



## Multifamily Housing News

U.S. Department of Housing & Urban Development — San Francisco Multifamily Hub

**Hawaii**

**Northern California**

**Nevada**

**Arizona**

Volume 7, Issue 4

December 2004

### Inside This Edition of Pacific Currents

<b>FY'04 Summary/Review</b>	— 1 & 2
<b>Tips on How to Avoid a Housing Discrimination Complaint</b>	— 3 - 6
<b>CAHI Begins PBCA Operations</b>	— 6
<b>Industry &amp; Service Coordinators Meetings</b>	— 7
<b>Grand Opening: Gault St. Sr. Housing</b>	— 8
<b>Grand Opening: Hale O Mana ò Lana Hou II</b>	— 9
<b>A Housing Discrimination Complaint Has Been Filed Against Me</b>	— 10 - 12
<b>Neighborhood Networks, RHIP</b>	— 12
<b>10 Energy Saving Tips</b>	— 13
<b>Region IX MF Outlook &amp; Quiz Answers</b>	— 14
<b>Development Corner, Issuances</b>	— 15
<b>Calendar</b>	— 16

### RECAP OF FY'04 AND LOOKING FORWARD TO FY'05

The San Francisco Multifamily Hub met or exceeded its Management Plan Goals for Fiscal Year 2004. Of particular note was the endorsement of 54 mortgages. These 54 properties house 6,932 families with HUD providing \$324,338,200 insured mortgages. These numbers represented a repeat of last year and continue to show the strong participation in our jurisdiction of refinancing existing FHA Mortgages, insuring new and existing multifamily projects and assisted living facilities. We continued to bring Section 202 elderly and Section 811 disabled housing to initial and final endorsement, also consistent with previous year's numbers. Fifteen (15) projects that will house 411 families, providing \$41,300,600 in capital advances initially endorsed, and sixteen (16) projects that now house 557 families, providing \$43,546,500 have been completed.

Asset Management continued to focus on maintaining the physical quality of the existing portfolio as well as the financial compliance requirements of the portfolio. Our Contract Administrators conducted over 220 onsite reviews ensuring compliance with Section 8 requirements. The San Francisco and Sacramento Offices launched their Section 8 Performance-Based Contract Administrator on October 1, 2004.

Customer service and outreach continued to be a major focus with the Hub offices holding regular Asset Management and Development meetings. The San Francisco Hub participated in the 5<sup>th</sup> Annual Western Lender's Conference and has taken the lead for organizing the 6<sup>th</sup> conference to be held in 2005. The Pacific Currents Newsletter, in its 5<sup>th</sup> year of publication continues to provide a service to our clients. This year a new feature was added to give the opportunity for other HUD Programs to contribute a major article. FHEO was featured

*Continued on Page 2*



**HAPPY HOLIDAYS**

from all of us  
in the

**SAN FRANCISCO  
MULTIFAMILY HUB**

*HUD National Web Site*

<http://www.hud.gov>

**San Francisco Multifamily Hub:**

<http://www.hud.gov/local/index.cfm?state=ca>

*Where To Find Our Previous Pacific Current Issues*

The San Francisco HUB publishes Pacific Currents quarterly. While we try to furnish our 4,000+ subscribers with a print copy, sometimes we are only able to post the newsletter on our website due to insufficient printing funds. Look for our latest issue here:

<http://www.hud.gov/local/ca/working/localpo/mfhsnews.cfm>

## Multifamily Hub News Staff

Multifamily Hub Director  
Janet L. Browder

Director, Operations — J. Patrick Goray

Editor-In-Chief — Christine Day  
Design, Layout, Advisor — Larry Chauvet  
Hub Lines Contributor — Jeri Henson



The Multifamily Hub News is distributed to Hub clients as well as other interested parties. Comments may be directed to Christine Day at (415) 489-6610 or Christine\_J.\_Day@HUD.GOV

**Subscriptions:** The San Francisco Multifamily HUB, USDHUD "Pacific Currents" newsletter is published on a quarterly basis and distributed free of charge to registered subscribers. To subscribe please send your name and complete mailing address to:

Larry\_A.\_Chauvet@HUD.GOV

**Disclaimer:** This publication provides general coverage of its subject area. It is distributed with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional advice or services. If legal advice or other expert assistance is required, the services of a competent professional should be sought. The publisher shall not be responsible for any damages resulting from any error, inaccuracy, or omission contained in this publication.

### Hub Lines . . .

Trouble is only opportunity in work clothes.

— *Jerry J. Kaiser*

Always do right. It will gratify some and confuse the rest

— *Mark Twain*

We don't see things as they are, we see them as we are.

— *Anais Nin*

## RECAP OF FY'04 AND LOOKING FORWARD TO FY'05

*(Continued)*

extensively in the September issue. Special features will continue in Fiscal Year '05. When we are unable to print and mail hard copy, look for our newsletter at: <http://www.hud.gov/local/ca/working/localpo/mfhsgnews.cfm> If you missed an issue, you can call up a previous issue at this website.

We are pleased that in FY'04 we were able to bring on-board two Architects and five Project Managers, one Construction Analyst and one Program Assistant. We began FY'05 with a total of 108 staff.

It is expected that '05 will be as busy and productive as '04. The industry can expect our continued focus on providing the best customer service possible. Our focus will be to meet processing timeframes under MAP. We are already off to a good start having endorsed eleven (11) projects in the first two months of '05. These endorsements equaled \$68,491,900 worth of insured loans. Our 202/811 pipeline must be brought current. If you have a project that was funded in FY'2002 or before, you are expected to endorse no later than September 30, 2005. We will continue to monitor the REAC inspections with close attention to scores under 60. We expect our projects, however, to routinely score in the 90's. Any financial corrective actions must be cleared expeditiously as well.

We thank all our industry partners for their hard work and their on-going positive relationships with the offices in our Hub – San Francisco, Sacramento, Phoenix, Las Vegas and Honolulu. We all look forward to a productive Fiscal Year 2005.

Sincerely,

*Janet L. Browder*

Director,  
San Francisco Multifamily Hub

Pacific Currents is featuring a series of articles on Fair Housing and Equal Opportunity. In this issue you will find articles on:

- Tips on How to Avoid a Housing Discrimination Complaint
- A Housing Discrimination Complaint has been Filed Against me, so now what?

