

## A Review Of Recent Fair Housing Act Court Cases

The Fair Housing Amendments Act mandates that the landlord make reasonable accommodations for the tenant with disabilities. Recent court decisions must be carefully scrutinized in order to avoid any potential violation of the law.

In *Roseborough v. Cottonwood Apartments*, a resident who requires a wheelchair alleged that the landlord's denial of her request to relocate to a lower floor apartment violated the Fair Housing Act. The tenant lived in a third floor unit accessible only by climbing three flights of stairs. She notified her landlord that she had developed degenerative arthritis and requested relocation to a lower floor where there were available apartments. However, the landlord denied the request.

The court found that although the tenant signed a lease for a particular apartment and generally has no right to move to another unit in the same building or community, the landlord in this case was under a duty to reasonably accommodate the tenant's disability. The court cited the following factors: (1) the landlord's alleged knowledge of the disability; (2) the tenant's desire and alleged need to relocate to a lower floor; and (3) the alleged availability of a suitable and vacant lower floor apartment.

In another recent case, *United States v. California Mobile Home Park Management Co.*, the Court of Appeals was faced with an issue concerning a mobile home resident. He claimed the landlord violated the Reasonable Accommodation provision of the Fair Housing Amendments Act by refusing to waive guest parking fees for a home health care aide. That person came to the mobile home lot to care for a child who had a respiratory disease. The management company charged the aide guest fees due to its policy of charging residents for the presence of long-term guests and for guest parking.

The court found that the landlord's guest fees are subject to the Fair Housing Amendments Act's Reasonable Accommodation Provision. It indicated that the fee policy must be one that has a potential to deny persons an equal opportunity to use and enjoy a dwelling unit because of their particular handicap. Guest fees, which have an unequal impact and are imposed in return for permission to engage in conduct that a landlord is required to permit under the Fair Housing Amendments Act, may be vulnerable.

The court stated that its decision was based on the particular factual circumstances and various factors. These included: (1) the amount of fees imposed; (2) the relationship between the amount of fees and the overall housing cost; (3) the proportion of other tenants paying such fees; (4) the importance of the fees to the landlord's overall revenues; and (5) the importance of the fee waiver to the tenant with disabilities.

The court concluded that such residential fees may be properly imposed where such fees have an equal effect on residents with disabilities and residents without disabilities.

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