

The Chuckwagon

a quarterly production by

MONTANA FAIR HOUSING

Volume 26/May 2001

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

Montana Fair Housing will be including in each quarterly newsletter a synopsis of cases we have filed with the Human Rights Bureau, the Department of Housing and Urban Development, and/or federal or district court. This synopsis is not necessarily all inclusive and is titled . . .

Stokin' the Fire

Cases that are still pending but with developments that may be of interest to our reader are covered under . . .

On the Grill

MFH vs. Arcadia Gardens, et. al. - Montana Fair Housing reached a tentative agreement in April with the owners of Arcadia Gardens. This case, involving a Bozeman complex, alleged violations of the Fair Housing Act Accessibility Guidelines and was filed with HUD in 1999. The conciliation agreement will include the retrofitting of 32 ground floor units to comply with the Fair Housing Act and the contribution of \$64,000 to a fund established by MFH and Summit Independent Living Center that will provide financial services to persons with disabilities requiring modifications to housing built prior to 1991. The \$64,000 is to compensate the housing market for the loss of an additional 32 units that were built as split level six plexes. These 32 units will not be retrofitted. The conciliation agreement also requires MFH to monitor the efforts of Arcadia to retrofit the units and comply with the federal and state fair housing acts. This settlement should be finalized by June.

Cases that have been conciliated, settled, and/or resolved by a finding or court order will be reported under . . .

Chow Time

Last quarter, Montana Fair Housing filed a case out of Billings based on allegations of racial discrimination. The victim, an African American woman, alleged she was evicted from the trailer court she and her two children resided because of discriminatory attitudes verbalized by the housing provider. An initial investigation conducted by MFH supported the allegations and we assisted the victim in filing a complaint of housing discrimination with both HUD (the Department of Housing and Urban Development) and HRB (the Human Rights Bureau/Department of Labor). This complaint settled this quarter, with \$5,400.00 being awarded to the victim.

MFH and Nightingale vs. Phil and Linda Johnson -- This familial status case alleged violations of federal and state fair housing acts by the Johnsons. In June of 1999 Montana Fair Housing received calls alleging the Johnsons had denied two separate callers the opportunity to rent their units because of the presence of children in their households. MFH utilized testing to substantiate the allegations and filed complaints of housing discrimination with the Department of Housing and Urban Development. The complaints were

conciliated in late February of 2001. MFH agreed to accept the payment of actual costs incurred in their investigation and costs associated with the monitoring of the rental practices of the Johnsons for three years. Johnsons also attended, at their own cost, Montana Fair Housing's annual conference. The complainant received \$1,446.50 in compensation for actual damages incurred.

One of the most common inquiries our office receives, from both housing providers and consumers, are inquiries based on housing established for older persons. The following article outlines the basic requirements for these housing projects.

HOW OLD IS OLD ENOUGH? WHAT DO 55 AND OLDER AND 62 AND OLDER MEAN IN FAIR HOUSING?

by Pete Burkett, Senior Property Manager
Collins Management, Kalispell

Fair Housing Laws should be very simple, right? Well, when Congress started to put exemptions in the Fair Housing Laws things got a little confusing. In order to provide housing for older persons that truly caters to older persons and creates a living environment specifically for older persons, the Government created two exemptions from the Familial Status Protections: 55 and over, and 62 and over. Apparently Congress felt that older persons needed to be able to live in communities comprised primarily with persons of their same age. (I'm sure the fact that older people vote had something to do with it!)

To make these exemptions more exciting, HUD and Rural Development have financed, insured, and subsidized housing built specifically for older persons, but have added special rules to their own programs that muddies the water on just who is eligible to live in a community. Hopefully we can clarify these exemptions and make it a little easier for people to understand what type of housing a landlord is offering. This exemption regarding familial status applies to housing provided ONLY under any federal or state program provided the Secretary of Housing and Urban Development determines that the housing is specifically designed and operated to assist elderly persons. Housing designed and operated by housing providers not receiving federal or state funds to establish a "housing for older persons" program is not exempt from the federal and state familial status provisions.

62 and Over

In theory this is the simpler of the two exemptions to explain. On the surface, the exemption simply states that a property is qualified if all occupants since September 12, 1988 are 62 years of age and over and any unoccupied units must be reserved for persons 62 years of age and older. This means

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every member of a household must be 62 years of age or older. There can be no resident that is under the age of 62 living on the property. (Remember, live-in care attendants are not residents!) Communities that have been built using federal money or are federally insured may have a different set of rules to follow, however. Properties built under HUD Sections 202, 221 and 236 may limit occupancy solely to elderly residents.

HUD and Rural Development have programs that allow a preference to be given to elderly residents while still accepting other categories of residents in certain circumstances. Properties that are entitled to provide a preference for elderly residents were originally designed and built or substantially rehabilitated for occupancy by elderly residents under Section 8 New Construction, Section 8 Substantial Rehabilitation, Section 8 Loan Disposition, State Housing Agencies Program, and New Construction Set-Aside for Section 515 Rural Rental Housing (Farmer's Home Administration). These communities may house persons with disabilities who are under the age of 62 and/or may allow family members under the age of 62 as long as the Head of Household is a qualified resident. These exceptions can cause confusion in communities that are advertised as "elderly" but have residents who are much younger than 62.