Our Next newsletter will have an article on:

- Limited English Proficiency – HUD Proposed Guidelines and What They Mean to Housing Providers
- Application Do's & Don'ts for Housing Providers

Our last newsletter featured articles on:

- Does Your Affirmative Fair Housing Marketing Plan Need a Tune-Up?
- Reasonable Accommodations for Persons with Disabilities

**SPECIAL FEATURE**  
**Fair Housing and Equal Opportunity**  
**Tips on How to Avoid a Housing Discrimination Complaint**

By Jeff Jackson, Supervisory Equal Opportunity Specialist

In fiscal year 2003, HUD's Pacific/Hawaii Regional office processed approximately 350 housing discrimination complaints, involving properties in California, Arizona, Nevada and Hawaii. During the same period, the four state and local agencies which process fair housing complaints in the states of California, Arizona, Hawaii, and the city of Phoenix, processed another 835 complaints. The chart below summarizes the number of complaints filed with HUD, and the combined total with the four state and local agencies, by protected group:

	HUD		State/Local Agencies	
Race:	84	24.2%	288	34.5%
Color:	5	1.4%	22	1.3%
National Origin:	45	12.9%	114	13.7%
Religion:	9	2.6%	12	1.4%
Sex:	27	7.7%	69	8.3%
Handicap:	190	54.4%	307	36.8%
Familial status:	36	10/3%	150	18.0%
Retaliation:	18	5.2%	75	9.0%

As you can see from the chart, well over one-third of all complaints filed in this region were filed on the basis of handicap or disability. Approximately another third are filed on the bases of race or color of skin. National origin complaints have traditionally comprised about 10% of all complaints filed, but have risen in the years following the World Trade Center disaster.

Retaliation is not a protected class, but fair housing laws provide that an individual who is pursuing his or her fair housing rights and is subjected to acts of discriminatory treatment as a result of that, may file complaints on the basis of retaliation. Note that some state and local fair housing laws include additional protected classes other than the seven listed above. For example, in California it is also unlawful to discriminate on the bases of age, marital status, sexual orientation, or source of income.


Of the above complaints, around 30% have alleged a discriminatory refusal to rent a dwelling or acts which otherwise made a dwelling unavailable. Nearly 40% have alleged discriminatory terms or conditions of tenancy. Over 20% of all

complaints alleged issues relating to disabled people alleging denials of reasonable accommodations.

There are commonly held to be five "theories" of discrimination which are either set forth directly in the various federal and state fair housing laws passed over the years, or have evolved through legal interpretation of fair housing laws by the courts. These five are:

- 1. Overt discrimination:** An outright refusal to rent, or differential treatment, based on a person's membership in a protected class. For example, an apartment manager who refuses to rent to families with children, claiming that the complex has no play areas and is not a suitable place to house minor children.
- 2. Differential treatment:** Treating residents or applicants who are of one protected class worse than others outside that class are treated. For example, denying tenancy to a Black tenant based on derogatory items in a credit report, while renting to a White applicant with a virtually identical credit report. Or, discouraging a mobility-impaired applicant from pursuing housing in a second-floor apartment because there is no elevator in the building, and the manager is concerned about liability in an emergency.
- 3. Disparate impact:** A facially-neutral rule or policy (i.e., it doesn't make any reference to any particular protected class) but which adversely affects members of one or more protected classes significantly more often than those outside of that class. For example, a numerical occupancy policy which states that no more than one person will occupy a bedroom makes no reference to any protected class. But the policy may have disparate impact on persons with familial status (minor children) because it's much likelier that households of more than two persons will include a minor child than be all adults. As you can probably see, a violation of this theory of discrimination does not require a knowing intent to discriminate.

Quick Quiz... No. 1




*Question:* Can you list the seven protected classes identified in the Federal Fair Housing Act upon which complaints of housing discrimination may be filed with HUD?

*Answer:* Found on page 14

**4. Denial of reasonable accommodation or modification:** Refusing to make an exception to a standard policy, practice or procedure when the exception is necessary for a disabled person to use and enjoy the housing or services. Refusing to permit the structural modification of a dwelling when such modification is necessary for a disabled person to use and enjoy the housing or services.

Quick Quiz... No. 2



*True or False:* It is possible to violate a fair housing law, even though you never intended to discriminate against anyone.

*Answer:* Found on page 14


The concepts of reasonable accommodation and modification were covered in detail in the September 2004 issue of *Pacific Currents*.

**5. Failure to design and construct multifamily housing with certain features of accessible or adaptable design:** Section 504 of the Rehabilitation Act of 1973 requires that most federally-subsidized housing built after July 11, 1988 must have accessible common areas, and at least five percent of the housing units must be fully configured for the special needs of mobility-impaired persons. The Federal Fair Housing Act also requires that most multifamily housing of four or more units constructed for first occupancy after March 11, 1991 contain seven features of accessible design, including accessible common areas, accessible entry doors and interior passageways, useable kitchens and bathrooms. The Fair Housing Act requirements apply to all ground-floor units of non-elevator buildings, and generally to all units in elevator-equipped buildings.

FHEO offers these tips on how to avoid discrimination complaints, based upon its experience in investigating thousands of complaints over the years:

**1. Develop and adhere to a detailed, written tenant selection policy.** Whether or not you're managing an apartment with HUD subsidy and HUD eligibility criteria, you will avoid complaints if you have a detailed written policy that clearly spells out what the

Quick Quiz... No. 3




*Question:* What are the best ways to avoid discrimination complaints being filed against you as a housing provider?

*Answer:* Found on page 14

criteria are for approval or rejection of applications, what independent screening is done for each application, who makes final acceptance/rejection decisions, appeal rights, lease violation and eviction policy. Although nobody expects an apartment manager to make robot-like decisions on applications and rules violations, when any of us is left to instinct (in the absence of written policy) we are more subject to arbitrary or inconsistent decisions. Although inconsistency is not itself a violation of fair housing law, if a complaint is filed and the inconsistencies tend to show members of certain racial groups being rejected or evicted for incidents of misconduct that other races or ethnicities are not rejected or evicted for, discrimination suits can follow.

