FHP
CVOEO Fair Housing Project

Fair Housing Advocate

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A PROJECT OF COORDINATED STATEWIDE HOUSING SERVICES FOR THE CHAMPLAIN VALLEY OFFICE OF ECONOMIC OPPORTUNITY

Housing discrimination is against the law. In Vermont, it is illegal to discriminate in the sale, rental or financing of housing because of a person's membership in a protected category. The Fair Housing Project works to eradicate housing discrimination in Vermont through outreach, education, and enforcement of Fair Housing Laws.

Protected Categories

- **Race**
- **Color**
- **National Origin**
- **Religion**
- **Sex**
- **Disability**
- **Age**
- **Marital Status**
- **Family Status**
- **Receipt of Public Assistance**
- **Sexual Orientation**
- **Gender Identity**

HUD Grants Vermont Agencies $450,000

The Fair Housing Project and Vermont Legal Aid are happy to announce that both organizations received funding from the US Department of Housing and Urban Development to continue our important work. The funding for both organizations is part of HUD's Fair Housing Initiatives Program (FHIP) to assist people who believe they have been victims of housing discrimination.

The Fair Housing Project received $125,000 under the Education and Outreach Initiative, which funds efforts for initiatives that explain to the general public and housing providers what equal opportunity in housing means and what housing providers need to do to comply with the Fair Housing Act. Vermont Legal Aid received $325,000 under the Private Enforcement Initiative, which funds efforts to carry out testing and enforcement activities to prevent or eliminate discriminatory housing practices. Both of these grants are single-year awards that build on a history of successful education and enforcement efforts.

The Fair Housing Project received funds for a host of education projects throughout the state. These efforts include an emphasis on educating local officials about their obligations under fair housing law, including in-depth reviews of local bylaws and planning documents. We will also continue our workshops for municipal officials in collaboration with Regional Planning Commissions. In cooperation with the Department of Economic, Housing and Community Development we will host focus groups throughout the state in order to inform the State's upcoming 2011 Analysis of Impediments to Fair Housing Choice. Finally, we will continue to provide training and workshops for a host of clients including housing professionals, property managers, planners and developers, and people most likely to face discrimination.

Vermont Legal Aid's FHIP funding will support fair housing testing, intake, and investigation, of fair housing complaints throughout the state. The funding will also allow Legal Aid to continue representing complainants in State and federal courts, before the Vermont Human Rights Commission and in pre-filing negotiations. Along with these activities, Legal Aid will provide outreach and community legal education.

Both organizations will be working with the Chittenden County Regional Planning Commission as partners in its Sustainable Communities Initiative. Specifically, Vermont Legal Aid and the Fair Housing Project will collaborate to document regional housing needs and author an Analysis of Impediments to Fair Housing Choice for Chittenden County.

In total, these two grants represent HUD's largest investment in eradicating housing discrimination in Vermont. We appreciate their generous support and their acknowledgement of our successful efforts. For more information about the FHIP program or specific grant activities, please contact us. ▪

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Thank you for taking the time to read this publication. If you would like to receive a hard copy in the mail please contact our office at the above number. This newsletter is made possible by a grant from the US Dept. of Housing & Urban Development.

Do you have questions about your tenant rights and responsibilities?

Contact **Vermont Tenants**

802-864-0099

FAIR HOUSING ENFORCEMENT

Vermont Human Rights Commission

1-800-416-2010
1-802-828-2480 (voice/TDD)

Vermont Legal Aid

1-800-889-2047

HUD Fair Housing & Equal Opportunity

1-800-827-5005
1-617-565-5453 (TTY)

Housing Discrimination Complaints

By Rachel Batterson, Esq.

Housing Discrimination Law Project of Vermont Legal Aid

Housing Discrimination and Fair Housing

What is housing discrimination? People often say, "he discriminated against me." In fact, we all discriminate all the time: when we choose what to eat, what to wear, our hair style: basically any time we make a decision, we use our ability to discriminate. However, while there is nothing wrong or unlawful about this kind of discrimination, unlawful discrimination has a much narrower meaning.

In general, a landlord, realtor, mortgage lender, or other housing provider *may* lawfully discriminate—in the sense just described. However, it's unlawful for a housing provider to discriminate on a basis specifically prohibited by law (see page 1 for a list of protected bases). For example, a housing provider may decide not to sell you a house because you wear red to the open house and the housing provider just can't stand that color. But the same housing provide can't decide not to sell you a house because you have young children or because you are white. That's because federal and State laws make it unlawful for a housing provider to make a decision denying housing to someone because that person has young children. Having young children, or "familial status", is one of the bases prohibited by law. Color or race is another. Federal and State laws set out the prohibited bases on which a housing provider may not base his decision. Fair housing is housing that is free of all discrimination: housing and communities that are open to all.

