

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 summary is not all inclusive. . .

MFH v. Overlook Condominiums, L.L.C., Overlook Condominium Development, L.P., John Does 1-3, Overlook Place Condominium Unit Owners Association, Inc., and Yellowstone Heritage Construction - On March 7, 2012, MFH filed a complaint in Federal Court alleging housing discrimination against persons with disabilities. The lawsuit claims that the properties in question violate design and construction accessibility requirements under state and federal fair housing laws. The property is located in Bozeman. USDC Case No. 12-CV-0012-SEH-RKS.

MFH v. CITY OF BOZEMAN, Andy Epple, Vicki Hasler, and the Hinesley Family Limited Partnership # 1, Hinesley Development and Charles W. Hinesley - On June 10, 2009, MFH filed a Complaint of Housing Discrimination with the Montana Human Rights Bureau (HRB) against the City of Bozeman and the Hinesley Defendants. Following a cause finding issued by the HRB and failure to conciliate the issues, MFH filed a federal court action in December 2009 against all Defendants. In March 2011, the Court issued a Consent Order and judgment against the Hinesleys, requiring them to complete remedial actions for violation of state and federal fair housing laws, including but not limited to, a retrofit plan to be completed by June 2012 to make the Aiden Place Condominiums more accessible to persons with disabilities. Federal court proceedings continue against the City of Bozeman for exclusionary zoning practices and discriminatory permitting and inspection practices, including the City's approval of the Hinesley properties that violated the law. MFH claims Bozeman is violating the Fair Housing Act, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Montana Human Rights Act, and the Montana Governmental Code of Fair Practices, as well as state and federal constitutional guarantees. In February 2012, the U.S. District Court rejected the City of Bozeman's argument that MFH did not have standing to bring these claims, finding that "Fair Housing has presented enough evidence to satisfy the additional standing requirement for its requests for declaratory and injunctive relief" to defeat the City's motion for summary judgment. On February 28, 2012, the federal Court ruled on MFH's motion for

summary judgment against the City of Bozeman, finding that certain Bozeman zoning practices violated the Fair Housing Act, the ADA, the Rehabilitation Act and state Human Rights Act. The Court determined those practices were illegal and discriminatory on their face in denying equal housing opportunities by banning assisted living facilities and elderly care facilities in more than half of the residential zoning districts in the City. A December trial is scheduled to determine the appropriate remedies for those violations, as well as the remaining MFH claims alleging illegal steering based on disability/age/marital status and a citywide failure to meet its affirmative obligations under state human rights laws to "assure equal treatment for all persons and eliminate discrimination." USDC Case No. 09-CV-0090-DLC.

MFH v. Lewis - In September, MFH received a copy of an advertisement placed on Craig's List limiting a two-bedroom unit in Bozeman to two people. Following investigation, the organization filed a complaint with HUD alleging discrimination on the basis of Familial Status. The complaint names as Respondents Leland Lewis, Diana Lewis, and Jill Stowasser. The complaint was conciliated, without admission of discriminatory practices. Respondent compensated MFH for costs incurred and has agreed to attend fair housing training.

MFH v. Wilson - Following an investigation, MFH filed a complaint of housing discrimination with HUD against Ken Wilson of Havre, alleging the Respondent denied persons with disabilities reasonable accommodations by charging monthly fees for assistance animals. The complaint was conciliated, without admission of discriminatory practices. Respondent compensated MFH for costs incurred, has agreed to attend fair housing training, and implement a fair housing policy and Request for Reasonable Accommodation Policy.

MFH v. Kasala - After receiving allegations of housing discrimination, MFH conducted an investigation ultimately culminating in the filing of a complaint of housing discrimination with HUD against Claire and Jerry Kasala. Allegedly, Respondents denied rental opportunities to households with children and persons with disabilities because of "steep steps and high decks." The complaint was conciliated, without admission of discriminatory practices. Respondent compensated MFH for costs incurred, has agreed to attend fair housing training, and implement a fair housing policy and Request for Reasonable Accommodation Policy.

