

Landlord News

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HOPKINS TSCHETTER SULZER, P.C.

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Fair Housing, United States Citizenship, and Illegal Aliens

Recently, we addressed the issue of social security numbers. Can you require them? See the November 2005 edition of Landlord News ("Social Security Numbers and Lease/Rental Application Policies") Citizenship and resident status are related topics. In January of 2003, HUD issued a memo addressing these issues. The HUD memo once again made it clear that it is unlawful to screen applicants on the basis of among other things, race, religion, or national origin. What is National Origin? National origin refers to your birthplace, ancestry, language, or customs.

However, the HUD memo stated you can discriminate based solely on citizenship status. Specifically, according to HUD, the Fair Housing Act "does not prohibit discrimination based solely on a person's citizenship status."

The Fair Housing Act also does not prevent discrimination based on immigration status or resident alien status.

The term alien doesn't mean men from mars. The term means foreign or alien to the U.S. Immigration law classifies all non-U.S. citizens as "aliens". Immigration status or resident alien status deals with a person's right to be in the U.S. Does the applicant have a legal right to be in the U.S.? If no, the person's status is illegal. Thus, the expression "illegal alien". If yes, the person's status is legal.

The fair housing law is clear regarding citizenship and immigration status. Asking housing

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Colo Springs Apt. Assoc Education Conference And Expo Great Success

Several hundred people gathered in Colorado Springs on March 10, 2006 to "Ride the Wave" at the Apartment Association of Colorado Springs Annual Education Conference and Expo. Keying on the Expo theme the Firm booth

featured a PowerPoint presentation "Catch the Hopkins Tschetter Sulzer Wave of Great Service" backed by the music of the Beach Boys.

We

encouraged all of the attendees to enter a contest to guess the number of 'goldfish' in a large glass barrel to win a prize. Along with our corporate give away gifts we handed out genuine salt water taffy from Atlantic City, New Jersey to keep up the beach theme of our booth.

The winner of our 'goldfish' counting contest was Deb Strong of Columbine Ridge who received a Nikon Digital Camera for her entry of 4,687. Second place went to Bill Gage of Gage Property Management who received a Deluxe Box of James Chocolate Seal Salt Water Taffy with a guess of 4,389. Third place winner Joy Allison of Pine Crest Apartments took home the large glass barrel of Goldfish for her guess of 4,222. The total number of Goldfish in the barrel was 4,728. Yes, we actually counted each individual cracker as we put them into the barrel!



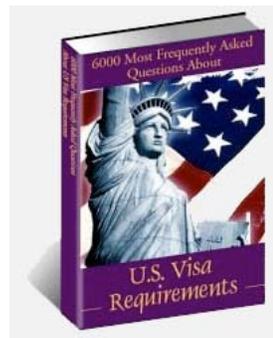
Vic Sulzer, Lindsey Fritcher & Mary Pat Jennings of Colony Hills, Mark Tschetter

Fair Housing, United States Citizenship, and Illegal Aliens

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applicants to provide documentation of their citizenship or immigration status during the screening process does not violate the Fair Housing Act. You can ask and require applicants to prove that they are either a U.S. citizen or have a legal right to be in the U.S. You may deny the application of any person who is not a U.S. citizen or does not have the legal right to be in the U.S. Note, this includes any person who does not have the right to be in the U.S. for the full term of the lease. For example, a student. The student has a valid visa. However, the visa is about to expire. Because the student does not have the right to be in the U.S. for the full term of the lease, you may deny the lease.

As with all fair housing laws, consistency is the key. If you screen based on citizenship or immigration status, you must consistently screen all applicants. The HUD memo gives a clear example of what would be inconsistent discriminatory application of a citizenship or immigration status screen. A person from the Middle East who is in the United States applies for



an apartment. Because the person is from the Middle East, the landlord requires the person to provide additional information and forms of identification, and refuses to rent the apartment to him. Later, a person from Europe who is in the United States applies for an apartment at the

same complex. Because the person is from Europe, the landlord does not have him complete additional paperwork, does not verify the information on the application and rents the apartment. This is the disparate treatment on the basis of national origin.

If you screen on this basis, the application questions do not need to be overly complicated. The questions can be very simple and straight forward. Do you have a legal right to be in the United States? Check one of the following. Yes, because I am a United States citizen. Yes, because I have the following valid documentation granting me the legal right to be in the U.S.

