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Resolutions Reached for Similar Cases of Alleged Discrimination Due to Disability and Source of Income Protections

Long Beach, CA, July 18, 2024- Fair Housing Foundation has recently been able to resolve two similar cases that highlight the importance of property managers and staff to understand their responsibilities in providing accommodations for tenants living with disabilities and to engage in the interactive process. Also equally important is to abide by California's SB 329 which grants protections based on source of income and prohibits discriminating against tenants who rely on housing assistance paid directly to landlords on behalf of the tenant. Housing providers are required to maintain up-to-date information on the best fair housing practices and policies to ensure equal access to housing for all. The following are two cases where successful resolutions were reached to meet the needs of disabled tenants seeking accommodations:

Garden Grove, CA - Fair Housing Foundation (FHF) assisted elderly disabled tenant with a Section 8 voucher. The tenant's daughter, Ms. Doris Cenicerros, contacted our office seeking assistance on behalf of her mother, who has been a tenant at the property in question for approximately 17 years. Her mother occupied a one-bedroom apartment upstairs and, due to her disability, faced challenges navigating stairs as the building lacked an elevator.

Ms. Cenicerros informed our office that about a year and a half ago, she requested a reasonable accommodation for her mother to be moved to a first-floor unit due to her disability. Her mother submitted a physician's letter with her initial request. A month later, after submitting the request, Ms. Cenicerros visited the management staff to discuss the pending request. However, they informed her and her mother that relocation to a downstairs unit was not possible. Ms. Cenicerros offered to pay for her mother's relocation expenses or work out an arrangement for her to move, emphasizing her mother's physical disability documented by the physician's note. Nevertheless, the management staff persistently denied the request, even suggesting that her mother would only move to a ground-level unit when in a gurney, implying she would pass away before being accommodated.

Case Analyst Stacy Viramontes drafted a reasonable accommodation letter on behalf of Ms. Cenicerros' mother, urging the management staff to allow her to transfer to a downstairs apartment due to her mobility challenges. The management staff initially showed reluctance, claiming no ground-level units were available and stating it wasn't their practice to notify tenants of vacancies. The Case Analyst stated the housing provider's responsibility to engage with tenants regarding such requests and requested they inform Ms. Cenicerros' mother when a suitable unit became available. After negotiation, the management staff agreed to notify her mother when a first-floor unit became vacant.



Recently, a ground-level unit became available and was offered to Ms. Cenicerros' mother. However, the management staff required her to pay a new deposit and a non-refundable transfer fee of \$1,000 as a condition of the move. Ms. Cenicerros contacted our office, prompting a Fair Housing Specialist to inquire about the fee. The management staff justified the fee, citing repair and upgrade costs for the apartment.

Upon consulting with a Disability Rights Attorney, the Fair Housing Specialist clarified that charging such a transfer fee is prohibited. Housing providers cannot impose extra fees or deposits as a condition for reasonable accommodations, as outlined in the Joint Statement of HUD/DOJ on Reasonable Accommodations (Question 11). Upon receiving this information, the management staff informed Ms. Cenicerros' mother that she would not need to pay an additional deposit or non-refundable transfer fee.

It is crucial for housing providers to understand their responsibilities when addressing requests for reasonable accommodations and to engage with tenants in a fair and compliant manner.

Westminster, CA- The Case Analyst, Stacy Viramontes, was contacted by the granddaughter of an elderly tenant who had lived in a one-bedroom apartment for approximately 24 years. Due to the tenant's physical limitations, she required a downstairs unit. The granddaughter provided a letter to the housing provider supporting the need for the tenant to transfer to a downstairs unit due to her disability. The tenant also holds a Section 8 voucher.

The housing provider informed the tenant that she would need to vacate the property entirely and then reapply. However, they stated that the owner has not accepted Section 8 since 2021.

The Case Analyst investigated to determine if the housing provider was discriminating against individuals with Section 8 vouchers. An investigator, posing as a Section 8 voucher holder, was informed that a downstairs apartment was available. However, when the investigator disclosed their Section 8 status and asked if they could attach their voucher information to the application, the housing provider stated that the new owner does not accept Section 8. The new owner, who is the son of the prior owner, agreed to grandfather in existing Section 8 tenants but did not wish to accept new Section 8 tenants.

The Case Analyst not only requested a reasonable accommodation request on behalf of the tenant to transfer to a downstairs apartment but also addressed the denial of individuals with Section 8 vouchers.

Initially, the housing provider stated a policy that tenants are not allowed to transfer units; they must move out and return as new tenants. Furthermore, the housing provider mentioned spending money on renovations for a tenant transfer, which they considered poor business practice.

The conciliation terms requested by our office included allowing the tenant to transfer to a downstairs apartment as a reasonable accommodation, accepting the Section 8 voucher, attending a fair housing course, and revising their policies on reasonable accommodations/modifications and non-discriminatory practices regarding Section 8 applicants.



The tenant was allowed to move into the downstairs apartment at the current rental rate of the current apartment, with no additional fees associated with the reasonable accommodation request.

Both state and federal law protects individuals who are living with disabilities to the right of equal access to their living space, allowing them to request accommodations or modifications. Accommodations deal with exemptions being made to the housing provider's policy, practice or procedure whereas modifications deal with structural changes that are made to a unit. If a disability is not apparent, housing providers are able to request a medical verification to confirm such a disability is affecting a major life activity as shown in the mentioned cases. To clarify, a housing provider cannot ask a prospective or current tenant if they have a disability, illness, or even ask to see any medical records; however, a medical verification can be requested to confirm said impairment.

Another key discrepancy in the above-mentioned cases was the failure to understand the role of housing providers to accept legally verifiable alternative sources of income. Section 8 Housing Choice Voucher recipients are also a protected class under California's SB 329 Source of Income protections, allowing tenants who are participating in the program the equal ability to apply for housing. Prior to 2020, the Section 8 Program was considered an optional program for housing providers to participate in, but now, any kind of legally verifiable sources of income must be taken into consideration. Additional examples of source of income include HUD/VASH vouchers, homeless prevention and rapid re-housing programs, Housing Opportunities for Persons with AIDS (HOPWA), security deposit assistance programs, locally funded subsidy programs created by cities, counties and public agencies to address growing homelessness, emergency rental assistance, etc.

Staying up to date on the rights and responsibilities of landlords and tenants is crucial in eliminating discrimination in housing and promoting access to housing choices for everyone. It is the expectation for housing providers to remain current on laws and policies to ensure happy and healthy neighborhoods and communities. For questions on how to ensure your practices are current, contact the Fair Housing Foundation to participate in workshops and trainings for you and your staff or for answers on any questions you may have. Fair Housing Foundation is your fair housing resource guide.

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About Fair Housing Foundation

The Fair Housing Foundation is a non-profit organization established in 1964 and is dedicated to eliminating discrimination in housing and promoting equal access to housing choices for everyone. FHF engages in activities including outreach and education, testing and investigation, and counteracting and eliminating discriminatory housing practices in both Los Angeles and Orange Counties. The Fair Housing Foundation is a HUD-Certified Housing Counseling Agency and also offers Rental Counseling. Please contact Fair Housing Foundation at 1-800-446-3247 (TTY: 1-800 855-7100) for more information.