

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



**Montana Fair Housing is a private, non-profit, civil rights organization providing education, outreach, and enforcement activities throughout the state of Montana and elsewhere. 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.**

### **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 . . .*

### **Settlement Resolves Law Suit Alleging Violations of the Federal Fair Housing Act and Montana Human Rights Act Accessibility Requirements**

UNITED STATES OF AMERICA, and MONTANA FAIR HOUSING, INC. v. GABRIEL NISTLER, SOMMER NISTLER, NISTLER ELECTRIC, LLC, DEREK BROWN, AND DEREK BROWN CONSULTING, INC.

The settlement resolves a complaint filed by Montana Fair Housing in November 2012 alleging violations by the developer, Gabe Nistler, and the engineer, Derek Brown. The complaint alleged that the property failed to comply with the design and construction requirements of the federal Fair Housing Act that would provide accessibility to the property by persons using a wheelchair for mobility. On June 26, 2013, following investigation of MFH's allegations and multiple attempts to conciliate the complaint, HUD's Region VIII Director issued a charge of discrimination.

In September 2013, the United States filed a lawsuit alleging that the defendants violated the Fair Housing Act when they designed and constructed an eight-unit property located at 175 and 195 Silsbee Avenue in Helena. The property included steps and other features that made them inaccessible to persons with disabilities. Montana Fair Housing intervened in October, adding violations by Defendants of state fair housing laws, Section 49-2-305 of the Montana

Human Rights Act ("HRA").

Terms of the agreement require the owners and builders of the property, Gabriel and Sommer Nistler and Nistler Engineering LLC, and the engineers, Derek Brown and Derek Brown Consulting Inc., to remove barriers to accessibility at the property and two other properties defendants designed and constructed. Defendants were also ordered to pay \$8,500 in civil penalties to the United States, and \$17,500 to Montana Fair Housing.

Defendants are prohibited from designing or constructing covered multi-family units in the future that do not comply with the state and federal accessibility requirements, and/or seeking approval, waiver or variance from a permitting authority to design or construct a covered multifamily dwelling without one or more of the accessibility features.

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### **Montana Fair Housing and Kristen Newman vs. Jaclyn Katz and All Real Estate Services**

In December 2013, Kristen Newman and Montana Fair Housing filed a complaint of housing discrimination with HUD alleging that Jaclyn Katz failed to provide a reasonable accommodation to a person with a disability in violation of the Fair Housing Act. The Complaint was amended in February 2014 to include allegations that Katz made housing unavailable, made discriminatory statements, and interfered with the exercise of rights protected by the Act. In March and April, Katz's firm, All Real Estate Services in Montana, was also named as a party responsible for violating federal fair housing laws.

HUD's Fair Housing and Equal Opportunity Office in

Upcoming Events:

Approved for: 4 mandatory credits by the Board of Realty Regulation and 4 Continuing Legal Education credits by the MT State Bar Association:

November 13 - Billings - 9 a.m. to 1 p.m.

Registration information is available on our website at [www.montanafairhousing.org](http://www.montanafairhousing.org)

or contact Montana Fair Housing at: (406) 782-2573 / Relay: 711 [inquiry@montanafairhousing.org](mailto:inquiry@montanafairhousing.org)

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 a household services nor place different terms and conditions on that household **BECAUSE OF** membership in a protected class.

Federal protected classes include: Race, Color, National Origin, Religion, Sex (including sexual harassment and protections for victims of Domestic Violence), 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). Fair Housing laws require owners, developers, architects, and contractors to design and construct multi-family housing of four or more units to be adaptable and accessible for persons using a wheelchair for mobility, if constructed for first occupancy after March of 1991.

In the state of Montana, in addition to the federally protected classes, 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 the cities of Butte, Missoula, Bozeman and Helena, 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

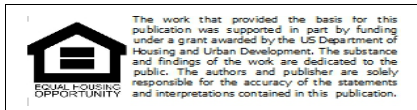
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Region VIII found in favor of Ms. Newman and MFH and issued a formal Charge of Discrimination against Katz and her firm.

The property manager and her firm elected to have the case heard in federal court. On October 6, the Civil Rights Division for the US Department of Justice, along with our state's US Attorney, filed an action in the United States District Court against Ms. Katz and the firm, All Real Estate Services in Montana. MFH and Ms. Newman intend to intervene in the case, adding violations of the Montana Human Rights Act and other state claims against the Defendants.

In its complaint, the federal government states that Ms. Katz and her firm violated the Fair Housing Act by making a dwelling unavailable to a person with a disability by denying a request for a reasonable accommodation with respect to Ms. Newman's service animal when the accommodation was necessary to afford her an equal opportunity to use and enjoy her apartment. The denial ultimately caused Ms. Newman to vacate the unit because the conditions imposed made the apartment unavailable to her. Defendants also violated the Act by discriminating against a person with a disability in the terms, conditions, or privileges of the rental, by repeatedly denying a request for a reasonable accommodation, by threatening to charge excessive penalties, and by requiring an additional deposit for a service animal. The Complaint also states Ms. Katz and her firm unlawfully discriminated on the basis of disability by continuing to contact Ms. Newman after she requested that all contacts regarding her tenancy be directed to Pam Bean at MFH, by making statements indicating a preference, limitation, or discrimination against a tenant because of her disability, and finally, by threatening to evict Ms. Newman for requesting an accommodation and otherwise exercising her rights under the Fair Housing Act.

The United States has requested that the Court issue an order that declares the Defendants' current housing practices are unlawful and discriminatory; that prohibits Ms. Katz and her firm from discriminating against any person because of disability; that requires Defendants to take all steps necessary to remedy the effects of their discriminatory conduct and to prevent similar misconduct in the future; that awards sufficient monetary damages to compensate for the harm done; and that assesses a civil penalty against Ms. Katz and against her firm for each violation of federal law proven at trial. Defendants are expected to file an answer to the federal Complaint sometime in early December.

**STATE EMPLOYEE CHARITABLE GIVING CAMPAIGN** - This year the SECGC runs from September 29th through November 7th. If you are a state employee, please consider supporting Montana Fair Housing's work, and encouraging others to as well! Our giving campaign organization number is **5258**. THANKS TO ALL WHO CURRENTLY GIVE TO MFH!