

The Chuckwagon

a quarterly production by

MONTANA FAIR HOUSING

Volume 30/May 2002

In true Montana spirit, the Chuckwagon . . . the newsletter to fill your fair housing appetite.

Tales Roun' the Campfire

A synopsis and/or update of cases filed with the Montana Human Rights Bureau (HRB), the Department of Housing and Urban Development (HUD), and/or federal or district court. This synopsis is not necessarily all inclusive . . .

MFH vs. Epta/Emerson - In April 2002, Montana Fair Housing and two complainants filed administrative complaints with the Department of Housing and Urban Development against Patricia Emerson and Annette Epta in Billings. The complaints allege that the two Respondents denied housing to the complainants because of disability related issues. An investigation by Montana Fair Housing supported the allegations of the individual Complainants.

MFH vs. Saulter - Montana Fair Housing and one individual filed administrative complaints with the Department of Housing and Urban Development in April. The complaints allege that Myrna Saulter, a Missoula based housing provider, denied housing to families with children. MFH's investigation supported the allegations of the original Complainant.

MFH vs. Accessible Space, Inc./Kleinschmidt/Bauer - Administrative complaints were filed with the Department of Housing and Urban Development in May against ASI, an out of state corporation with several sites in Montana providing housing to persons with disabilities. The site involved in these complaints is in Great Falls. Allegations against ASI and on-site management include denying families with children who also have a household member with a disability, and denying individuals with particular types of disabilities.

MFH vs. Klein/Professional Property Management - In May, following an investigation supporting allegations of housing discrimination, Montana Fair Housing filed an administrative complaint with the Department of Housing and Urban Development against Richard A. Klein of Professional Property Management, based in Billings, and on-site management located in Bozeman. The complaint alleges discrimination against persons with disabilities who have service animals.

MFH vs. Kincaid - After receiving calls alleging Glen Kincaid, of Great Falls, did not allow families with children or young people to rent units at his apartment complex, MFH initiated an investigation. Evidence supported the callers' allegations and Montana Fair Housing filed an administrative complaint with the Department of Housing and Urban Development in May, alleging discrimination against families with children.

MFH vs. Stevens - An individual complainant and Montana Fair Housing filed administrative complaints with the Department of Housing and Urban Development against Theodore and Amelia Stevens of Great Falls in May. The complaints, following investigation by MFH, were filed on the basis of disability alleging the housing providers deny

housing opportunities to persons with disabilities who have service animals.

MFH vs. Look/Welch - In May, Fair Housing and an individual complainant filed administrative complaints with the Department of Housing and Urban Development. The complaints, with evidence secured by MFH during an investigation, allege Jack and Margaret Look and Barrett Welch deny housing opportunities to persons with disabilities who have service animals.

MFH/Little Eagle/Lindsey vs. Wilson Apartments/Pekovich In the summer of 2001, Amanda Little Eagle and Eugene Lindsey contacted MFH alleging discrimination against them and their children based on Race. The on-site manager, Russ Shelley, allegedly harassed Mr. Lindsey, an African-American, by making racial slurs and falsifying lease violations. The owner of the property, Greg Pekovich, settled the case in January 2002, without admission to the allegations. The terms of the settlement include the payment of \$2,708 to the individual complainants and \$1,000 to Montana Fair Housing for future monitoring of Mr. Pekovich's sites. Mr. Pekovich and his agents will attend fair housing training and display fair housing posters and brochures at his sites.

MFH vs. Copps/Conkle - Montana Fair Housing and Preston Copps (on behalf of all Respondents) reached agreement in April settling an administrative complaint filed by MFH against Preston and Carrie Copps and Stephen and Neelna Conkle. The complaint alleged the Respondents had denied housing to families with children. Respondents, without admission of guilt, agreed to pay to MFH \$2,060.26 to settle incurred costs to date and to pay for future monitoring of the Respondents' practices for a period of one year. Respondents also agreed to affirmative relief, including the participation of Respondents in training on federal and state Fair Housing Laws.

Roundin' 'em Up

Articles and/or local or national events to ensure our readers are keeping abreast of new information.

