

## No Section 8? No Way!

*FHC Challenges Discriminatory Zoning Code*



The Fair Housing Center filed a complaint with the United States Department of Housing and Urban Development (HUD) against Ypsilanti Township regarding the planned 398-unit Majestic Lakes subdivision.

As a condition of the sale of the land to a developer, the Ypsilanti Township Board of Trustees passed an ordinance on September 15, 2015 to approve Majestic Lakes while prohibiting the developer from accepting tenants with any form of government rental subsidy.

According to the complaint, "Ypsilanti Township's activities seeking to limit opportunities for Section 8 Voucher Holders and renters are contrary to its duty to affirmatively further fair housing. The population of persons holding Housing Choice Vouchers or on the waiting list for Housing Choice Vouchers in Washtenaw County and Southeastern Michigan overwhelmingly consists of persons protected by the Fair Housing Act: African Americans, women, single women with children, and persons with disabilities."

As a recipient of HUD funding, the Township has an obligation to "affirmatively further fair housing" in order to remove barriers to housing choice. "We believe this new ordinance is illegal," said Pam Kisch, Executive Director of the Fair Housing Center.

FHC Cooperating Attorneys Christopher and Elizabeth Brancart of Brancart & Brancart are representing the Fair Housing Center in the complaint, which was officially filed on March 30, 2016. The United States Department of Justice is also looking into the case.

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*It is understood that in all cases reported in this newsletter, the defendant, unless noted otherwise, denies the allegations of discrimination made by the plaintiff and, in "settled" cases, the parties have agreed to resolve the case without a final determination by a jury or court.*

## Cases Filed

### **Lakin v Fontaine Gardens Apartments**

*Agent Refuses to Discriminate*



*Fontaine Gardens Apartments*

Lakin v Fontaine Gardens Apartments was filed October 14, 2015 by FHC Cooperating Attorneys Stephen M. Dane and Jia Cobb from Relman, Dane & Colfax with assistance from local Cooperating Attorney Thomas Daniels of Pear, Sperling, Eggan, & Daniels. Fontaine Gardens Apartments is located Saginaw. FHC testing supported rental agent Chelsae Lakin's claim that her employers, Sakti and Papri Pramanik, instructed her to discriminate against families with a child. Ms. Lakin contacted the FHC on her first day of work. The case is assigned to the Honorable Thomas L. Ludington in the United States District Court for the Eastern District of Michigan.

### **FH Groups v AMP Residential**

*Multi-State Property Management Company Named in HUD Complaint*

The Fair Housing Center of West Michigan (FHCWM), the Fair Housing Center of Southeast & Mid Michigan (FHCSEM), the Fair Housing Center of Central Indiana (FHCCI), the Fair Housing Center of Southwest Michigan (FHCSWM), and the Central Ohio Fair Housing Association (COFHA) filed a fair housing complaint against AMP Residential, an Indianapolis-based property management company that owns and operates over 8,000 rental housing units in Michigan, Ohio, Indiana, and Alabama.

In the complaint filed with the United States Office of Housing and Urban Development on July 13, 2016, AMP Residential is alleged to have an occupancy standard of no more than two people per bedroom, regardless of a unit's square footage or whether that unit has a den, office, or other feature that could provide an additional bedroom or living area for a child.

Local health and property maintenance codes state the square footage required for each occupant in a rental unit. In each of the 20 properties named in the complaint, AMP was found to have denied housing to families with children despite the apartments having ample square footage for the family size to be allowed under local codes. Not only were the families prohibited from living in a particular unit, but many were denied from the complex all together due to their family size. Such overly restrictive occupancy standards impact the ability of families with children to find affordable, safe housing in neighborhoods of their choice.

The FHCWM enlisted the FHCCI, FHCSEM, FHCSWM, and COFHA to join in a systemic investigation into the AMP properties located in their respective service areas after they received the original complaint from a prospective tenant who reported being denied because of children. FHCSEM conducted testing at Runaway Club in Delta Township, MI; this testing confirmed the restrictive policy.



