



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. . .

Bozeman Senior Living Community Resolves Fair Housing Charges

In a July 31 settlement agreement that addressed emerging issues of disability and age discrimination at "independent living" communities, Gladys Yuill, her son Bill, and Montana Fair Housing resolved several claims against Hillcrest Senior Living in Bozeman and three of its managing officers. If not resolved, the parties were headed to the federal court. Under the terms of the conciliation, Hillcrest agreed that Mrs. Yuill would return to her home at Aspen Pointe and receive a discount on the cost of her unit at a savings of \$6,000 per year. Hillcrest also agreed to pay a lump sum of \$69,000 to cover all harm that Mrs. Yuill had experienced and to reimburse Montana Fair Housing for diversion of resources and future training costs. Most important to the Yuills and to MFH, Hillcrest agreed to adopt policies and procedures to guarantee compliance with fair housing laws and to assure that persons who needed reasonable accommodations or modifications would have the opportunity to request them without fear of losing their independence.

The events that led Mrs. Yuill and her son to reach out to Montana Fair Housing and then file discrimination charges reflect growing trends in the housing market that correspond to the needs of an aging population in Montana and throughout the country. The case raised important questions about what it means to live "independently" and who decides if a resident has the ability, with or without reasonable accommodations, to live on their own. In agreeing to the settlement, the Yuills and Montana Fair Housing made clear that fair housing laws guarantee equal housing opportunities regardless of age or disability so long as a resident meets the legitimate, business related qualifications for residency.

Gladys Yuill, age 92, moved to Montana a few years ago to be close to her son and his family who live in the Gallatin Valley. She is an avid reader, active

conversationalist and far better than average bridge player. She sometimes uses a walker. She moved into a one-bedroom apartment at Aspen Pointe, the independent living retirement complex at Hillcrest, in 2004. She takes pride in her independence and self-reliance. She made many friends and soon became an active member of the community.

Last summer, Mrs. Yuill underwent hip surgery after a fall. She successfully completed weeks of intense rehabilitation at a physical therapy center in Bozeman. She returned to Hillcrest, agreeing to a "short term" stay at Birchwood, the assisted living facility there, to complete her rehabilitation. The time came when she could return to her home at Aspen Pointe, a decision she, her family and her physician made together. When she advised the staff of Hillcrest she would be returning to her apartment in Aspen Pointe, they said no, she no longer qualified for independent living. Within weeks she lost her home, unable to carry the burden of an unoccupied apartment at Aspen Pointe and the room she had at Birchwood. With the help of her son, Bill, a retired trial attorney, Mrs. Yuill sought help from Montana Fair Housing.

After a preliminary investigation, MFH determined that the "independent living" conditions imposed by the Aspen Pointe staff raised serious questions about whether Hillcrest had violated state and federal fair housing laws. The decision made by Hillcrest staff was at odds with the decision Mrs. Yuill had made to return and the opinion of Mrs. Yuill's own physician. The family was ready and willing to arrange privately for any additional services Mrs. Yuill might need to assist her. Hillcrest staff, however, were unwilling to have serious discussions about accommodations or modifications that might be needed.

In December 2005, the Yuills filed charges with the state Human Rights Bureau alleging that Hillcrest and the managing officers who had made the decision had violated state fair housing laws that prohibit housing discrimination based on age and disability. These laws require housing providers to make reasonable accommodations so that persons with disabilities have equal opportunities. The Yuills were represented in the state proceedings by Tim Kelly, an attorney who specializes in civil rights cases in Montana. Kelly also represented Montana Fair Housing in a separate complaint filed later with HUD, the federal agency charged with investigating and enforcing violations

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I want to support the efforts of Montana Fair Housing toward reducing the occurrence of housing discrimination in Montana. Enclosed is my tax-deductible membership contribution:

- Limited Income - \$10
- NonProfit Organizations - \$50
- Individual Sponsor - \$200
- Corporate Sponsor - \$500
- Other: _____

Name: _____

Address: _____

City: _____

State/Zip: _____

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 special 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/or modifications). In the state of Montana it is also a violation of the state's Human Rights Act to discriminate in housing related transactions based on marital status, age, and/or creed.

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of federal fair housing laws.

According to Kelly, the state Human Rights Bureau reacted quickly to the charges and completed its investigation after interviewing a number of witnesses and collecting records from several sources. The state issued its final report in April 2006, finding that the evidence clearly supported the Yuills' charges of discrimination. Hillcrest had not complied with fair housing laws that require reasonable accommodations to rules or regulations when needed to assure equal housing opportunities for persons with disabilities. Hillcrest marketing strategies also sent a message that people with disabilities and those of truly advanced ages were not as welcome as others. The state Human Rights Bureau described several affirmative steps that Hillcrest needed to take to comply with the law.

The Yuills and MFH decided that the best course would be to try and reach a constructive agreement to settle the case, and if that was not possible, then to proceed with the matter to federal court. As a precondition to any settlement discussions, both the Yuills and Montana Fair Housing required that Hillcrest take steps to allow Gladys to return to Aspen Pointe. Hillcrest agreed, demonstrating its good faith desire to resolve the matter. Hillcrest also understood that staff needed to be much more familiar with fair housing laws. In late June, Gladys Yuill moved back into Aspen Pointe with the help of her family, this time to a two bedroom unit with a small porch overlooking the grounds and in view of the Gallatin Mountains.