What Is a Fair Housing Complaint and Where is It Filed?

There are many actions a person may take when she believes she has been discriminated against. Sometimes a person just wants to tell someone else what happened or to alert a fair housing organization to the discrimination so it can try to prevent other people from being discriminated against. Sometimes a person isn't sure he was discriminated against but wants someone to investigate. Sometimes a person wants to file a formal complaint with the State or federal government or file a law suit in court. Fair housing complaints can also be made to the Public Housing Authority in subsidized housing cases. Finally, housing providers and complainants may also decide to negotiate the fair housing issue either before or during

Complaints continued on page 3...

Domestic Violence and Fair Housing

"Victim of domestic violence" is not a protected category under federal or Vermont state fair housing laws. However, victims can and have filed claims of discrimination of the basis of sex, as statistics show that 85% of victims of domestic violence are women. On February 9, 2011 HUD issued a memorandum on Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA). The purpose of this memorandum is to provide guidance to those staff persons who may be assessing such claims, but it can also be informative for others, especially persons who may work with or serve victims of domestic and sexual violence. Contact Dani at 802-864-3334 x 202 or dfuoco@cvoeo.org if you would like a copy of the memo, or click **here** to view it online.

an ongoing, formal agency or court process. All of these options are available.

Vermont Legal Aid's Housing Discrimination Law Project (weblink), CVOEO's Fair Housing Project (weblink), the Vermont Human Rights Commission (HRC) (weblink), and the U.S. Departments of Housing and Urban Development (HUD) (weblink) and Justice (DOJ) (weblink) all take housing discrimination complaints (phone numbers on page 2). In Vermont, HUD funds CVOEO, Vermont Legal Aid, and the Vermont Human Rights Commission to conduct education and outreach, intake complaints, investigation, and enforcement of the federal Fair Housing Act. If a person believes he or someone he knows has been discriminated against in housing, he can call any of these organizations or agencies.

Making a Complaint

To make a housing discrimination complaint, a victim must set out what the law calls a prima facie case. That is, the victim's complaint must set out facts that meet the basic elements of a claim under federal or State fair housing laws. To make a claim of housing discrimination, a person must meet four tests. First, does the complainant believe she was denied housing on a prohibited basis? Second, did the complainant apply for the housing and was he qualified for the housing? Qualified means could he afford the housing and did he meet any other lawful requirements for the housing such as income restrictions in subsidized housing. Third, the housing provider rejected the complainant or treated complainant differently. Fourth, after the housing provider denied or made the housing unavailable, the housing remained available to others.

What Happens After a Complaint is Filed?

"The housing provider does not need to be motivated by ill-will to be found to have violated housing discrimination laws."

The next steps depend on where the complaint is filed. If the complaint is made to Vermont Legal Aid or CVOEO's Fair Housing Project, we will talk to the complainant and advise them about fair housing law. Legal Aid may conduct investigation through fair housing testing or interviews. Legal Aid may then represent the complainant in court or before the HRC. If the complaint is filed with the Human Rights Commission, HRC staff will investigate the complaint by speaking with the housing provider and complainant. HRC staff then prepare a report for the Commission. The HRC is a neutral state agency. The HRC does not represent either the complainant or the housing provider. The HRC's mandate is to investigate and determine cases of housing discrimination. If the complaint is filed in either State or federal court, the usual court processes will be followed. In federal court at the HRC, mediation will take place before the formal decision. In State court, mediation may take place if requested by one or both parties.

How Does the Court or the HRC Decide Discrimination Cases?

After the complainant makes a prima facie complaint, the housing provider may respond and explain that it made the decision to deny housing for a legitimate, nondiscriminatory reason. For example, because it had information showing that the complainant could not afford the housing. After the housing provider explains its nondiscriminatory reason, the complainant has an opportunity to show that the reasons the housing provider has given are not the real reasons but are a pretext to hide its discrimination. The housing provider does not need to be motivated by ill-will to be found to have violated housing discrimination laws. For example, it is unlawful discrimination for a housing provider to refuse to rent an apartment to a family with young children because, for example, the apartment is located on a busy street. In that instance, the housing provider may be acting out of concern for the children's safety and not out of any ill-will towards families with children. But the law leaves that decision to the parents, not housing providers.

After the complainant and the housing provider have put forward their case, the court or administrative agency such as the HRC decides whether it believes the housing provider's actions were discriminatory or not. At the HRC, this decision is made by the Commission. In a court case, a jury or a judge may be the decision-maker, depending on the case. Instead of receiving a formal decision from the court or the Commission, the complainant and housing provider may also settle her dispute at any point in the agency or court process. ▪