



Practice Fair Housing



The City of
SAN DIEGO

Fall 2016 | Vol. 7

Equal access to housing is a right protected by both federal and state law. The City of San Diego strives to increase housing opportunities and equality for its citizens. Our Practice Fair Housing program offers free services to the community to promote equal housing opportunities. Our goal for the program is to emphasize solutions through education and enforcement so that our shared values of community, opportunity, and equality can be realized.

FAIR HOUSING HOTLINE NUMBER
1-844-449-3500

What is Fair Housing?

Fair housing means the ability of persons of similar income levels who are seeking housing in similar housing markets and who have like qualifications, will have available to them the same range of housing choices without regard to race, color, national origin, religion, sex, disability (physical/mental) or familial status (presence of children), as provided under the Federal Fair Housing Act. California laws have the same protections as federal law and further protect against housing discrimination on the basis of sexual orientation, source of income, marital status, age, ancestry, medical condition, genetic information, gender identity, gender expression, or arbitrary status.

HUD Offers Advice for Renting to Ex-Offenders

A new set of guidelines from the Department of Housing and Urban Development (HUD) will make it tougher for property owners to discriminate against applicants who have criminal backgrounds. The guidance specifically addresses how a refusal to rent or sell property to people who have criminal records is discriminatory and is a violation of an individual's fair housing rights.

As many as 100 million U.S. adults, or nearly one-third of the population, have a criminal record. The United States prison population of 2.2 million adults is the largest in the world. As of 2012, the United States accounted for almost five percent of the world's population, yet nearly 25 percent of the world's prisoners were held in American prisons.

It is important for individuals who have criminal records to have access to safe, secure, affordable housing, which is critical to their successful reentry into society. Yet housing discrimination against individuals with a criminal record continues to flourish, and the barriers are greater for those who are seeking public or federally subsidized housing.

"Right now, many housing providers use the fact of a conviction, any conviction, regardless of what it was for or how long ago it happened, to indefinitely bar folks from housing opportunities," said Secretary of Housing and Urban Development Julian Castro.

People with a criminal record are not a protected class under the Fair Housing Act. However, discrimination and restrictions on housing opportunities violate the Act if, without justification,

their burden falls more often on renters or other housing market participants of one race or national origin over another (i.e., discriminatory effects liability).

The new guidelines will allow a three-step approach to analyzing claims that a housing provider used the individual's criminal record to deny housing opportunities:

- **Evaluate whether the criminal history policy or practice has a discriminatory effect**
- **Evaluate whether the challenged policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest**
- **Evaluate whether there is a less discriminatory alternative**

The Fair Housing Act prohibits both intentional and non-intentional housing discrimination practices that have an unjustified discriminatory effect because of race, national origin or other protected classes. In the U.S. criminal justice system, widespread racial and ethnic disparities exist. African Americans and Latinos, in particular, are disproportionately arrested and imprisoned resulting in limited access to housing.

While the Act does not prohibit housing providers from appropriately considering criminal history information when making housing decisions, arbitrary and overbroad criminal history-related bans lack legal justification.

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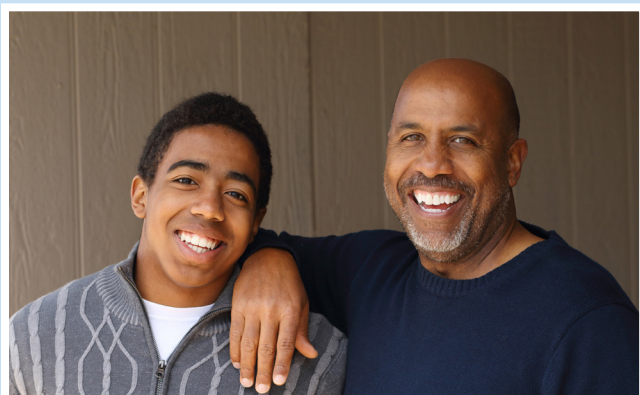
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A discriminatory effect resulting from a policy or practice that denies housing to anyone with a prior arrest or any kind of criminal conviction cannot be justified. Such a practice would violate the Fair Housing Act. According to housing advocates and civil rights groups, policies that exclude persons based on criminal history must be tailored to serve the housing provider's substantial, legitimate, nondiscriminatory interest. The policies must take into consideration factors such as the type of the crime and the length of time since the conviction. In most cases, the policy protects individuals with a criminal record from this type of discrimination resulting in a legal obligation of the property owner to implement non-discriminatory housing practices.

Information for this article comes from a Housingwire article written by Cynthia Barraza, "HUD to landlords: Rent to ex-cons" and www.HUD.gov.

FAIR HOUSING IN ACTION

By Branden Butler, Legal Aid Society of San Diego



Fair Housing issues can affect all groups of people, including families. The Legal Aid Society of San Diego, Inc. (LASSD), was able to help a father and son who were living together and were being discriminated against by their landlord on the basis of a disability.

The father received a notice to vacate because of the symptoms of his son's mental health disability. Instead of the landlord contacting the father to discuss complaints against the son, the landlord attempted to evict the father and son.

Once the father received the 60-day notice to vacate the premises, and because of his son's mental health disability, he attempted to work with the housing provider resolve the issue. He sent a letter to the property owner with an attached doctor's verification of his son's disability. The letter detailed a new treatment plan to control the son's behavior. The landlord considered the son a nuisance and would not speak with the father and would ignore his attempts to come to an agreement. The father also attempted to pay rent, but the landlord refused the rent check.