The Fair Housing Amendments Act of 1988
24 CFR Section 100.75
Montana Code Annotated
Title 49/Human Rights Section 49-2-305(3)

The following article provides an overview of the Advertising Regulations included in the state and federal Fair Housing Acts. MFH has received a number of inquiries in the past few months about advertising guidelines. The following should not be construed as legal advice and serves only as an outline for advertising practices.

Montana Fair Housing

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Pam Bean, Programs Manager
Sarah Etzel, Housing Specialist

YES I want to support the efforts of Montana Fair Housing toward reducing the occurrence of housing discrimination in Montana. Enclosed is my tax-deductible membership contribution:

- limited income - \$10
- individual membership-\$25
- family membership - \$35
- nonprofits - \$50
- individual sponsor - \$200
- corporate friend - \$250
- corporate sponsor - \$500
- other: _____

Name: _____

Address: _____

City: _____

State/Zip: _____

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No discussion of the federal and/or state fair housing acts, in this writer's opinion, should begin without first providing an overview of the protected classes. Both federal and state fair housing laws prohibit discrimination against specific groups of people, or as the laws state, protected classes. Unfortunately an in-depth discussion of the prohibited practices included in the acts and/or the definitions of the protected classes is beyond the purview of this article and the reader is encouraged to pursue further information on those topics. For the sake of this article, suffice it to say that the federal Fair Housing Amendments Act of 1988 prohibits discrimination in housing against persons based on their race, color, national origin, sex (gender), handicap (disability), religion, or familial status. State law prohibits discrimination against any person based on his/her marital status, creed, or age.

Section 804(c) of the Fair Housing Act as amended, stipulates that it is unlawful to "make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination." State law mimics the federal prohibitions against discriminatory advertising, adding protections based on marital status, creed and/or age.

Advertising is defined by the federal and state laws as all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Discriminatory advertising is a statement, oral or written, "which indicates any preference, limitation, or discrimination because of" protected class status. Written notices and statements include any documents used with respect to the sale or rental of a dwelling (applications, flyers, banners, signs, etc.). Words, phrases, photographs, illustrations or symbols are also covered under the advertising provisions. Individuals expressing to agents, brokers, employees or prospective consumers a preference for or limitation on any protected class is in violation of the federal and/or state Fair Housing Acts. Violations can include selective use of media or location that inhibits access to housing opportunities based on protected class, or refusing to publish advertising because it would reach protected classes, and publishing advertising that requires different charges, terms or conditions based on protected class status.

Of all the fair housing provisions, advertising prohibitions, because of the large audience reached through media, probably have the greatest impact. If discriminatory advertising is allowed, the general public accepts discrimination against protected class members as legal. For example, if the reasonable reader sees a rental advertisement stating "no children" or "adults only" he/she may believe it is legal to deny families with children housing opportunities.

Although 24 CFR Part 109 (the Advertising Guidelines) was stricken from the Federal Fair Housing Act in 1996, it is still relied on as guidance. SubSection 109.16 addresses the scope of the advertising guidelines, specifically stating that affirmative advertising efforts shall not be restricted. In other words, advertising efforts designed to attract protected class members are not considered a violation of the Act when such efforts are pursuant to an affirmative marketing program or undertaken to remedy the effect of prior discriminatory practices. For example, advertising a home for sale as "wheelchair accessible" or advertising rental units as "Section 8 approved" or "families with children welcome" are statements affirmatively furthering fair housing and are not considered violations of the Act.

If a violation of 24 CFR Section 100.75 (Section 804c of the federal Fair Housing Act) arises or is in question, a review of the housing provider's fair housing policies and practices may be conducted. Again, Part 109 of the Advertising Guidelines, though removed from the Act, are/can be used for reference. The policies potentially reviewed can include:

A) Use of Equal Housing Opportunity logotype, statement, or slogan. The choice of the logotype will depend on the media used, whether visual or auditory. As a guide, when using the logotype, statement, or slogan in space advertising (such as magazines or newspapers) the following standards should be used:

1/2 page or larger	2" X 2"
1/8 page to 1/2 page	1" X 1"
4 column inches to 1/8 page	1/2" X 1/2"
less than 4 column inches	Do not use

If other logotypes are used in advertisements in addition to the Equal Housing Opportunity (EHO) logo, the EHO logo should at least be as large as the largest of the other logotypes.