Acceptable proof depends on the applicant's status as a citizen, an immigrant, or a nonimmigrant. A valid current U.S. passport, a birth certificate, or a certificate of naturalization is acceptable proof of U.S. citizenship. Again, you must be consistent, if Arnie Applicant states he is

a U.S. citizen, and you accept his word for it without requiring further proof, you cannot require other applicants who state they are U.S. citizens to provide proof of U.S. citizenship.

Legal immigrants have not been granted

citizenship status, but generally have the right to permanently remain in the U.S. A Permanent Resident Card (formerly known as an "Alien Registration Card" or



commonly referred to as a "Green Card") is acceptable proof that an immigrant is legally in the U.S., and has the right to permanently remain. As a general rule, holders of permanent resident cards will also have social security numbers unless they do not have the right to work in the U.S.

Legal non-immigrants are persons only temporarily in the U.S. for a wide variety of reasons. Business, pleasure, medical, or educational are but just a few reasons. Except for Canadian citizens, non-immigrants will have a passport from their native country. Canadian citizens may legally enter the U.S. for up to six months without a passport or a visa but they must have proof of citizenship (by the end of 2007 Canadians will also be required to have a passport). Anyone presenting a non – U.S. passport as proof of their right to be in the U.S., should also generally have attached to that passport a Form I-94 also known as an Arrival Departure Record, or Entry Permit. A Form I-94 will set forth when the person entered the U.S. and how long they have a right to stay.

Unless the immigrant is either a Canadian citizen or from one of the 27 countries that have visa waivers with the U.S., the immigrant in addition to a passport should also have a visa. There are many types of visas. For example, students generally have F-1 visas. If an applicant claims student status, you may contact the school to verify that they are enrolled.

If the immigrant has the right to work while temporarily in the U.S., the immigrant will also have a social security number or an ITIN (Individual Taxpayer Identification Number). If you are presented with any documentation regarding legal immigration status, and are uncertain about the documentation, contact the firm or the Bureau of Citizenship and Immigration Services ("BCIS" formerly the U.S. Immigration and Naturalization Service or "INS") or the State Department.



FIRM WEBSITE HITS 12,000 MILESTONE

The Firm website www.htspsc.com/or www.milehighbevictions.com has reached a new milestone in client usage. As of the beginning of March 2006 we have had over 12,000 visitors to our site that provides information about the Firm, Staff, Services, a schedule of current and future Client Activities and a plethora of Resource information. The site also provides eviction documents and forms and fair housing forms and letters for downloading as well as court information. Current and past Landlord News editions are also available on the site. There is also an area for client feedback. Clients can register for our free educational workshops and monthly client luncheons online. If you have not checked out the site make an opportunity to do so and give us your feedback.



FAIR HOUSING AND SECTION 8 IS NOT MANDATORY

Contrary to the recent rumor mill, you are not violating the Fair Housing Act if you refuse to accept Section 8 applicants. This is true even if you allow a Section 8 applicant and then later change your mind that you do not wish to accept any further Section 8 applicants. Back in the day, if you accepted one Section 8 applicant, you had to take all Section 8 applicants. This was known

as the "take one take all" rule. The "take one, take all rule" was repealed effective December 20, 1998. In short,



the current Section 8 statute (42 U.S.C.A. 1437f) does not make a participation in Section 8 mandatory.

If this is the case, how did the rumor get started? The rumor got started because of a recent Connecticut case. In some states Landlords are forced to participate in subsidized housing, including Section 8, programs. Connecticut is one of these states. Connecticut passed legislation that provides that a "landlord may not refuse to rent to

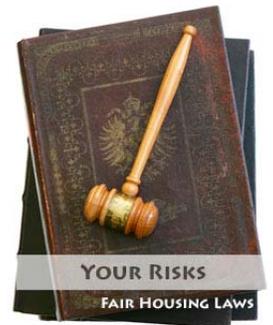
a prospective low income tenant because that tenant will pay the stipulated rent from a lawful source of income, such as rental assistance under section 8 of the housing assistance program administered by the Department of Housing and Urban Development." (250 Conn.763 739 A.2d 238). The decisions in this Connecticut case make participation in Section 8 subsidized housing mandatory for Connecticut landlords, because their legislature added "lawful source of income" as a protected class.

Colorado does not recognize "source of income" as a protected class. Since Colorado does not recognize "source of income" as a protected class, you can refuse Section 8 without violating the fair housing laws.