The father then contacted LASSD for help. LASSD sent a reasonable accommodation request to the landlord to initiate an interactive process to resolve the issue. A reasonable accommodation under the Fair Housing Act occurs when a tenant/homeowner requests a change in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. The family requested a reasonable accommodation to end the eviction process, which would allow the family to remain tenants in order for the son to continue his treatment plan that would address any alleged behavior issues at the property.

LASSD was able to communicate with the landlord and reach an agreement. The parties agreed to a conciliation agreement where the father and son were able to stay in their residence. The landlord agreed to communicate with the father to address his son's behavior before the landlord would take any further steps regarding their tenancy. LASSD successfully facilitated signing a conciliation memorandum of understanding between the parties, and the issue was resolved in favor of the father.



CALENDAR OF EVENTS

See our calendar of events

for updates on future events, workshops, and fair housing activities at:
www.sandiego.gov/cdbg/fairhousing

Holiday Decorations May Raise Fair Housing Issues

Management should consider the fair housing issues involved with religious holidays.

Reprinted from <http://www.fairhouse.net/library/article.php?id=3>

It's the most wonderful time of the year! Many of our readers have inquired into the legality of holiday decorations. We've all read about the city governments that have been challenged in court because life-sized nativity scenes were displayed in public parks.

In housing facilities, the concern is that if a holiday such as Christmas is celebrated with religiously oriented decorations, the decorations may communicate a preference for Christian residents to any applicants who visit the facility. We know of no fair housing lawsuits based on holiday decorations, but we recommend prudence when creating and placing decorations in your housing facility. The overall policy should ensure holiday decorations are inclusive of all persons living in the community. A combination of decorations coupled with sensitivity and an inclusive spirit will create a beautiful and inviting seasonal display. In addition, we have these comments.

- HUD has determined that Christmas trees, Santa Claus, the Easter Bunny, and other such decorations are not of a religious nature. The use of these decorations is, therefore, not a violation of the Fair Housing Act, no matter how prevalent they are.
- HUD has also determined that a menorah — the Hanukkah candelabra — is not a religious decoration.
- Nativity scenes, crosses, Bibles, "Happy Birthday Jesus" signs, and Stars of David are all definitely religious in nature rather than secular and should be avoided in public areas of a housing facility.
- The appearance of a property to the public is the responsibility of management. If the residents decorate the lobby and front door, therefore, management should exert some control over the type of decorations used.
- If decorations are permitted by management to be placed on an individual resident's door, the resident should be able to choose the decorations to use, as long as those decorations are within management's rules. In other words, the concerns management should appropriately have over holiday decorations in common areas and the office do not apply to residents' homes.



Save the Date

Free Fair Housing Training for Housing Providers

**April 21, 2017
10 a.m. to 12:30 p.m.
San Diego Public Library
Central Library
330 Park Blvd.**

For more information contact:
Lydia Goularte at 619-236-6393 or
lgoularte@sandiego.gov

Congratulations to Fair Housing Center of the Legal Aid Society of San Diego, Inc.

The U.S. Department of Housing and Urban Development (HUD) announced that it has awarded \$38 million under its Fair Housing Initiatives Program (FHIP) to confront discriminatory housing practices. As part of the program, the Fair Housing Center of the Legal Aid Society of San Diego, Inc. was awarded \$300,000. The award will be used to carry out investigations and other enforcement activities to prevent or eliminate discriminatory housing practices.





Practicing Fair Housing Facts - What is considered income in California?

In California, only sources of income that is paid directly to the tenant (or representative) are considered income. Examples include Social Security, SSI, child support, unemployment insurance, pensions, and wages.

Housing choice vouchers (Section 8 vouchers) and other rental assistance programs are not considered income because they are not paid directly to the tenant.

TAKE ACTION



If you believe you have been denied housing or the opportunity to apply for housing in the City because of a characteristic protected by federal or state law, you may contact the City's Fair Housing Hotline at **1-844-449-3500**.

- Make sure to contact the hotline within one-year of the incident.
- Speak to a housing counselor and provide facts about the incident.
- If merited, your incident may be referred to a legal representative for further investigation of your concerns.
- An attempt will be made to assist both parties in resolving the issue.
- If the issue remains unresolved, and there is evidence that a violation of the law has occurred, the complaint may be litigated in court.

At a Glance Practice Fair Housing Campaign Accomplishments

**Fiscal Year 2016
(July 1, 2015 – June 30, 2016)**

6650 multilingual informational brochures distributed

2827 fair housing inquiries received

90 fair housing discrimination investigations implemented

80 fair housing investigations resolved

71* random fair housing tests conducted

6 articles published

9 workshops conducted

543 persons educated regarding fair housing rights

** Funded by Fair Housing Initiative Program grant*

Multilingual Brochures

The City of San Diego has informational fair housing brochures available in Arabic, Chinese, English, Spanish, Tagalog and Vietnamese. To view these brochures, please visit: <http://www.sandiego.gov/cdbg/fairhousing/>.

Local Resources

The City has engaged the services of Legal Aid Society of San Diego, Inc., to provide community outreach and legal services. It can be reached at:

Legal Aid Society of San Diego, Inc.

110 South Euclid Avenue
San Diego, CA 92114
(877) 534-2524 | General Inquiries
(844) 449-3500 | Fair Housing Center and Hotline

Other Fair Housing Resources

U.S. Department of Housing and Urban Development Fair Housing Division

600 Harrison Street, 3rd Floor
San Francisco, CA 94107-1300
(800) 347-3739

California State Department of Fair Employment & Housing

611 West Sixth Street, Room 150
Los Angeles, CA 90017-3101
(800) 233-3212

This newsletter is funded in whole or in part with Community Development Block Grant Program funds provided by the U.S. Department of Housing and Urban Development to the City of San Diego.



This information is available
in alternative formats upon request.