**2. Train your staff on fair housing laws, and conduct periodic refresher training:** Many types of discrimination complaints filed with FHEO result from ignorance of the requirements of fair housing laws, not a real intent to discriminate. Managers who steer families with very young children just to ground-floor units where the manager believes they're less likely to be injured may be doing so out of the goodness of their hearts. A trained manager knows to suppress such instinct and inform the family of housing opportunities available, leaving the decision about suitability to the family. As case law develops in the areas of housing discrimination, changes to policy and procedures may have to be undertaken to fully comply with the law. Fair

Quick Quiz... No. 4



*True or False:* Most types of discrimination complaints filed with FHEO result from an intent to discriminate, not from ignorance of the requirements of fair housing laws.

*Answer:* Found on page 14

Housing training is available, at a modest cost, from many private fair housing organizations within the region. The training can be provided to one or two people, or to the staff of entire companies. Training can be short, one-hour overview sessions, or half-day interactive hands-on workshops. HUD's Office of Fair Housing is also willing to provide training to larger groups. Contact FHEO at 1-800-347-3739 for help in locating a private fair housing group in your area, or to arrange HUD training for your staff.

**3. Document your decisions:** People who believe they have been subjected to a discriminatory housing practice have up to a year to file a complaint

with HUD or a state or local government agency. In most states, individuals have up to two years to file a private lawsuit alleging discrimination. Turnover in complexes operated with rental subsidies tends to be lower than in the conventional marketplace where a third or more of all tenants turn over in a typical year. If a complaint is filed with FHEO or a state or local agency, you will be asked to provide evidence that the actions you took were legitimate, consistent, and non-discriminatory. You may think you'll never forget that "special" tenant, but twelve months and a dozen special tenants later, will you remember the precise reasons why you evicted someone? Remember that even in states with no-stated-cause evictions, you will still have to provide an explanation for the actions you took if a discrimination complaint is filed with you. By maintaining careful records of actions you take, especially actions which may be considered adverse, you will be in a better position to defend your decisions if a complaint is filed months later.

4. Beware that someone may be watching you! Private fair housing groups, some of which receive government subsidy but many which do not, conduct random "tests" of apartment complexes. "Testers" organized by fair housing agencies pose as apartment-seekers, gathering information on availability just as anyone actually searching for housing would. Tests may be conducted to assess discrimination on the basis of race, national origin,

Quick Quiz... No. 5



*Yes or No:* Are there private fair housing groups who conduct random "tests" of apartment complexes by sending in "apartment seekers" to assess discrimination on the basis of race, National origin, familial status or any other protected class?

*Answer:* Page 14

familial status, or any other protected class. In a typical race-based test, a White-race "control" tester may make the first inquiry to establish availability. Successive testers of other races, skin colors, or national origins may follow. Testing results are analyzed by private fair housing agencies, and if revealing evidence of differential treatment adverse to one or more protected classes, may file "agency-based" complaints with HUD. HUD recognizes that apartment managers aren't robots or computers, and that some differences can be attributed to things other than protected class. Do your best to give consistent information about current and future availability of apartments, and

this means having the information written down, so that every rental agent and manager will give the same information to each prospect.

5. Be courteous to all, but not too friendly with anyone. Managing an apartment complex as if you were managing a retail business where you really

Quick Quiz... No. 6



*Question:* Are housing providers required to give a reason for terminating a lease if doing business in a state where no-fault terminations/evictions are permitted?

*Answer:* Found on page 14

want and need satisfied, repeat customers is also a way to avoid discrimination complaints. Many complaints are filed based upon perception that the management treats other tenants--who may only happen to be of other protected classes--better. Avoid becoming too friendly with any tenant or group of tenants, since being an effective manager sometimes means having to make hard or unpopular decisions. Sharing detailed information with any one tenant about who's getting new carpeting or a bathroom remodeled is information which you lose control of once it leaves your office, and spreads inconsistently and erratically around the complex through word-of-mouth. Most fair housing complaints alleging differential treatment stem from incomplete knowledge of management's actual policies, and are often fueled by tenants too friendly with management, and who have gained access to what should be held as proprietary information. Keep specifics of the management of the complex to yourself.

6. Respond quickly and effectively to reasonable accommodations requests: As noted in the statistics above, denials of reasonable accommodation cases comprise nearly 20% of all housing discrimination complaints filed in this region, amounting to several hundred complaints a year. In an article in the September newsletter, we've reviewed the ways to analyze a reasonable accommodations request, and to respond to it. It is especially important, after receiving a reasonable accommodation request, to acknowledge receipt of it and to let the

Quick Quiz... No. 7



*True or False:* Managers with HUD subsidy and HUD eligibility criteria can avoid complaints if they have a detailed written policy that clearly spells out what the criteria are for approval or rejection of applications.

*Answer:* Found on page 14

requester know when you expect to be able to make a decision. It is a good idea to verify the disabling condition and need for accommodation with the requester's health care provider, in writing. Remember that delaying action on a request may be considered tantamount to denial, particularly if there is urgent need. If you can't grant the specific accommodation requested because it creates an undue burden, do continue your dialogue with the requester to see if you can find an alternative, equally-effective but less-burdensome accommodation to offer instead.

**7. Call HUD if you have a question or just need to talk something out.** If there's one thing that bureaucrats are good at, it's quoting regulations and handbooks! If you're not quite sure what to do about a bad tenant, or a shaky applicant, then call FHEO or send an e-mail message, and talk the problem out with us. Our many years of experience in dealing with housing management issues and fair housing complaints will provide useful perspective to you in crafting your final decisions.

**New Toll Free Number for Arizona State HUD Office**

The Arizona State HUD Office in Phoenix has a new toll free telephone number. This number may be used by anyone out of the local calling area wishing to contact the Phoenix HUD Office regarding housing issues.

The toll free number is:  
1-888-404-3894.

**SHARE THE GOOD NEWS...**

This newsletter is sent to our industry partners, which include: Lenders, Developers, Management Agents, Property Owners, Consultants, Government Officials, Project Site Offices, etc. The residents of the developments have advised they are interested in the information in the newsletter. We request that the copy sent to the project site be posted in the community room, on a bulletin board or somehow shared with the residents. Residents could also be advised that the newsletter is on our website, ([www.hud.gov/local/index.cfm?state=ca](http://www.hud.gov/local/index.cfm?state=ca)) should they want to view it on their computer or in your Neighborhood Network location.

