

# Fair Housing Update

Fair Housing of the Dakotas

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## UPDATE ON PREVIOUSLY FILED CASES

In February, the FHD filed a complaint and assisted female tenants in filing complaints alleging sexual harassment due to gender by a Rapid City, SD housing provider. The FHD investigation had found evidence of discrimination. Following the filing of the complaint, the Respondent sold all his rental property. In August, a conciliation was reached in which the Respondent agreed to reimburse the FHD its costs and attorney fees in the amount of \$20,765 and agreed to hire a property management company should the Respondent ever own rental property again. The Respondent also settled a complaint filed by a Rapid City resident. The Respondent denied having discriminated against any of his tenants. (HUD Case No. 08-09-0087-8)

## FHD FILES CLASS ACTION LAWSUIT

In June 2009, the Fair Housing of the Dakotas filed a class action lawsuit on behalf of people with disabilities against Goldmark Property Management. The suit alleges that Goldmark has discriminated due to disability in the charging of fees, additional rent and non-refundable deposits for those with disabilities who need reasonable accommodations for service animals (sometimes also called assistive, companion or therapeutic animals). Goldmark manages property in Iowa, Nebraska, Minnesota and North Dakota.

This case has excited interest in these important issues. A "reasonable accommodation" is a change, exception, or ad-

justment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. An example of a reasonable accommodation can be the allowing of an animal in a no pets building and/or the removal of any pet related fees when an animal is needed for a disability. A housing provider can enforce any city ordinances related to leash rules, inoculations, etc. or any state laws relating to charging for any damage above reasonable wear and tear. The housing provider cannot, however, charge additional fees just because someone needs a reasonable accommodation for an animal for their disability. A housing provider has the right to verify that a person meets the law's definition of disability and that there is a relationship between the person's disability and their need for the animal. If a person's impairment does not meet the definition of disability, a reasonable accommodation is not applicable. People with mental disabilities are not treated differently from those with physical disabilities under Fair Housing Laws.

For more information on these issues, the joint statement issued by the US Department of Housing & Urban Development and the US Department of Justice titled "Reasonable Accommodations Under the Fair Housing Act" is very informative (see Page 9, Question 11 of that Statement which reviews the charging of fees for reasonable accommodations). The Federal Fair Housing Act (passed in 1968 and amended in 1988) and the North Dakota Housing

**Fair Housing of the Dakotas (FHD)** is a non-profit organization serving North and South Dakota with a mission to work to eliminate housing discrimination and to ensure equal housing opportunities for all. The FHD provides assistance to individuals pursuing legal rights and remedies related to fair housing, offers housing assistance and counseling, provides community education, promotes community involvement and performs research in the area of housing.

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Discrimination Law (passed in 1999) are also helpful. Additional materials are also available on the FHD web site at [fhdakotas.org](http://fhdakotas.org) (choose the "What is Fair Housing" link and scroll to the Disability & Fair Housing section).

The Fair Housing of the Dakotas' mission is to eliminate housing discrimination and ensure equal housing opportunities for all. The FHD provides assistance to individuals pursuing their rights and remedies related to fair housing, provides community education, promotes community involvement and performs research in the area of housing. We encourage tenants, landlords and anyone else to contact us to obtain information that would be helpful in achieving these goals.

### **ND SUPREME COURT RULES IN FAIR HOUSING CASE**

In July 2009, the North Dakota Supreme Court ruled in a fair housing case brought by the State of North Dakota/North Dakota Department of Labor vs. Matrix Properties Corporation. The case centered upon the timeline and right to file complaints of housing discrimination against multifamily properties built after March 13, 1991 which are not designed and constructed to be accessible to people with disabilities as required under Fair Housing Laws. The ND Supreme Court supported the lower court's ruling that the case was outside of statute of limitations because the individual did not file their complaint within two years of the property's receipt of a certificate of occupancy. This ruling was against other rulings across the country and guidance from the US

Department of Housing & Urban Development and the US Department of Justice which states that the subject properties are in violation until retrofitted to be accessible as required under the Fair Housing Act (and the North Dakota Housing Discrimination Act).

This ruling will have an extremely harmful effect on people with disabilities who seek accessible housing in North Dakota. The ruling establishes that multifamily properties which are not accessible need only pass the first two years of rental without a complaint being filed and they will no longer be required to be accessible to people with disabilities. With accessible housing a growing need in North Dakota and across the US as people age and/or become disabled, the ruling is extremely unfortunate.

A copy of the ruling is available on the FHD's web site "Case and Press" page or at the ND Supreme Court web site (Docket No. 20080224). The Fair Housing of the Dakotas was not party to the case.