According to Kelly, "the principles that Gladys and Montana Fair Housing were fighting for in this case are the same ones that we all have to understand better and protect unless you are willing to give up your own autonomy and independence as a price for decent housing." As more of the housing market changes to adapt to the needs of a larger and larger group of older persons, the increase in discrimination claims based on disability and age also has kept pace with those trends, Kelly said. "Educating housing consumers about their rights and providers about their responsibilities," he said, "is the first step, but the willingness to enforce those laws depends upon people with the strength of their convictions, like the Yuills."

"The most important thing is that Mrs. Yuill is back at Aspen Pointe because **she** decided to live there," states Bob Liston, Executive Director of MFH. "And Hillcrest now has policies and procedures in place that will serve as a good starting point to prevent this type of discrimination from happening in the future." Policies and procedures cannot guarantee discrimination won't happen, according to Liston. "You need trained personnel and staff to follow them. But it is a good start," he concluded.

For further information on policies and procedures outlining basic nondiscrimination policies housing providers can adopt, including forms and procedures explaining how to request a reasonable accommodation or a reasonable modification when needed to assure equal housing opportunities, contact Pam Bean, Montana Fair Housing at 1-800-929-2611 or by email at mfhzng@montana.com. MFH also has available other records and forms that can be used by housing consumers and providers to ensure equal housing opportunities exist for all Montana citizens.

Are we fair enough? by Thomas M. Stevens

When asked to violate the federal fair housing law and his own sense of ethics, Troy Brown literally walked away. Last year, Brown, 38, an associate with Weichert, REALTORS®*Columbus Associates, outside Raleigh, N.C., was working with a relocating buyer who asked for information on the racial makeup of a neighborhood in an effort to avoid the "high crime rates" of neighborhoods with a "large population of people other than white." Brown politely and repeatedly refused the buyer's request, eventually turning away the business.

"I've never been treated so badly by anyone, and yet [Brown] never raised his voice," the buyer

wrote in a complaint letter to Brown's broker. The buyer wanted Brown's head on a platter. What he got instead was an emphatic defense of Brown by broker Paul Smith.

A few years earlier, in a suburb of Detroit, Mich., Stacy Peardon, 29, of Keller Williams Realty Great Lakes helped a fair housing organization track down residents who threatened her as she showed a home to African-American buyers.

Brown, Smith, and Peardon are role models for how to confront discrimination. But a new report charges that our industry as a whole isn't living up to their standard. The National Fair Housing Alliance, a consortium of nonprofit fair housing organizations, says that, while practitioners understand their obligations under the Fair Housing Act, some choose to put themselves and their companies at risk by failing to comply with the law.

The U.S. Department of Housing and Urban Development contracted with NFHA to test how real estate companies treated white buyers vs. equally qualified African-American or Latino buyers. HUD had conducted tests in 2000 and found a pattern of steering it wished to investigate further. Between 2003 and 2005, NFHA conducted 145 tests of real estate offices in the Northeast, South, and Midwest that HUD suspected of discrimination.

NFHA says testers who viewed homes with a practitioner were often steered to neighborhoods on the basis of their race, national origin, and even, in a few cases, religion, and practitioners sometimes discouraged whites from buying in certain school districts while offering no such warnings to African-American and Latino buyers. As a result of the tests, NFHA has filed nine complaints against real estate companies in Atlanta, Chicago, Detroit, Mobile, Ala., and Westchester County, N.Y.

Reading the NFHA report, it's clear that many associates identified as having engaged in steering felt they were doing a service to buyers by providing unasked-for advice. Others no doubt thought they were helping protect their community's property values. But that line of thinking is insidious, because when we think of and speak of factors such as race, ethnicity, and national origin as having a material impact on values, we make it so. We also break the law and violate Article 10 of the REALTOR® Code of Ethics.

POINT OF VIEW: Stevens Report
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Tid Bits from the General Store

We have a number of workshops scheduled for the year. All workshops are approved for Continuing Education Credits with the Montana Board of Realty Regulation (mandatory credits) and for attorneys with the Montana Bar Association. To schedule a workshop in your area or for your organization, or to register for any of our workshops, please contact Pam Bean at mfhzng@montana.com or call 800-929-2611/542-2611.

September 14, 2006 - **Lewistown**: 1 p.m. to 5 p.m.
November 8th, 2006 - **Bozeman**: 8:30 p.m. to 12:30 p.m.

November 9th, 2006 - **Helena**: 1 p.m. to 5 p.m.

November 14th, 2006 - **Billings**: 8 a.m. to 4 p.m.
8 a.m. to Noon: Fair Housing 101
1 p.m. To 4 p.m.: Design & Construction.
Collaborative effort with the City of Billings.

State Employees: Donations to MFH made easy

Montana Fair Housing has become a participant of the **State Employees' Charitable Giving Campaign**, giving state employees the opportunity to donate to the fight against discrimination in housing. If you are an employee of the State of Montana, please consider making a donation to MFH to further the civil rights of all Montanans. If you have family members or friends who are State employees, give them a nudge to make a donation also. The Campaign runs from October 2 through November 10, and donations can be made by payroll deduction, cash or check to the SECGC—don't forget to mention Montana Fair Housing. Thank you for your support to all the organizations that will benefit from this wonderful campaign.