**CAHI Began PBCA Operations In Northern California**

California Affordable Housing Initiatives, Inc. (CAHI), a non-profit instrumentality of the Oakland Housing Authority, was named PBCA for Northern California in May 2004. Since that time, CAHI has been busy setting up operations, locating and moving into new office space, and hiring additional staff. CAHI officially began PBCA tasks on October 1<sup>st</sup>, 2004.

CAHI has contacted all owners and agents whose properties were transferred from HUD on October 1<sup>st</sup> and November 1<sup>st</sup> to introduce themselves and explain their role as contract administrator. So far, this includes 352 contracts with another 163 to be transferred December 1<sup>st</sup>, 2004.

Owners and agents, whose properties were transferred October 1<sup>st</sup>, also received a letter from CAHI requesting baseline date and bank depository information. On October 1<sup>st</sup>, CAHI began to process rent adjustments and contract renewals. On December 1<sup>st</sup>, CAHI will begin to process vouchers with the first payment to be made on January 3<sup>rd</sup>, 2005.

CAHI has been working with HUD to ensure a smooth transition and have also been collaborating on developing a policy for the processing of utility allowances to assure that the allowance is based on actual costs. Beginning February 1<sup>st</sup>, 2005, all properties with utility allowances will be required to address the utility allowance when submitting a rent adjustment request, as required by HUD Handbook 4350.1.

CAHI is looking forward to working with owners and agents and developing positive relationships. Please feel free to contact them at:

California Affordable Housing Initiatives, Inc.  
(CAHI)  
505 14<sup>th</sup> Street, Suite 940  
Oakland, CA 94612  
(510) 238-5300  
(510) 268-8545 FAX  
[PBCA@cahi-oakland.org](mailto:PBCA@cahi-oakland.org)  
[www.cahi-oakland.org](http://www.cahi-oakland.org)

Tenant emails or written correspondence should be sent directly to CAHI at the above addresses. Tenant calls should be directed to CAHI at:

1-800-982-5221

### San Francisco Asset Management Industry Meeting

Approximately 100 people from the multifamily management industry and HUD employees attended the October 21st Industry Meeting. It was the first meeting to be held in the conference rooms in our new office space at 600 Harrison Street.

After a welcome by the Multifamily Hub Director, Janet Browder, Angela Corcoran, the Chief of Asset Management, discussed recent publications and some relevant issues. One issue discussed was how to deal with Real Estate Assessment Center findings concerning blocked egress - specifically due to the installation of a window air conditioners. Diana Mann, Asset Management Supervisor, gave a presentation on the new Housing Notice H04-11 which describes how to treat the new senior drug card benefit when calculating residents' adjusted annual income. She also described a checklist she developed to help Project Managers determine if their tenant files are complete.

Danilo Dadios, the CAOM for the San Francisco MF Hub, introduced staff from California Affordable Housing Initiatives, Inc., the new Performance Based Contract Administrator (PBCA). Tony Gorris, the Transitional Team Manager, described what project owners and agents can expect during the transition to the PBCA and answered questions from the audience. After Industry Announcements by CAHSA and AHMA, Ms. Corcoran closed the meeting.



*Angela Corcoran, Chief, Asset Management, conducting this year's Industry Meeting Conference*

### Building Bridges to Success Service Coordinator Conference

The San Francisco Multifamily HUD office partnered with the Association of Housing Management Agents—Northern California (AHMA-NCN) and the California Association of Homes and Services for the Aging (CAHSA) to co-sponsor the second annual Bay Area Service Coordinators Conference, Building Bridges to Success. This marked the first time these three organizations formally collaborated to host a conference.

The conference was held on November 9, 2004, in San Rafael, California, and attracted over 150 participants. The conference included numerous breakout sessions targeted to meet the needs of the various participants. The general categories of training included sessions for family housing



*Participants at the Service Coordinator Conference*

properties, senior housing properties, owners and agents, and compliance requirements. Workshops included such topics as alcohol and drug addiction, financial planning for low income families, fair housing, HUD compliance requirements, dementia issues, working through the mysteries of hospice, funding a service coordinator program and many others. A number of nonprofit service providers were on hand to provide information on their specific programs to the conference participants.

The participants acknowledged that they thought the conference provided useful information and also an opportunity for networking. HUD, AHMA, and CAHSA indicated that they would continue to work together and host a conference for service providers again next year.

### New Multifamily Hub Director In Los Angeles

Bill Bolton, Field Office Director of the Sacramento Office, has been selected as the new Hub Director of the Los Angeles Multifamily Hub, effective January 10, 2005. Cynthia Abbott will be the Acting Field Office Director in Sacramento.

*Congratulations Bill!*

## Gault Street Senior Housing, Santa Cruz, California

**Project/Location:**

Gault Street Sr. Apartments  
211 Gault Street  
Santa Cruz, CA

**Description:**

36 Affordable Senior  
Rental Units

**Project Size:**

23,120 Square Feet  
36 One-Bedroom Units  
1 One-Bedroom Manager Unit

**Status:**

Construction complete  
January 2004

**Sponsors:**

Mercy Housing California  
1360 Mission Street, Suite 300  
San Francisco, CA 94103

**Architect:**

Chris Lamén & Associates, Inc.

**Contractor:**

Devcon Construction, Inc.

**Funding Source:**

HUD Sec. 202 Capital Advance:  
\$3,351,200

City of Santa Cruz HOME:  
\$846,286

Federal Home Loan Bank of  
San Francisco—Affordable  
Housing Program:  
\$144,000



**M**

ercy Housing California, together with residents, funders and the City of Santa Cruz, dedicated the Gault Street Senior apartments in September 2004.

The 37 unit, three-story building includes a mix of studio and one-bedroom apartments for seniors, a community room with a kitchen, library, computer lab, laundry facilities and garden areas. Mercy Services Corporation, a division of Mercy Housing, will provide the property management and a staff person will live on-site. The building was designed with input from seniors, social service providers, the neighborhood, and other interested parties and reflects the nature of the residential neighborhood.