Shootin' the Bull

Montana Fair Housing is a private, non-profit, fair housing organization providing education, outreach, and enforcement activities throughout the state of Montana. MFH does not have an attorney on staff. Information contained in this newsletter should not be construed as legal advice and does not provide a legal opinion.

Upcoming Events:

MARK YOUR CALENDARS!

Housing Conference 2012:

April 18 & 19, 2012
Copper King, Butte

For more information about our Annual Conference, contact our office at (406) 782-2573, or register on-line at our website.

Discrimination in housing occurs when a housing provider makes a decision about a consumer's eligibility for services based on the consumer's protected class status. A housing provider cannot deny you services nor place different terms and conditions on you BECAUSE OF your membership in a protected class. Protected classes include: Race, Color, National Origin, Religion, Sex (including sexual harassment), Familial Status (presence of children under the age of 18 or pregnancy), and/or Disability (Mental or Physical, including requests for reasonable accommodations and reasonable modifications). In the state of Montana it is a violation of the state's Human Rights Act to discriminate in housing related transactions based on marital status, age, and/or creed. In addition, in the City of Missoula, a housing provider cannot discriminate against a household because of gender identity or sexual orientation.

For More Information about Discrimination in Housing, or to File a Complaint, contact:

Montana Fair Housing
519 East Front Street * Butte, MT 59701
Voice: 406-782-2573 or 800-929-2611
FAX: 406-782-2781 * MT Relay Service: 711
E-Mail: inquiry@montanafairhousing.org
Website: montanafairhousing.org



The work that provided the basis for this publication was supported in part by funding under a grant awarded by the US Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The authors and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication.

In early 1968, Congress and the Supreme Court took a step that prior to that time seemed impossible, both declared that it would now be illegal to discriminate in the sale or rental of housing because of race. The new fair housing laws enacted were to bring drastic revisions to the black-white pattern of housing in American cities.

There were several reasons the 1968 Civil Rights Act, containing open occupancy provisions, passed at that time. The Senate Housing and Urban Affairs Subcommittee of the Banking and Currency Committee, held hearings on a fair housing bill which could be added as an amendment to worker's protection legislation providing civil rights. In addition, Senate liberals involved in this legislative battle were organized and unyielding. And on April 4th of that year Martin Luther King was assassinated escalating the social unrest in the country, increasing action in the House of Representatives.

In August 1967, hearings commenced on Senator Walter F. Mondale's proposal, S. 1358. The original bill provided that fair housing be implemented in three stages. The first would require all federally-assisted housing comply; the second stage included compliance for all multi-unit housing; the final stage would require compliance for all single-family units. The immediate opposition of the bill by Southern members antagonized those in support of the bill and set the stage for even stronger legislation.

Proponents argued the constitutional grounds of the civil rights legislation, and the increasing need for housing open on an equal opportunity basis to African Americans, while working to dispel myths that open housing would lead to the reduction of property values. The psychological arguments for fair housing included the opportunities that would open up for African Americans - they could escape the ghetto, and have increased employment and education opportunities. Persuasively, proponents argued that segregated housing was simply a rejection of one human being by another based on superior power. Throughout the country riots were breaking out in every major city - passage of a fair housing law at that time might ease the social unrest and lead to reduction of ignorance and the black-white barrier.

Opponents argued the constitutional grounds of individual state's rights and private property control.

For months both proponents and opponents made strategic moves in efforts to support their positions until March 11th, when the bill passed the Senate by a vote of 71 yeas to 20 nays, ultimately including new titles addressing the rights of Native Americans. On April 10th with the National Guard troops called in to control riot conditions in the basement of the Capitol, the bill passed the House. On April 11th, President Johnson signed H.R. 2516, and the Civil Rights Act of 1968 became law.

And that is why . . . April is Fair Housing Month!

For more information about the passage of the Fair Housing Act, please see [FAIR HOUSING: A LEGISLATIVE HISTORY AND A PERSPECTIVE](#) By JEAN EBERHART DUBOFSKY