*AMP Residential properties are in Michigan, Ohio, and Indiana. The complaint alleges that 20 apartment complexes unlawfully refused to rent units to families with children.*



# fair housing breakfast

## Fair Housing Breakfast

Our third annual Fair Housing Breakfast was held on March 16, 2016 at Weber's Inn in Ann Arbor. Over 100 people, from housing-related professionals to government officials to local community members, attended the event and heard the talk given by guest speaker Theodore M. Shaw, "The Sleeping Giant of Civil Rights: The Fair Housing Act."

Professor Shaw is the Julius L. Chambers Distinguished Professor of Law and the Director of the Center for Civil Rights at the University of North Carolina School of Law at Chapel Hill.

You can view a video of the talk and pictures from the event at [www.fhcmichigan.org/breakfast](http://www.fhcmichigan.org/breakfast).

Thank you again to our sponsors, speaker, and attendees for making our third annual Fair Housing Breakfast a success.



*This page, photos from top to bottom:*

*Cindy Livesay, Kirsty Haboian, and Kim Clugston (Bank of Ann Arbor)*

*Robby Griswold (Zingerman's Community of Businesses) and Yma Johnson (Ecology Center)*

*Marlene Cain (Michigan Department of Civil Rights), Elizabeth Stoddard (Fair Housing Center of West Michigan), Mandy Zweifel-Hughes (Fair Housing Center of West Michigan), Jenni Scheid (Michigan Department of Civil Rights)*

*Next page, clockwise from top:*

*Bob Gillett (Michigan Advocacy Program), Theodore M. Shaw (University of North Carolina), Pamela Kisch (FHC Executive Director), Ann Routt (FHC Board President), Ronald Woods (Eastern Michigan University)*

*Andrea Plevak and Mirada Jenkins (Washtenaw County Office of Community and Economic Development)*

*Alexandra Murphy (FHC Board Member) and Robert Hampshire (University of Michigan)*

*Dianne Curry (Comerica Bank), Bill Miller and Nancy Bowerbank (Charles Reinhart Company)*





# fair housing breakfast





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**FAIR HOUSING  
BREAKFAST** *with*

*Theodore M. Shaw*



## **Reasonable Accommodations**

*Some recent reasonable accommodation and modification requests resolved by our office - to view more, please visit [www.fhcmichigan.org](http://www.fhcmichigan.org)*

## **Termination of Lease Without Penalty**

*Two Reasonable Accommodations  
Ingham and Lapeer Counties*

In the first case, a man with a physical disability was promised a unit near a sidewalk ramp and curb cut to accommodate his power wheelchair. Upon move-in, the landlord assigned him to a unit that did not accommodate his needs. A letter from the FHC requesting a reasonable accommodation resulted in the landlord letting our complainant out of his lease without penalty.

In the second case, our complaint had a stroke and could no longer live alone. The management company insisted that he pay rent for the remainder of his lease. FHC staff coached his advocate to ask for a reasonable accommodation under the law. The advocate was able to end the lease without penalty so the complainant could find appropriate housing.

## **FHC Stops Evictions**

*Four Reasonable Accommodations,  
Ingham (1) and Washtenaw (3) Counties*

The first case involved a woman living with multiple disabilities. She contacted our office to report an eviction notice related to housekeeping. The complainant was in the process of getting the services she needed. As a reasonable accommodation of her disability, we asked the property management company to drop the eviction while the services were put in place. Our letter was accompanied by a letter from her treating physician, verifying the complainant's disability and how it led to her current situation. The eviction was eventually dropped and the tenant and her children avoided homelessness.

In the second case, a man with a mental disability was forced to change his medication because of a change in his health insurance coverage. The medication change resulted in episodes of what the property manager considered odd behavior. She promptly sent the tenant of

15 years an eviction notice. Advocacy on the part of FHC staff and the local legal aid office successfully stopped the eviction as a reasonable accommodation of his disability. In the mean time, his medication issue was resolved.