The Gault Street Senior Apartments are well located for easy access to neighborhood services and amenities. Across the street is the Branciforte Branch Library, with a bus stop in front of the building. Within walking distance is an array of retail stores, restaurants and neighborhood markets. Health care is close by, with the Dominican Rehabilitation Services on Frederick Street



EQUAL HOUSING  
OPPORTUNITY



## Hale O Mana ò Lana Hou II, Wailuku, Maui, Hawaii



**H**ale O Mana ò Lana Hou II, House of Renewed Hope, a much awaited independent living project for the chronically mentally ill located on the Hawaiian Island of Maui, opened its doors for occupancy in July 2004.

The two building, two-story, wood frame project consists of 15 one-bedroom apartments, a community room and a common laundry area. The grounds are tropically landscaped with Singapore plumeria, gardenia, bougainvillea, hibiscus, and palm trees.

The Maui Community Health Center, a service provider for the residents, is located within walking distance of the project and the Hui Malama Learning Center, offering alternative education and life skills to children and adults, is located on a neighboring site. The central location of the project will also allow the residents the opportunity to participate in the recreational, cultural and community activities offered at the nearby War Memorial Complex (home of the Hula Bowl), Ke òpulani Regional Park, and the Maui Arts and Cultural Center.



**Project/Location:**

Hale O Mana ò Lana Hou II  
Wailuku, Maui, Hawaii

**Description:**

15 Affordable Rental Units for  
Persons with Disabilities

**Project Size:**

54,450 Square Feet  
2 Buildings  
15 One-Bedroom Units  
16 Parking stalls

**Unit Size:**

580 Square Feet/Unit  
5,371 Sq. Feet/Building

**Status:**

Construction completed  
July 2004

**Sponsor:**

Lokahi Pacific

**Architect:**

Bayless Architects  
Gergory A. Bayless

**Contractor:**

Dugied Construction, Inc.

**Funding Source:**

HUD Sec. 811 Capital Advance  
\$2,317,400

County of Maui HOME Funds

\$300,000

County of Maui Ground Lease  
\$1.00/year for 55 years



EQUAL HOUSING  
OPPORTUNITY

## A Housing Discrimination Complaint Has Been Filed Against Me So Now What?

You're used to getting letters from HUD's Office of Housing regarding the management of your subsidized housing complex, but this one looks different. With horror, you read on: "This letter is to notify you that a complaint of housing discrimination has been filed against you... You have ten days to respond . . . Civil penalties for violations of the Fair Housing Act can result in fines of \$50,000 for a first offense..." Your mind races, Could I lose my job over this? I can't even remember this person ever coming to apply at this complex, let alone denying them. Will anyone even listen to my side of this story? This has got to be a mistake, can't we just talk this out and try to settle it? In this article, we will try to explain what happens if a housing discrimination complaint is filed against you (or, someone you know!).

HUD's regulations implementing its administration of the Federal Fair Housing Act simply state,

### Quick Quiz... No. 1



*True or False:* A respondent named in a housing discrimination complaint has 15 days to submit a written response to the allegations made in the complaint.

*Answer:* Found on page 14

"Any aggrieved person . . . may file a complaint no later than one year after an alleged discriminatory housing practice has occurred or terminated" (24 CFR 103.15)." The courts have broadly-interpreted the Act to give standing to file to any person who believes he or she has been aggrieved directly, or because of their association with someone who has been aggrieved. In order to file a complaint with HUD, a complainant need only assert, through his or her signature and under penalty of perjury, a concise statement of facts which constitutes an alleged violation under the Act. In screening such complaints for intake jurisdiction, HUD does not independently research the credibility of the allegations prior to filing the complaint, and notifying the parties.

Generally, to be accepted by HUD-FHEO, a complainant must assert a "*prima facie*" case of discriminatory treatment prohibited by the law. In general terms, a *prima facie* case is established by alleging the following four elements:

- (i) complainant is a member of a protected group;
- (ii) complainant applied and was qualified for the housing or services sought;
- (iii) the respondent denied the housing or services to the complainant;

### Quick Quiz... No. 2

*True or False:* FHEO can only accept complaints alleging discriminatory housing practices involving these eight protected classes: sex, race, color, religion, national origin, disability, familial status and retaliation.



*Answer:* Found on page 14

- (iv) the respondent continued to offer the housing to others outside the complainant's protected group. Once a complainant has provided information that essentially addresses each of the four elements above, FHEO transcribes a complaint, and obtains the complainant's signature on it.

It's important to note that FHEO is only able to accept complaints which allege discriminatory housing practices based upon membership in one of seven protected classes: *race, color, religion, sex, national origin, disability, and familial status*. FHEO will not accept complaints from individuals who are unable to link the adverse treatment they are complaining about with their membership in one of these seven protected classes.

Lastly, it's important to note that HUD is a neutral, fact-finding body. The fact that HUD has accepted and filed an allegation of discrimination should not be construed as tantamount to any finding that discrimination has occurred, or has not. HUD will carefully listen to all relevant parties, and independently collect all relevant facts, during its processing of every complaint.

### Quick Quiz... No. 3

*True or False:* HUD's goal is to complete the processing of most housing discrimination cases within 100 days of filing the complaint.



*Answer:* Found on page 14

1. Once a complaint is signed and HUD has established that the issues are jurisdictional to the Fair Housing law, the complaint is considered "*filed*". HUD then makes a decision whether to *process the case itself, or to send the case along to a state or local government agency* which is enforcing its own fair housing law.

In this region, most cases involving properties in California will go to the California Department of Fair Employment and Housing. Properties in Arizona will be sent either to the Arizona Office of the Attorney General, or to the City of Phoenix Equal Opportunity Department. Cases in Hawaii will be sent to the Hawaii Civil Rights Commission. Since there is currently no state agency in Nevada to

Quick Quiz... No. 4



*True or False:* Conciliation is a process of seeking settlement from a complainant, communicating these to the respondent and working with both parties to identify mutual grounds for final resolution of the issues.

*Answer:* Found on page 14

enforce the State's fair housing laws there, HUD will retain Nevada cases for processing. If HUD refers a case to a state or local agency, HUD generally abstains from further processing, deferring all action to that state or local agency until the processing is complete. However, HUD monitors those agencies to ensure that each case assigned to them is progressing with reasonable promptness, and that it is thorough.