55 and Over

This housing exemption requires at least one person in 80% of the households be 55 years of age or older. Under the original law numerous "significant" design features and services were required to be eligible for this exemption. The law was changed in 1995 to lessen the burden of requirements to meet the 55 and over designation. To maintain eligibility a minimum of 80% of the units must have at least one person that is 55 or older. However, owners may choose to require at least one person in every unit be age 55 or over. Also, the policies, procedures, and marketing of the housing must demonstrate an intent by the owner to provide housing for persons 55 and over. It is important to remember that anytime there is a Federal program involved in any housing there may be special programmatic rules that come in to play. To understand exactly who is eligible to live in one of these communities it is critical to know what type of Federal involvement there is and what does that Federal program's rules do to the eligibility criteria on site. If a manager cannot give you these answers, the owner, HUD, the State Agency or Rural Development should be able to answer your questions.

Housing exempt from familial status provisions does not necessarily have to be receiving federal and/or state funding. For further information on advertising and/or establishing exempt housing contact the Department of Housing and Urban Development.

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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If you don't
want to fight
housing
discrimination
for yourself,
do it for
your kids.



Housing Conference 2001
"Best conference yet. GREAT JOB!!!"

By Bob Liston, Executive Director

Well, that's what participants at this year's Montana Fair Housing Annual Conference were saying. There were more registrants than ever—114. And let's not forget, we had the (un)usual Montana spring snowstorm that people had to fight their way through just to make it.

The presenters exceeded their usual superb, outstanding ability offering useful information in a way that was understood by the layperson and provided some great handouts for attendees to refer to after the conference. People did not leave for lack of information—good thing we had the MFH book bag this year!

Although we received very positive feedback, this is not to say that the conference didn't have its 'glitches.' Our opening panel of five ended up a presentation of one. We lost a HUD attorney at the Denver airport, due to the snowstorm and two other panelists to personal emergencies. While registrants ended up having more shopping time than anticipated, we heard that folks are really interested in hearing more about Native American issues in regards to housing.

The presentations, Fair Housing as it relates to Disability Issues (reasonable accommodations & modifications, design & construction, and Section 504); Property Management; Lending, Insurance & Appraisal; Real Estate; the overview of Fair Housing and the Keynote by HUD's Ivy Davis; and the Landlord/Tenant workshop were all very well received. There seemed to be just the right amount of diversity in workshop topics.

Montana Fair Housing's annual conference gives housing providers and consumers from across the state an opportunity to network with each other and hear about the issues that directly affect them from some of the most informed individuals in Montana and the nation.

OVERALL, we received 4.39 on a scale of 1 – 5 from our evaluations.

Thank you for making the conference such a great success—all registrants, presenters, donors, volunteers, and staff. See ya'll next year.

Mark your calendars for . . .
HOUSING CONFERENCE 2002

scheduled for April 23rd, 24th and 25th, 2002. The conference will be held at the West Yellowstone Holiday Inn Conference Hotel in West Yellowstone, beginning at noon on the 23rd and ending at noon on the 26th.

For suggestions on conference topics and/or speakers, please e-mail Pam Bean at mfhzng@montana.com.

Montana Fair Housing would like to acknowledge the organizations, agencies, companies and individuals who have made financial contributions since January 1, 2001, augmenting our grant funds and allowing us to provide a broader range of services to housing providers and consumers throughout the state of Montana:

First Interstate Bank, Missoula
Glacier Bank
Rocky Mountain Bank
Heritage Bank
Farm Credit Services
Mountain West Bank
First Interstate Bank, Billings
Pete Burkett, Collins Management
Jack D. Lewis, Native Winds

Announcements

Montana Fair Housing is offering workshops for consumers and providers across the state. These workshops can be tailored to the needs of your community and have been submitted for accreditation by the Board of Realty Regulation and the Montana Bar Association. The workshops can also be submitted through self report forms by architects.

Our workshops focus on the federal and state fair housing acts, design and construction issues, and regulations involving accessibility of public and common areas and dwelling units. Contact Pam Bean at mfhzng@montana.com or 406-542-2611/800-929-2611 for further information.

Montana Fair Housing is now offering our newsletter and other mailings via e-mail. If you would like to receive our mailings through e-mail services, please e-mail Pam at mfhzng@montana.com. Include your name, your company or agency affiliation if any, your e-mail address, phone number, and mailing address.

Please make a note that Montana's 2001 Legislature has amended the state's Landlord and Tenant laws. The amendments will be effective in October. Once those amendments are available Montana Fair Housing will notify everyone on our mailing list.

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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

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Chow Time

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An Overview of
Housing Conference 2001

Acknowledgements

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