options Program.

FHCS's agency code:

#5182



Please Donate!

## Fair Housing Month 2010: "It's Time to Act"

*(Continued from page 1)*

any differences in treatment that potential home seekers may experience. The results of this study show that discrimination undeniably persists in the greater Philadelphia region, and reported that:

- 54% of testers sounding African American were treated less favorably than testers sounding white
- 33% of new construction communities violated the design and construction requirements of the Fair Housing Act
- 29% of tests showed preferential treatment favoring white testers over African American testers
- 27% of tests showed that individuals with disabilities were denied reasonable accommodation or modification requests
- 19% of tests showed preferential treatment favoring households without children over households with children

Now, in 2010, HUD has chosen its Fair Housing Month theme as "It's Time to Act". While the fair housing community has experienced change and concrete progress over the past 42 years, there is still much work to be done. Now is indeed the time to act to ensure that the more subtle forms of discrimination that many individuals experience on a daily basis do not go unnoticed, to make sure that consumers are educated to know their civil rights and the housing industry learns to comply with the fair housing laws, and to affirmatively further fair housing and break the pattern of segregation all across the nation. As Rev. Dr. Martin Luther King, Jr. said, "injustice anywhere is a threat to justice everywhere". Now is the time to act to make sure that justice prevails, and Americans have the freedom of choice in their quest for quality housing.

### HELP FIGHT HOUSING DISCRIMINATION! BECOME A FAIR HOUSING TESTER

The Fair Housing Council of Suburban Philadelphia is in need of Fair Housing Testers to assist in uncovering housing discrimination in the Philadelphia region. FHCS is a private, non-profit organization that educates consumers and housing providers about fair housing laws and investigates complaints of housing discrimination in Bucks, Chester, Delaware, Montgomery and Philadelphia counties.

Trained testers pose as home seekers and visit housing providers to collect information to assist with regional monitoring and investigations. Testers are paid a small stipend (\$50-80) for their efforts and are reimbursed for mileage, tolls and postage. Testers document their experiences objectively—attention to details and excellent writing skills are required. FHCS relies on fax and/or e-mail to notify testers, set up scenarios and submit tests. Qualified applicants will have access to a reliable form of transportation. Accepted applicants must attend a 3-4 hour training and a paid practice test. For more information, please contact FHCS's Test Coordinator, Megan Bolin at [bolin@fhcsp.com](mailto:bolin@fhcsp.com) or 610-604-4411 x2.

## Mortgage Fraud Task Force

*(Continued from page 8)*

lending scams involving the restructuring of their mortgage loans.

In the effort to fight mortgage fraud, a Mortgage Fraud Task Force has been formed by the U.S. Attorney's Office Eastern District of Pennsylvania, consisting of members of federal, state and local government. Information about the task force can be found on the United States Attorney's Office, Eastern District of Pennsylvania website. The webpage serves as a forum for information sharing, and a centralized hub to find out about resources in the area. This website includes a list of the members of this task force and their contact information; sample legal documents; a listing of grant opportunities for groups wanting to start programs aimed at eliminating mortgage fraud; and a listing of resources including brochures in English and Spanish, papers analyzing the effect of predatory lending and mortgage foreclosures in Pennsylvania, and a list of agencies in the area that have programs to help individuals with their mortgage problems. This website can be found at:

<http://www.justice.gov/usao/pae/mortgagefraudtaskforce.html>

The Mortgage Fraud Task Force is working to ultimately help consumers work through their mortgage fraud issues by educating government agencies at the federal, state and local levels and social service agencies about the issue of mortgage fraud, and how to take action when mortgage fraud does occur. The Task Force welcomes any additional public information about investigating and prosecuting mortgage fraud cases. If you have information that could be helpful in the fight against mortgage fraud and would like to include it as a listing on this website, please contact Richard J. Zack, Commercial and Consumer Fraud Section Head1 at 215-861-8463 or Michael S. Blume, Assistant U.S. Attorney at 215-861-8376 at the U.S. Attorney's Office for the Eastern District of Pennsylvania.

## Mrs. Murphy's Exemption under the Fair Housing Act: What Every Realtor® Should Know

*(Continued from page 3)*

makes it illegal to discriminate based on race, is not subject to any exemptions. Therefore, a property owner who has an otherwise exempt property is not permitted to screen tenants based on racial preference. Realtors® would, of course, be subject to this law as well.

In conclusion, Realtors® should know that if they are acting as an agent on a client's behalf, that client's property will not meet the Mrs. Murphy's exemption under the Fair Housing Act. Realtors® are regarded as having a higher degree of responsibility and accountability under the law than "Mrs. Murphy", or the small-time landlords who are not in the real estate business as a primary source of income.

### FHCSP supports Energy Star®

The average family spends \$1,900 a year on energy bills, much of which goes to heating and cooling. By reducing the amount of energy used in your home, you save money on energy bills, and reduce the amount of greenhouse gas emissions generated by burning fossil fuels to make that electricity.

For more information on improving your home's overall heating and cooling efficiency:

Go to the ENERGY STAR @ home interactive tool ([www.energystar.gov/home](http://www.energystar.gov/home)) which provides energy-efficient home improvement ideas and energy saving tips and advice for your entire home.





Fair Housing Council  
of Suburban Philadelphia  
225 South Chester Road, Suite 1  
Swarthmore, PA 19081-1919

ADDRESS SERVICE REQUESTED

NONPROFIT  
ORG.  
U.S Postage  
PAID  
Swarthmore, PA  
Permit No. 14

The Nation's Oldest Fair Housing Council  
Founded in 1956

## U.S. Attorney's Office Eastern District of Pennsylvania's Mortgage Fraud Task Force

Recently, the Fair Housing Council of Suburban Philadelphia (FHCS) ran an article dealing with mortgage loan modification scams, as there has been an increased need for consumers facing foreclosure to seek loan modifications to help them get into a loan agreement that they can afford in hopes of avoiding foreclosure. Foreclosure consultants have emerged in the market, offering services to homeowners who face foreclosure and need to modify the terms of their current mortgage loan. While in many cases, this is a legitimate, valuable and necessary service in the current housing market, it has also given rise to a new breed of scammers looking to exploit homeowners who are already struggling to make ends meet.

The Fair Housing Act protects consumers from discrimination in housing related transactions based on race, color, religion, national origin, gender, disability and familial status. Mortgage lending is a housing related transaction covered under the Fair Housing Act. Fair lending is an important issue to the fair housing community. These days, consumers facing foreclosure now may not have been victims of predatory or discriminatory lending, but they may encounter

*(Continued on page 7)*