2. Whether retained by HUD or sent to a state or local agency, *notification letters* advising of the filing of the complaint are sent to the complainant and to all named respondents within ten days of the filing date. Generally, HUD attempts to name all persons involved or potentially involved in the transaction. This usually means that the complaint names as respondents, and notification letters are sent to the owner, the management agent, and the onsite manager, at a minimum. If parties involved are unknown at time of filing, a complaint can be amended at a later date to add new parties. The notification letters provide a copy of the signed complaint, so that the respondents know what the complainant has alleged. HUD may also include a

Quick Quiz... No. 5



*True or False:* HUD does not have the ability to seek enforcement of a conciliation agreement where the respondent has failed to fulfill the terms of the agreement.

*Answer:* Found on page 14

“*data request letter*” which identifies certain documents that the respondent is asked to submit together with a written defense. Such documents can include a list of current tenants or applicants on a waiting list, copies of leases and house rules, or a listing of tenants who have been involuntarily terminated from housing, among other things.

3. The Federal Fair Housing Act states that a respondent named in a housing discrimination complaint has *ten days to submit a written response* to the allegations made in the complaint. The notification letter provides the name of the assigned investigator. Where appropriate, the investigator may authorize extensions to the ten-day response period. Once the written defense and response to any document request has been provided, the investigator will devise an investigative plan to identify relevant witnesses or other documents which will be necessary to analyze the allegations and defenses. A respondent who fails to respond or produce documents can be subpoenaed to do so. HUD also has authority to seek a restraining order to prevent further damages or loss of housing opportunity, where appropriate to do so.

4. The HUD investigator will, within the first few weeks of the filing, contact the complainant to *discuss possible terms of conciliation, then communicate these to the respondent*. HUD and its partnering state and local enforcement agencies typically settle between 40-50% of all complaints that

Quick Quiz... No. 6

*True or False:*

Discrimination cases are referred for hearing before an administrative law judge, however, both parties can elect to have the case tried in a U.S. District Court.



*Answer:* Found on page 14

are filed. Conciliation is a process of seeking settlement goals from a complainant, communicating these to the respondent, and working with both parties to identify mutual grounds for final resolution. If the parties come into verbal agreement to terms of settlement, the investigator will reduce these terms to a written agreement which is then provided to the parties. A conciliation agreement is a three-party contract containing specific terms of relief. It may include terms of monetary or housing relief for the complainant. HUD or state or local enforcement agencies usually insist on some affirmative action terms which are designed to prevent future possible incidence of alleged discrimination, and to permit monitoring of compliance. If all parties agree to the terms of the conciliation agreement, they sign it, and HUD signs it. Conciliation is a final resolution of a case, and does not signify any determination as to the merits of the original allegations. Although non-compliance with conciliation agreements is extremely rare, HUD does have the ability to seek enforcement of an agreement where the respondent has failed to fulfill the terms of it.

5. If early-stage conciliation is unsuccessful, then the investigator *proceeds with an independent investigation*. In most cases, HUD will conduct the onsite portion of the investigation. This may include reviewing applicant, current tenant, and/or eviction files in the respondent's business office, interviewing the respondent and its staff, and interviewing current and former tenants of the complex. In some cases, other witnesses are interviewed, such as police officers or others with knowledge of practices. HUD's investigation is focused on determining whether the respondent has provided a legitimate business reason for taking the actions against the complaint, as recited in the defense, and more importantly, to determine if those practices were consistent and non-discriminatory. For example, if the respondent evicted a minority complainant for playing music too loud and causing disruptions to other tenants, were there non-minority tenants in the complex who created similar disturbances, and did the respondent also evict them?

6. *Mid- and late-stage conciliation efforts* will be undertaken as further evidence is developed during the course of an investigation. HUD will ultimately complete its investigation and *issue a written letter of determination*. That determination will summarize the evidence upon which the determination is made, and advise the parties either: (a) that HUD is dismissing the case because inadequate evidence has been collected to support the allegations of discrimination; or (b) that HUD is issuing a charge of discrimination because evidence collected supported the allegations of discrimination as made by the complainant. In either case, a Final Investigative Report which describes all evidence collected is produced, and can be made available to the parties upon their request.

7. The process following issuance of a charge of discrimination is set forth in the Fair Housing Act, and HUD's implementing regulations at 24 CFR 103.400 and 180. Following issuance of a charge of discrimination, the case is referred for hearing before an administrative law judge. However, either party can elect to have the case tried in a U.S. District Court, in which case HUD transfers the case to the Department of Justice for litigation.

How long will all of this take? The Fair Housing Act charges HUD with making reasonable effort to complete the processing of most cases within 100 days of filing. The vast majority of cases processed by HUD and state and local fair housing agencies are now being completed within this 100 day goal. However, some cases, owing to their complexity or the availability of important witnesses, may take longer. A principle benefit of conciliation is its ability to achieve prompt resolution of a complaint, so HUD emphasizes early-stage conciliation in every case.

## Neighborhood Networks Celebrate a Decade of Success

The theme for the 2005 celebration of the Neighborhood Networks (NN) Initiative chronicles the evolution of this initiative during the past ten years. For the upcoming 10<sup>th</sup> anniversary Conference, scheduled for June 29 - July 1, in Lake Buena Vista, Florida, highlights have been given to the Sacramento Office. Filipino Plaza Neighborhood Networks Center (NNC) is one of four NN centers selected, nationwide, to be recognized, along with Sacramento NN staff.

Filipino Plaza was selected because it is a well-rounded NNC, providing a variety of programs and activities for adults, children, families and seniors. The center has a dedicated, active director, Frank Gatdula, who has been successful in maintaining several excellent outside partnerships and boasts success stories where residents who use the center go on to acquire college scholarships. This center was also chosen to represent the full diversity of the NN initiative and its national reach on the West Coast.

Interviewed and video taped at Filipino Plaza, was Denise Williams, a Sacramento HUD Project Manager who has been a NN Coordinator since the inception of the initiative. Ms. Williams' interview will appear as the lead article in the 10<sup>th</sup> anniversary issue, NN newsletter, published by Aspen Systems Corporation. When asked about the early years and vision she said, "It was *fantastic* that a government agency would develop such an initiative that would better reach poor people, most of whom were in multifamily housing. We had individuals who needed help, and now we had a great tool to assist them."