If no other logotypes are used, then the type should be bold face and clearly visible, or 3 to 5 percent of the entire advertisement should be devoted to an Equal Housing Opportunity statement. In space advertising less than 4 column inches of a page in size, the EHO slogan should be used.

Such advertisements may be grouped with other ads under a caption stating the housing is available to all persons "without regard to race, color, religion, sex, handicap, familial status, or national origin. We will not knowingly accept advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis." State law includes provisions for marital status, age and creed that should be referenced in the slogan. This statement should also include a contact number for the Department of Housing and Urban Development, the Montana Human Rights Bureau, and/or Montana Fair Housing to report discrimination in housing.

B) Use of human models. Use of human models in advertising media should not be used to indicate a preference based on protected class status. Models should reasonably represent all protected class members, not exclusive to any one group,

C) Coverage of local laws. When using the Equal Housing Opportunity Statement, the ad may include statements referencing local ordinances prohibiting discrimination.

D) Notification of fair housing policy.

1) Employees-all employees should receive a nondiscrimination policy adopted by the publisher, advertising agency, or firm engaged in the sale, rental or financing of real estate.

2) Clients-all publishers and agencies should post a copy of their nondiscrimination policy in a location visible to all clients placing advertisements, and all clients should receive a copy of the nondiscrimination policy.

3) Publishers' notice-all publishers should place at the beginning of their real estate advertising section a notice referencing the state and federal prohibitions against discrimination in the sale, rental or financing of housing.

E) Fair Housing Poster. The fair housing poster should be displayed in an area readily apparent to any consumer seeking housing accommodations or related services.

Catch words or phrases that can be construed as discriminatory should be avoided. For example, stay away from words or phrases like "restricted, exclusive, private, integrated, traditional, board or membership approval," and executive. Symbols, logotypes, or colloquialisms, used regionally or locally, that imply protected class status should be avoided, such as KOF (Keeper of the Flame). If you are unfamiliar with the acronym, symbol or phrase, request documentation about the meaning. When describing the location of a property or giving directions, avoid terms that reference the make up of the community, such as referencing landmarks significant to the racial make up of the area, or the existence of an exclusive club identified as excluding families with children.

If the world wide web is used as an advertising media, these guidelines would also be applicable.

To obtain copies of the Equal Housing Opportunity logotype, the Advertising guidelines, Fair Housing Posters, and/or the publisher's notice contact Montana Fair Housing.

Tip O' The Hat

Montana Fair Housing and Wyoming Fair Housing want to thank the following individuals and companies that offered financial and/or in-kind support to ensure the success of
Housing Conference 2002:

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Tid Bits from the General Store
Our Announcements

Montana Fair Housing is offering workshops for consumers and providers across the state. These workshops have been approved for accreditation by the Board of Realty Regulation (4 mandatory), the Board of Social Workers (4), and the Montana Bar Association (4). The workshops can also be submitted for credit receipt through self report forms by architects. To schedule a workshop contact Montana Fair Housing at (800) 929-2611.

What if this were a house?



Only in the past? Guess again. The signs may not be this obvious, but some landlords, lenders and real estate agents still make decisions based on race...and that's discrimination. You can fight back.

If you suspect unfair housing practices, contact HUD or your local Fair Housing Center. Everyone deserves a fair chance.



FAIR HOUSING IS THE LAW!

U.S. Department of Housing and Urban Development • 1-800-668-9777
Montana Fair Housing - 800-929-2611 TDDRelay: 800-253-4093

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Alternative Format Available Upon Request

If you suspect unfair housing practices
and/or want to find out more about
discrimination in housing contact:

**Department of Housing
and Urban Development**

1-800-877-7353

TDD 1-800-927-9275

or

Montana Fair Housing

1-800-929-2611

1-406-542-2611

TDD 1-800-253-4093



**EQUAL HOUSING
OPPORTUNITY**

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