The third case concerned a woman who was suddenly hospitalized due to symptoms/complications of her disability. She had no way to access her checkbook or any other means to pay her rent. She contacted the manager and the management company to alert them to her situation. She had been their tenant for four years. Despite her need for an accommodation, the owner charged her a late fee and filed for eviction. A letter from FHC staff stopped the late fee and eviction.

In the fourth case, a woman with a mental/emotional disability exhibited behaviors which lead her landlord to file an eviction notice. The behavior was caused by not taking her medication on a regular basis. FHC staff spoke to the complainant's advocate and wrote a letter to the property manager asking them to drop the eviction now that community services were in place to ensure she received her medication. The eviction was dropped and the woman, who had lived in her unit for over two decades, was allowed a second chance.

## **Emotional Support Animal Allowed**

*Reasonable Accommodation, Lenawee County*

A man with a disability wanted to sublease an apartment. When the landlord found out he had an emotional support animal, he was told he could not take over the lease because of the dog. A letter from the FHC requesting a reasonable accommodation resulted in the landlord signing a lease with our complainant, preventing him, his wife, and their baby from becoming homeless.



# new criminal background rule

## **New Federal Rule Bans Landlords from Blanket Denials Based on Criminal Background**

On April 4, 2016, the United States Department of Housing and Urban Development (HUD) issued new guidance to the real estate community regarding the use of criminal background in evaluating prospective tenants. The guidance explains how using criminal background as a screening tool could violate the Fair Housing Act, and suggests standards and procedures that landlords should follow instead. This is the first time HUD has issued guidance on the issue to non-governmental entities.

### Important Highlights:

- Landlords may not have a blanket ban on prospective tenants with a criminal background.
- Landlords must distinguish between arrests and convictions.
- Potential tenants cannot be denied for an arrest record.
- Landlords will need to consider each applicant on a case-by-case basis, evaluating the nature and severity of a crime, when the crime took place, and what a person has done since the conviction.
- If a potential tenant is denied due to a conviction, the landlord may have to prove that the exclusion is justified.
- The only exception to this guidance is when the conviction was for manufacturing or distributing drugs.

Criminal background is not a protected class under the Fair Housing Act (FHA). The new guidance explains how blanket denials of applicants with conviction records, and any denial of applicants with only an arrest record, have been proven to have a disparate impact on classes that are protected under the FHA (for instance, race and national origin), which means these housing selection policies may violate the Fair Housing Act.

We are aware of the nexus between criminal background and the exclusion of people of color from the housing market. We have taken complaints from people of color whose convictions were over 20 or 30 years old, and others who had non-violent misdemeanors that in no way

should have affected their ability to rent an apartment. Our office will continue to take and investigate these complaints when they come in, as well as negotiate and resolve reasonable accommodations for those who have a disability and criminal background.

The Fair Housing Center encourages property owners and landlords who are moving toward less-restrictive tenant selection criteria to read the guidance in full, as it outlines HUD's "three steps used to analyze claims that a housing provider's use of criminal history to deny housing opportunities results in a discriminatory effect in violation of the Act... [as well as the] analytical framework used to evaluate claims of intentional discrimination."

Good examples of new housing selection criteria have already been rolled out around the country. One example is the Housing Authority of New Orleans (HANO); their new plan now includes the use of a three-person application review panel when needed. If you see a good example, please let us know at [info@fhcmichigan.org](mailto:info@fhcmichigan.org).

**One to watch:** The law firm Relman, Dane & Colfax filed a case in October 2014 that is now pending before the U.S. District Court for the Eastern District of New York. Their client, the Fortune Society, alleges that Sandcastle Towers in New York City has a blanket ban against applicants with any convictions and this likely violates the Fair Housing Act. In a New York Times article on the guidance, John Relman is quoted as saying that "the agency in charge of interpreting the Fair Housing Act agrees with us, and that will have a lot of weight" on the Fortune Society litigation.

**"It is not possible to be in favor of justice for some people and not justice for all people."**

**- Martin Luther King, Jr.**

# BLACK WHITE LATINO

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