



VOLUME 1, ISSUE 2

Serving Bucks, Chester, Delaware and Montgomery Counties Since 2001

Mission

Our mission at LASP is to provide quality legal representation to low-income people, to empower them to solve problems without legal representation through legal education and increased access to the courts, and to change community practices and systems that cause or aggravate poverty.

David Bennethum, Esq.
Editor

The Fair Housing Newsletter is a project of the Bucks County Division of Legal Aid of Southeastern Pennsylvania. Funding for this newsletter is provided through a contract with the Bucks County Department of Community and Business Development.

IN THIS ISSUE:

Sexual Harrassment.....2

Support for Fair Housing.....2

Landlords and their Employees.....3

Fair Housing Training.....4

Using the Fair Housing Act to Resolve Problems Outside of Court

The Fair Housing Act can be a very effective tool for resolving conflicts without ever needing to set foot in a court or hearing room. Recently, a disabled Legal Aid client was caught in a dispute between a Public Housing Authority and a private landlord that threatened to cut-off the rent subsidy paid to the landlord on behalf of the tenant. The Housing Authority had notified the landlord and the tenant that, due to a dispute with the landlord, it intended to stop making the rent payments on the apartment where the tenant had lived with her two sons for 6 years.



Although the Housing Authority offered the tenant a voucher to transfer and find another rental, the tenant's disability made it virtually impossible for her to engage in any sort of meaningful search for another place to live. Moreover, her youngest son was doing very well in his local high school and the tenant feared she would not be able to find another suitable rental in the same school district.

The Fair Housing Act requires housing providers to consider and grant requests for reasonable accommodations unless such accommodations would impose an undue financial or administrative burden or work a fundamental alteration in the nature of the provider's program. A reasonable accommodation is a change or waiver of a housing provider's rules, policies, practices or services when such accommodation maybe necessary to afford a disabled person an equal opportunity to use and enjoy a dwelling.

In this case, the Housing Authority granted Legal Aid's request to waive and/or suspend the breach of contract by the landlord as a reasonable accommodation of the tenant's disability, and the tenant and her sons remained in their home.



Fair Housing



Sexual Harrassment and Intimidation

A landlord or someone working for a landlord who threatens or sexually harasses a tenant is breaking the law. The Fair Housing Act (FHA) forbids discrimination on the basis of sex in the terms, conditions, or privileges of sale or rental of a dwelling, and it is clear that sexual harassment in the housing context can violate the Act. Verdicts as high as \$450,000 have been entered against landlords in these cases. In one case, a Mississippi landlord demanded sexual favors from female tenants and evicted or otherwise took revenge against those who refused his sexual advances. In another, a landlord attempted to evict the victim tenant after she filed a formal complaint of discrimination and convincing evidence of sexual harassment was found.

The landlord may claim that the tenant is being evicted because she has violated the lease and not because she has refused his sexual advances. But even where the tenant has breached a term of the lease, if it is shown that the landlord was substantially motivated by his desire to get back at the tenant in trying to evict her, she may win the case. A reasonably short period of time between the refusal of sexual advances and the attempt to evict may be enough to show that the eviction was improper.

Damages available to victims of sexual harassment and other forms of discrimination in housing and for subsequent coercion and intimidation may include compensation for alternative housing costs, awards for emotional distress and inconvenience, and even punitive damages where the conduct is sufficiently serious. Additionally, civil penalties of up to \$10,000 for a single offense and up to \$55,000 for repeated offenses may be imposed upon the landlord in order to prevent similar conduct in the future.

Support for Fair Housing in Montgomery County

The Montgomery County Foundation in August of 2007 contributed \$1,000 to LASP to help the Montgomery County Division increase its capacity to handle Fair Housing Legal Cases. David Bennethum, the managing attorney of LASP's Bristol office, will offer inservice training for legal staff in Montgomery County on Fair Housing issues and strategies. He will also work with staff to develop a Montgomery County Fair Housing handbook modeled on one that has been used in Bucks County. Residents of Montgomery County who can't afford a lawyer and believe they have experienced unlawful housing discrimination can call the LASP Helpline for assistance, 1-877-429-5994.



Landlords Need to Know What Their Employees Are Doing

Are landlords liable for the discriminatory acts of their employees? The short answer is *yes*. Both Courts and the U.S. Department of Housing and Urban Development (HUD) have consistently found that landlords may be held liable for the wrongful acts of their employees or agents. In the law, this is typically known as “vicarious liability” or “respondeat superior,” and simply means that an employer can be held responsible for the conduct of an employee when such conduct causes harm to another. Such liability may extend even to conduct deemed intentional or criminal, such as where a property manager sexually harasses a tenant.

In *Meyer v. Holley*, the U.S. Supreme Court held that the Fair Housing Act provides for vicarious liability, and that it is well established that these rules make principals or employers liable for acts of their agents or employees in the scope of their authority or employment. However, the Supreme Court also ruled that absent special circumstances, it is the corporation, not its owner or officers, that is subject to liability.



Since the *Meyer* decision in 2003, other courts have clarified in holdings that the Supreme Court did not say in that case that individuals cannot be sued and held liable under the FHA. Rather, where the corporation is the “owner” of the property, it is typically the corporation, not its owners and officers, that may be held liable. However, where individual officers or owners of corporations actually direct and control the unlawfully acting employee, those owners or officers may be liable along with the corporation.

The best practice for any landlord or other business involved in housing related transactions is to have a written policy and provide training to all employees on fair housing law.



LASP **Legal Aid**
of Southeastern PA

1290 Veterans Highway
Box 809
Bristol, PA 19007

Bucks County Offices

1290 Veterans Highway, Box 809
Bristol, PA 19007
215-781-1111
Walk-ins:
W 1-3:30pm

100 Union Street
Doylestown, PA 18901
215-340-1818
Walk-ins:
M-F 8:30am-4:30pm

www.lasp.org

NON-PROFIT

U.S. POSTAGE PAID

BRISTOL, PA 19007

PERMIT NO. 436

Fair Housing Training in Bucks

Through funding provided by the Bucks County Department of Community and Business Development, Legal Aid's Bucks County Division offers training seminars on Fair Housing law to county residents, homebuyers, tenants, county agencies and private non-profit agencies. The seminars are designed to provide a basic understanding of rights and responsibilities under the law. Training can be arranged at your site or our offices by calling LASP at 215-781-1111.

Need Legal Help? Call Us!

Legal Aid of Southeastern Pennsylvania provides free legal advice and representation to eligible low-income clients on a variety of civil matters. The primary issues handled by LASP include, but are not limited to: custody, Chapter 7 bankruptcy, employment law, protection from abuse for plaintiffs, landlord/tenant law, welfare benefits, Social Security, public housing and elder law issues

If you need legal help, the first step is to call the LASP toll-free Helpline at 1-877-429-5994 (Monday through Friday, 9am-4pm).

During your first call, an intake worker will determine if you are eligible for our services and if your legal problem is one that we handle.

The degree of assistance LASP provides is determined on a case-by-case basis.