### **RECENTLY FILED COMPLAINTS IN NORTH & SOUTH DAKOTA**

The Fair Housing of the Dakotas (FHD) files and assists North and South Dakotans in filing fair housing complaints. A brief description of recent cases of interest follows:

In May, the FHD filed a complaint alleging discrimination in rental against families with children. The FHD investigation found that a Mandan, ND property was advertising "45+". Since there is no housing for older person exemption for 45 and over, the housing did not appear to meet the exemptions for housing

for older persons. The FHD investigation also found that per head rental charges were also being used which have been found to discriminate against families with children. Conciliation reached for Respondent to attend fair housing training, correct future advertisements to meet Fair Housing Laws, change of per head charging policies and reimburse a portion of the FHD investigative costs. (NDDOL Case No. ND09-11-503)

In June, the FHD filed a complaint alleging discrimination in rental against families with children. The FHD investigation found that a Bismarck, ND property was advertising "all retired people" which did not indicate it as meeting the qualifications of housing for older persons. Conciliation reached for Respondent to attend fair housing training, correct future advertisements to meet Fair Housing Laws and reimburse a portion of the FHD investigative costs. (NDDOL Case No. ND09-12-506)

In June, the FHD filed two complaints against a Fargo, ND rental company following contact by a Fargo resident who felt rental discrimination was occurring in the requirement that people with disabilities who needed service dogs have insurance coverage above and beyond what was required of other tenants. The FHD investigation supported the allegations. When the resident chose not to file a complaint, the FHD proceeded forward to address the alleged discriminatory practices. Pending. (NDDOL Case No. ND09-12-507 & ND09-12-511)

In July, the FHD filed a complaint



alleging discrimination in rental against families with children. The FHD investigation found that a Bismarck, ND property was advertising "single person" which indicated a preference against families with children. Conciliation reached for Respondent to correct future advertisements to meet Fair Housing Laws. (NDDOL Case No. ND10-01-005)

In August, the FHD filed and assisted a Minot resident in filing complaints alleging discrimination in rental due to race, disability, color and familial status. The complaints allege that two Minot mobile home park managers were making derogatory comments toward African Americans, Native Americans and those with disabilities; applying rules and policies differently due to race, color and familial status; denying rental due to race, color and familial status; and denying reasonable accommodations for those with disabilities. Pending. (NDDOL Case No. ND10-02-015 & ND10-02-016)

In August, the FHD filed a complaint alleging discrimination in rental due to receipt of public assistance. The FHD investigation found that a Mandan, ND manager was advertising "no hap/housing" and denying rental to those who received public assis-

tance. Pending. (NDDOL Case No. ND10-02-019)

In August, the FHD received an allegation that discrimination in rental against families with children was occurring by a Fargo, ND housing provider who was refusing to rent to families with children on anything other than the ground floor. The FHD investigation confirmed that discrimination was occurring. When the resident chose not to file a complaint, the FHD proceeded forward to address the alleged discriminatory practices. Pending. (NDDOL Case No. ND10-02-020)

In August, the FHD filed a complaint alleging discrimination in rental against families with children. The FHD investigation found that a Bismarck, ND property was advertising "NO CHILDREN" and refusing to rent to families with children. Pending. (NDDOL Case No. ND10-02-021)

In August, the FHD filed a complaint alleging discrimination in rental against families with children. The FHD investigation found that a Moberly, SD property was advertising "adults only" and did not meet housing for older persons requirements. Pending. (HUD Case No. pending)

In August, the FHD filed a complaint alleging discrimination in rental against families with children. The FHD in-

vestigation found that a Sioux Falls, SD property was advertising "single person or couple" and refusing to rent to families with children. Pending. (HUD Case No. pending)

**NEWS FROM HUD**

Below is information on recent HUD charges of housing discrimination:

HUD Charges NYC Apartment Owners for Statements Against Blacks: HUD has charged two Queens, NY, apartment owners with violating the Fair Housing Act for allegedly making discriminatory statements and objecting to an African-American roommate moving into a "white neighborhood."

HUD Charges Long Island Landlord for Refusing Service Animals: HUD has charged a Long Island, NY property with denying reasonable accommodations for people with disabilities who require service animals. The charge alleges that the property will only allow "seeing eye dogs".

HUD Charges Property Advertising "no children": HUD has charged a Rhode Island property with discriminatory advertising and for refusing to rent to families with children. The property is also managed by a real estate agent.

More information on these cases can be found at: [www.hud.gov/offices/ftheo/](http://www.hud.gov/offices/ftheo/)

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**This Newsletter is also available  
at [www.fhdakotas.org](http://www.fhdakotas.org) in pdf  
format**

### **FAIR HOUSING LAWS**

The Federal Fair Housing Act makes it illegal to discriminate in the rental, sale or financing of housing due to a person's race, color, religion, national origin, gender, familial status and disability. North Dakota state law also protects age (40 and over) and status with respect to marriage and public assistance. South Dakota state law protects most of the federal protections and also protects due to creed and ancestry. For information on filing a housing discrimination complaint, contact the Fair Housing of the Dakotas (1-888-265-0907), the ND Dept. of Labor (1-800-582-8032) or HUD (1-800-877-7353).

### **VOLUNTEERS NEEDED**

The FHD is seeking volunteers to assist in gathering information on

alleged discriminatory housing practices. Volunteers are paid a stipend for their time and services and receive training. Please contact Stacy at 1-888-265-0907 or 701-221-2530 if you are interested or want more information.

### **WEB SITE & PUBLICATIONS**

The FHD web site located at [www.fhdakotas.org](http://www.fhdakotas.org) has several publications online regarding fair housing. Choose our "What is Fair Housing" link to view the list of publications online. Publications are also available through postal mail by completing our Publications Form available online or by contacting the FHD Office.

The web site also includes updates on upcoming events or trainings, state legislation of interest, past newsletters, press releases, and numerous web links to other

organizations.

### **DISCLOSURES & NOTICE**

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