## RHIIP and You

The Rental Housing Integrity Improvement Program (RHIIP) recently published a brochure, RHIIP and You. The brochure was developed to assist in informing tenants, property owners, management agents, etc., about the RHIIP initiative. The brochure is being sent to all HUD field offices and will be used to market RHIIP at meetings, visits to projects, industry meetings, etc.

RHIIP information sheets are also available. There are separate information sheets for owners and agents, tenants, contract administrators, and HUD staff. These information sheets as well as other information concerning the RHIIP initiative are available on RHIIP's website at <http://www.hud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm>.

## 10 Low Cost or No Cost Energy Saving Tips that can Reduce your Monthly Energy Bills

### Lighting Tips



**Tip #1** – Upgrade your lighting - replace T12 fixtures with more efficient T8 fixtures. Make sure that maintenance staff understand that T12 lamps use magnetic ballasts, while T8 lamps use the more efficient electronic ballasts. Using the wrong lamp with the wrong ballast may compromise the performance of both the lamp and the ballast.



**Tip #2** – Many lighting retrofits can be self-installed. Compact fluorescent lamps (CFL) can replace incandescent lamps in most common areas, including hallways, stairways, garages, and lobbies. CFL torchieres are also a great alternative to energy wasting halogen lamps.

### Service Hot Water Tips



**Tip #3** – There are several lower cost options that will help improve the efficiency of your service hot water system. Make sure that the recirculation loop has controls that regulate temperatures based on demand and that the service hot water Recirculation loop pumps are turned off if the length from the water heater to a water tap is less than 100 feet. Also make sure that your boilers have controls that are well maintained and functioning. Of course – upon failure – remember to replace the boiler or service hot water heater with an energy-efficient system.



**Tip #4** – Encourage maintenance staff to insulate boilers and pipes properly. Boilers and pipes without insulation or with improper insulation such as masking tape can lead to higher energy bills.

### HVAC Tips



**Tip #5** – Inspect and clean vents, fans, filters, and ducts annually and during each tenant complaint. Blockage and leaks in the HVAC system can dramatically increase energy use for heating and cooling. It pays to inspect/repair regularly.

### Laundry Tips



**Tip #6** – When replacing, replace top-loading machines with horizontal-axis (front-loading) machines. Horizontal-axis machines are more energy efficient and have greater accessibility for tenants.

### General Tips



**Tip #7** – Encourage operations and maintenance staff to keep detailed maintenance logs. These logs help identify problem areas in the building, highlight recurring problems, and track maintenance activities. A major part of a building's cost savings is ensuring that operations and maintenance activities are both thorough and responsive. Keeping detailed maintenance logs is an important part of this equation.



**Tip #8** – When buildings do undergo energy efficiency improvements, it is important that maintenance staff commission and inspect the work to ensure that it was completed properly.



**Tip #9** – Track your monthly energy bills so you can compare usage and costs over time. A free tracking tool is available through ENERGY ACTION. It is also helpful to work with contractors who are familiar with energy efficient technologies and have worked in multifamily housing.



**Tip #10** – Everyone from tenants to property managers need to be involved in energy efficiency activities. Buildings are complex systems, and reducing energy costs requires broad cooperation. By improving the overall energy efficiency of your building you can:

- Reduce tenant complaints
- Encourage more efficient operations and maintenance
- Improve your bottom line
- Extend the life of the building, equipment, and grounds

*Reprinted with permission by Energy Action. Energy Action is implemented by a partnership including ICF Consulting, the Non-Profit Housing Association of Northern California (NPH), the Association of Housing Management Agents (AHMA), the Bay Area Local Initiatives Support Corporation (LISC), Strategic Energy Innovations (SEI), and the Center for Energy and the Environment (CEE).*

Below is an excerpt relating to Multifamily Housing from the San Francisco HUD Region IX Fact Book.

In 2003 ten of Region IX's metropolitan areas were among the top 50 markets for new multifamily construction, as shown in the chart below.

High Multifamily Production Markets		
Rank	Metropolitan Market	Number Multifamily Units (1/1 03 - 9/30/03)
5	Las Vegas, Nevada	7,450
6	Los Angeles-Long Beach, CA	7,390
8	San Diego, CA	6,670
13	Riverside/San Bernardino	4,690
17	Phoenix Mesa, AZ	3,990
22	San Jose, CA	3,260
23	Oakland, CA	3,250
27	Sacramento, CA	2,540
28	Orange County, CA	2,540
46	San Francisco, CA	1,420

National Association of Home Builders, 2004 Facts, Figures & Trends

Rental demand improved for most markets in Region IX. Most of Region IX's markets experienced slight declines in vacancy or remained stable.

The Las Vegas markets experienced the greatest decline in vacancy from 9% to 7.5% at the end of 2003 due to increased demand.

Demand continued to outpace supply in Southern California rental markets. Vacancy rates remained tight (below 5%) in some areas due to a slowdown in the sales market and declining vacancies in low and middle rent ranges such as Los Angeles, Orange, Santa Barbara and Ventura counties.

The only California market considered weak was San Jose, which lowered rents by 5%-6% due to competition resulting from higher vacancy rates.

Notwithstanding the slight increases in multifamily construction, the tightening of many rental markets coupled with the immigration of low-income households into

the region and rising housing costs relative to income levels will continue to significantly increase the demand for affordable housing and HUD's rental assistance programs. Funding constraints and anticipated reductions in the number of housing vouchers available will exacerbate the worsening housing condition.

## Answers to the FHEO Quiz Questions

### Tips On How To Avoid a Housing Discrimination Complaint

Question 1: Race, color, religion, sex, national origin, familial status, and disability. The California state fair housing law also includes four additional protected classes, which are: age, marital status, sexual orientation, and source of income.

Question 2: True. Violations of the law under the "overt" and "differential treatment" theories of discrimination usually establish an intent to discriminate. However, "disparate impact" cases involve policies and procedures which are facially neutral (i.e., do not make reference to any protected class) but which have the effect, even if unintended, of denying housing to people in a certain protected class housing more often than others who are outside of that protected class.