DON'T GET SWEEPED AWAY IN THE AVALANCHE OF FAIR HOUSING COMPLAINTS

Fair Housing complaints are coming fast and furious in this first quarter of 2006. As a leader in Fair Housing defense, the Firm regularly defends against discrimination charges filed with the CCRD (Colorado Civil Rights Division). In the first three months of this year, we have already defended eight discrimination charges filed with the CCRD. Residents are filing more fair housing complaints than ever. The best protection is to avoid the complaints in the first place. The next best thing is to put yourself in the strongest possible position to defend against complaints if and when filed.



The best way to accomplish both of these objectives is by attending the free Fair Housing Workshops offered by the Firm. An investment of several hours in preventative education can save you many hours and literally tens of thousands of dollars in having to either defend against a Fair Housing claim, or pay a fair housing settlement. In addition to our regularly scheduled Basic and Advanced Fair Housing Classes, we also regularly add additional classes at our facility for clients with a substantial number of attendees who are unable to participate on the scheduled date. We add these dates to our website events calendar

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and welcome others to join these classes, space permitting. You can find a list of the scheduled

dates on our web site www.htspc.com or www.milehighsevictions.com.

You can sign up on line or by calling Nancy at our office 303-699-3484. To schedule a special class for your properties please contact Eve Lincoln or Matt Hopkins at our office 303-699-3484.



MARK YOUR CALENDAR FOR THE FIRM APRIL ACTIVITIES

Make a note of the following dates on your April Calendar. On Tuesday April 11th Vic Sulzer will be giving a Basic Eviction Workshop and on Tuesday April 18th Mark Tschetter and Wes Wollenweber will be giving a Basic Fair Housing Workshop. Both of these workshops will be held at Hopkins Tschetter Sulzer in the Pavilion Tower I located at 2851 South Parker Road. The class is in the conference room on the ground level of the building and can be accessed from the back. Parking is available behind the building and also in the covered parking garage. Classes start at 8:30 a.m.



Our April Client Luncheon will be on Friday April 21st at our south location, Piccolo's Restaurant located at South Monaco and East Hampden. Lunch starts at 11:30 a.m. Mark will make a presentation of current interest to our clients.



Remember you can sign up for a workshop or make reservations for lunch by using our website www.htspc.com or www.milehighsevictions.com or by calling Nancy at our office 303-699-3484.

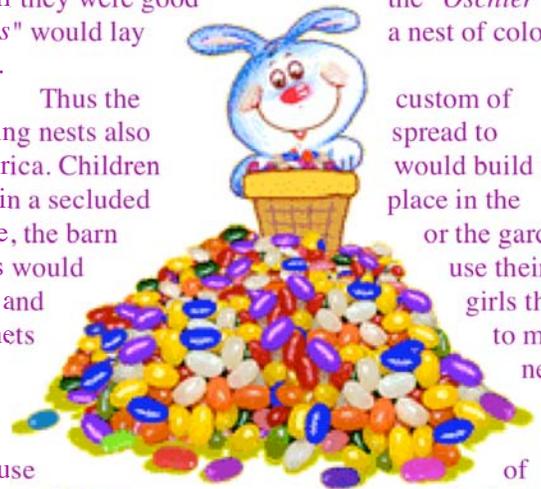
DO YOU KNOW THE EASTER BUNNY STORY ??

In pagan times, the "Easter hare" was no ordinary animal, but a sacred companion of the old goddess of spring, Eostre. The Easter bunny has its origin in pre-Christian fertility lore. The Hare and the Rabbit were the most fertile animals known and they served as symbols of the new life during the Spring season. Since long before Jesus Christ was born, parents told their children that the magic hare would bring them presents at the spring festival. The presents were often painted eggs, as these represented the new life starting at this time of year." Hares are animals which look like rabbits, but are larger and in many countries quite rare. In most places, the Easter rabbit (bunny) has replaced the Easter hare completely.

The bunny was first used as a symbol of Easter in 16th century Germany, where it was first mentioned in German writings. The first edible Easter bunnies, made primarily of pastry and sugar, were produced in Germany as well, during the early 1800s. Also in Germany, children made nests of grass and placed them in their yards. They believed the Easter Bunny would fill these baskets with brightly decorated eggs during the night.

The Easter bunny was introduced to American folklore by the German settlers who arrived in the Pennsylvania Dutch country during the 1700s. The arrival of the "Oschter Haws" was considered "childhood's greatest pleasure" next to a visit from Christ-Kindel on Christmas Eve. The children believed that if they were good the "Oschter Haws" would lay a nest of colored eggs.

Thus the custom of making nests also spread to America. Children would build their nest in a secluded place in the or the garden. Boys would use their caps and girls their bonnets to make the nests.



The use of elaborate Easter baskets would come later as the tradition of the Easter bunny spread through out the country.