



# FAIR HOUSING

YOUR MONTHLY UPDATE TO HOUSING NEWS, INFORMATION AND EVENTS

March 2019

## State Laws and Local Ordinances on “Source of Income” raise a troubling unanswered question

Last month, the front page of the Fair Housing Update was dedicated to state laws and local ordinances. Since that edition, a troubling unanswered question has been raised by state and local efforts to add a new protected class upon which a community owner could not discriminate against.

Passed fifty years ago, the Fair Housing Act prohibits discrimination in housing based upon race, color, religion, national origin, sex, disability and familial status.

Along with the federal law, each state and many local governments also have separate versions of the law. Often called Human Rights laws or ordinances, these laws can expand the classes of persons protected from

housing discrimination beyond the federal law.

Currently, many state and local legislative bodies are considering changes to their laws by adding “source of income” to the list of protected classes.

Aimed at prohibiting discrimination against persons on public assistance, the change would force community owners to consider all legal sources of income when screening a potential resident’s ability to pay rent.

The glitch arises when dealing with applicants in states or cities where the sale of marijuana is legal. Would a “source of income” protection require

it to be considered?

The concern was pointed out in a recent state legislative hearing, but the answer to the question was basically left unresolved.

As the sale of marijuana is still illegal under federal law, it is hard to imagine anyone deriving income from its sale and declaring it on their 1040. And suppliers certainly do not issue W-2s.

So, the debate may be purely academic.

Notwithstanding, if your state or local government is considering such legislation, efforts should be made to clarify the legality of the source of a person’s income.



# HUD Fair Housing Enforcement Actions

The descriptions of these cases were adapted from press releases found on [HUD's web site](#).

**California** - The U.S. Department of Housing and Urban Development entered into a Conciliation/Voluntary Compliance Agreement with a resident and owners of a San Diego apartment complex.

The agreement resolves allegations that Wakeland Atmosphere, L.P., and FPI Management, Inc., the owners and managers of Atmosphere Apartments, refused to grant the resident's request for a designated parking space close to the building. [Read the agreement](#).

The case came to HUD's attention when the resident, who uses a wheelchair, filed a complaint alleging that his request for an assigned parking space in the development's garage had been denied. The resident alleged that the owners and manager subsequently allowed him to park in non-assigned accessible spaces in the garage, but denied him the key that is necessary to enter the garage and to use the elevator. As a result, each time the resident wanted to enter the garage, he allegedly had to wait for another resident to open the gate, then follow that person in so he could use the elevator. The housing providers deny that they discriminated against the resident.

Under the terms of the Agreement, the owners and manager will pay the resident \$17,000, modify their fair housing policy to include information about reasonable accommodations, comply with the provisions of Section 504 of the 1973 Rehabilitation Act, and attend training.

**Minnesota** - The U.S. Department of Housing and Urban Development (HUD) announced that Lakes and More Realty, Inc., operating as Bemidji Property Management, and the owners of a rental home in Beltrami County, MN, will pay \$74,000 under a Consent Order resolving allegations that they refused to rent the house to a family of five adults and six minor children because they are Native American and Hispanic, and had minor children. [Read the Consent Order](#).

"Denying a family housing because of their ethnicity of familial makeup not only robs them of a place to call home, it violates the law," said Anna María Fariás, Assistant Secretary for Fair Housing and Equal Opportunity. "Today's announcement reaffirms HUD's commitment to protecting the housing rights of families and ensuring that all landlords comply with the Fair Housing Act."

HUD filed a charge of discrimination in the case in August 2018 after the owners of the rental home refused to rent the six-bedroom residence to the multi-generational family. HUD's charge alleged that the owners and real-estate broker discouraged the family from renting the home by offering them less favorable rental terms, including increasing the requested monthly rent by \$1,000.

Under the terms of the Consent Order, the respondents will pay \$74,000 to the families impacted; place a fair-housing advertisement in the local newspaper; and the real-estate broker will take fair housing and multicultural-sensitivity training.

If you have any questions regarding Fair Housing or would like back issues, please contact MHI's Senior Vice President of State and Local Affairs and General Counsel, Rick Robinson at [rrobinson@mfghome.org](mailto:rrobinson@mfghome.org).

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