Question 3: The overall answer is to endeavor to treat equally-qualified people the same, regardless of their membership in any protected class. In practical terms, HUD believes that one of the best ways to ensure consistency in treatment is by having and abiding written application and tenancing policies, to ensure that actual practices are uniformly applied. Keeping files documenting the reasons for your decisions is also a good practice. And periodic refresher training to staff on your policies, and applicability of fair housing laws, will also help to avoid actions likely to result in complaints.

Question 4: True. The Supreme Court has determined that, under certain circumstances, a fair housing agency which has undertaken tests which reveal evidence of discrimination may file a complaint with HUD or pursue a lawsuit of discrimination, even where the agency has only its testers and no "bona fide" apartment seeker, to testify as to the incidents.

Question 5: Answer: Although tenant-landlord laws of a state may permit no-fault terminations, if a complaint of housing discrimination is filed with HUD (or a state or local fair housing agency), a housing provider will have to provide to HUD a legitimate, non-discriminatory reason for the actions justifying the termination or non-renewal. HUD will investigate to determine if the reasons for termination or non-renewal are non-discriminatory and consistent, i.e., whether any tenant regardless of race, color, national origin or other protected class as alleged would have also been terminated for these reasons.

Question 6: Yes. Even the states with no-stated-cause evictions, an explanation must be provided.

Question 7: True.

### A Housing Complaint Has Been Filed Against Me

Question 1: False. The respondent has 10 days to submit the written response to the allegations.

Question 2: False. There are only seven protected classes, sex, race, color, religion, national origin, disability and familial status. Retaliation is not a protected class.

Question 3: True

Question 4: True

Question 5: False. HUD does have the ability to seek enforcement of the conciliation agreement.

Question 6: True

## COMINGS AND GOINGS San Francisco Hub

### Congratulations To:

- MaryAnne Cottmeyer, Senior Project Manager, San Francisco, on her retirement.
- Sandra Trepper, Supervisory Project Manager, Phoenix, on her retirement.
- Deanna Smith, Senior Project Manager, San Francisco, on her retirement.
- V. Michael Greene, Senior Project Manager, San Francisco, on his retirement.

**Development Corner**

**Section 202/811 Initial Closings**

Valley of the Sun School VI, Phoenix, Arizona, 23 units, Section 811  
L. C. Hotchkiss Terrace, Clovis, California, 75 units, Section 202  
703 Cedar Street Senior Housing, Garberville, California, 11 units, Section 202

**Section 202/811 Final Closings**

Barrio Viejo, Tucson, Arizona, 62 units, Section 202  
Valley of the Sun School VI, Phoenix, Arizona, 23 units, Section 811  
Almond Terrace Senior Apartments, Manteca, California, 50 units, Section 202  
Bevins Court Apartments, Lakeport, California, 10 units, Section 811  
Fuller Gardens, San Leandro, California, 16 units, Section 811

**Initial/Final Endorsements**

Hunter's Glen Apartments, Phoenix, Arizona, 264 units, Section 221(d)(4)  
Sycamore Lane Apartments, Davis, California, 158 units, Section 221(d)(4)  
Tehama Estates, Red Bluff, California, 72 units, Section 223(a)(7)  
Monte Vista Gardens Senior Housing, San Jose, California, 69 units, Section 542(b)  
Eureka Central Residence, Eureka, California, 36 units, Section 223(a)(7)  
Country Hills Apartments, Las Vegas, Nevada, 208 units, Section 223(f)  
Apache Junction Health Center, Apache Junction, Arizona, 130 Beds, Section 223(a)(7)  
Eastern Gardens Cooperative, Sacramento, California, 112 units, Section 223(a)(7)  
Village Apartments, Tracy, California, 72 units, Section 223(a)(7)  
Summercrest Villas, San Jose, California, 66 units, Section 542(b)  
Glenridge Apartments, San Francisco, California, 275 units, Section 223(a)(7)  
La Serena Apartments, Porterville, California, 65 units, Section 223(a)(7)  
Rosewood Care Center, Pleasant Hill, California, 113 beds, Section 223(f)  
Horizon Health and Sub-Acute Center, Fresno, California, 180 beds, Section 223(f)  
San Carlos Elms, San Carlos, California, 115 beds, Section 232

**Issuances**

**Notice 04-22, Disaster Recovery Guidance by Multifamily Housing After a Presidentially-Declared Disaster**

**Notice 2004-20, Reinstatement and Extension of HUD Notice 3-17, Guidelines for Continuation of Interest Reduction Payments after Refinancing: "Decoupling," Under Section 236 (e)(2) and Refinancing of Insured Section 236 Projects into Non-Insured Section 236(b) Projects**

**Notice H 04-21, Amendments to Notice H 2002-16: Underwriting Guidelines for Refinancing of Section 202 and 202/8 direct loan prepayments**

**Notice 2004-19, Extension of the Teacher Next Door (TND) Initiative**

**Federal Register, October 1, 2004, Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2005; Notice**

**Federal Register, November 26, 2004, Reinvention of the Sections 514, 515, 516, and 521 Multi-Family Housing Programs; Interim Rule**

**Federal Register, November 26, 2004, Notice of Funding Availability for the Section 202 Demonstration Planning Grant Program**

**Federal Register November 29, 2004, Privacy Act of 1974; Notice of Matching Program; Matching Tenant Data in Assisted Housing Programs**

**Federal Register, November 30, 2004, Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986; Notice**

U.S. Department of Housing and Urban Development  
Office of Multifamily Housing, 9AHM  
600 Harrison Street  
San Francisco, CA 94107-1300



## CALENDAR

### January, 2005

- 12 - 14** - Certified Occupancy Specialist, San Francisco, CA [www.nchm.org](http://www.nchm.org)
- 18 - 20** - Assisted Housing Manager, Quadel, L.A., [www.quadel.com](http://www.quadel.com)
- 20** - HUD Asset Management Industry Meeting, 600 Harrison Street, San Francisco, CA

### February, 2005

- 7** - CAHSA's Public Policy Conference, Sacramento, register at [www.aging.org](http://www.aging.org)
- 16 - 18** - Site-Based Budgeting Specialist, NCHM, San Francisco, CA, [www.nchm.org](http://www.nchm.org)
- 22 - 24** - Assisted Housing Manager, Quadel, Sacramento, CA, [www.quadel.com](http://www.quadel.com)

