

Fair Housing Center Settles Federal Lawsuit

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Cheryl Sharp and Michelle Dumas Keuler

The past two years have been busy ones for lawyers representing tenants in housing discrimination matters in Connecticut. Most recently, an undercover operation that used volunteers to pose as would-be tenants helped plaintiffs to reach a settlement in a federal discrimination lawsuit against the Housing Authority of the Town of Winchester.

This approach, using so-called testers, will be used again in coming months, with a \$227,000 grant to the Connecticut Commission on Human Rights and Opportunities being used to pay for the initiative.

"In employment discrimination cases, there are usually witnesses, but with housing discrimination, it's usually the tenant's word against the landlord," said Cheryl Sharp, a housing lawyer with CHRO. "That's why testing has always been used with housing, to corroborate how a landlord behaves when renting a unit."

Discrimination claims against landlords have not increased in recent years, according to lawyers in the legal aid community, nor has the problem subsided, despite efforts by the Connecticut Fair Housing Center and other civil rights organizations.

"What we're dealing with is the persistence of segregation in Connecticut," said Greg Kirschner, the legal director for the Hartford-based nonprofit center.

On Nov. 14, a consent decree was issued in a federal lawsuit in which the center claimed the Winchester housing authority, which was in charge of approving Section 8 rental vouchers in 17 Litchfield County towns, prevented hundreds of low-income African-American and Hispanic renters from applying for apartments. The authority had enacted a rule that only residents of the 17 mostly white towns could apply for Section 8 housing in the region. The plaintiffs claimed that residency rule was discriminatory.

The consent decree calls for the housing authority to pay \$350,000 to the plaintiffs and to eventually relinquish its role as administrator of the Section 8 program in Litchfield County. Lawyers who worked on behalf of the plaintiffs were pleased with the settlement.

"These white communities used a very simple means to maintain the white character of their communities," said John Relman of Relman, Dane & Colfax in Washington, D.C., which was cocounsel in the plaintiff's lawsuit.

Law School Partnership

Earlier this month, the CHRO, a public agency created in 1943 to investigate claims of discrimination in housing and employment, announced it will re-launch its testing program early next year, using the U.S. Housing and Urban Development grant. The agency used to have a testing program, but it was discontinued about a decade ago due to funding challenges.

Michelle Dumas Keuler, a CHRO housing unit lawyer who helped the agency secure the grant, said evidence collected from audit testing can be crucial in proving a discrimination case.

"Sometimes people aren't even aware they are being discriminated against," she said. "We're hoping to raise awareness of the problem, and ensure compliance of the law at the same time."

CHRO will partner with Quinnipiac University School of Law, which will provide law students to act as testers for a small stipend. Under such programs, some who pose as apartment hunters are white and others are minorities. When the testers compare notes on how they were treated, the results can reveal discriminatory treatment.

Cynthia Watts-Elder, now an in-house counsel with the Phoenix financial services company in Hartford, was a first-year law student in 1986 when she answered an advertisement at the University of Connecticut School of Law seeking housing testers. "At that time, I thought, 'That sounds pretty interesting,'" she said.

Watts-Elder, who is African-American, was paired off with a white law student. They both applied for apartments with Plaza Realty Management in the Hartford area. What she learned, Watts-Elder said, was that discrimination could occur with a smile.

"It was really eye-opening. When I went to Plaza Realty, everyone was really cordial and nice, and I thought, 'I'm not being discriminated against.' It wasn't until I paired up with the other student that I realized I'd been given completely different listings. She got listings in [suburban] West Hartford, and I got listings in North Hartford. I ended up filing a complaint with the CHRO," Watts-Elder said.

That complaint was the first of many against Plaza Realty, which led to more than \$18,000 in settlements based on charges of racial discrimination between 1998 and 2004.

Robert Zamlowski, an attorney who supervises the CHRO housing unit, said the agency handles about 150 to 250 housing bias cases each year. The most common types, he said, are over the failure of landlords to provide accommodations for disabled renters. The next most common complaint is for racial discrimination, including landlords who refuse to accept Section 8 tenants.

'Too Many Blacks'

Statewide, in the past two years, a number of lawsuits have been filed and resolved.

In January 2013, Superior Court Judge Vernon Oliver ordered a landlord to pay Becky Palmer of Manchester \$109,000 for refusing to accept a security deposit that was provided through a program offered for low-income people through the Department of Social Services.

Another lawsuit ended with a judgment against a landlord this summer. In the case of *United States v. Hylton*, a federal judge ordered a pair of landlords to pay more than \$100,000 in damages for allegedly discriminating against prospective tenants because of race.

That lawsuit, which was brought by the Connecticut Fair Housing Center in a complaint filed with HUD, claimed Merline Hylton refused to allow a property he owned in Windsor Locks to be sublet to a black tenant. According to court records, Hylton, who is black, asked if the would-be-tenant was black, and then made statements that "he did not want too many blacks living on the property." He further indicated "too many blacks would upset the neighbors."

After a bench trial, U.S. District Judge Janet Hall ordered Hylton to pay the would-be tenant, Delmechia Wilson, and Taika Bilbo, who tried to sublet the apartment, \$76,091, including punitive damages, and another \$37,422 in attorney fees.

The Winchester Housing Authority lawsuit was filed on behalf of Crystal Carter, an African-American domestic violence survivor who moved to Hartford from Florida in 2011 in order to provide a stable environment for her six children. Forced to sleep in homeless shelters and short-term rentals, she contacted the Winchester authority and requested a voucher application so she could get on the waiting list for Section 8 subsidized housing.

The authority refused. The applications, Carter was told, were available only to people who lived within the Rental Assistance Alliance, which included Cornwall, Kent, Litchfield, Roxbury, Sharon, Warren and 11 other primarily white towns.

According to her lawsuit, a staff member told Carter that the city of Winsted, which is within the town of Winchester, "was not on a bus line, there were no jobs there, and it was in the woods." The lawsuit stated that the staff member then encouraged Carter to apply for housing in a city like Bridgeport, New Haven or Torrington.

The federal law that sets guidelines for the administration of Section 8 vouchers bans public housing authorities from discriminating based on the residency of the applicant or the location of the housing unit.

"Contrary to the mobility and free-choice housing goals of the Section 8 program," the lawsuit claimed, "residency requirements prevent minority families from moving to high-opportunity areas, ensuring that overwhelmingly-white communities remain overwhelmingly white."

Saving Postage

After Carter went to the fair housing center for help, the organization decided to investigate the activities of the housing authority. The best way to do that, Kirschner said, was to enlist volunteers to contact the housing authority and ask for Section 8 vouchers.

Those tests confirmed the claims raised in the lawsuit. The testers, who said they lived in one of the 17 towns within the housing authority's dominion, were sent applications without difficulty.

"The testers who represented that they did not reside in the Rental Assistance Alliance towns were denied applications, and prevented from even applying to the [housing authority's] Section 8 program," the lawsuit said.

James Stedronsky, an attorney who represented the housing authority, never disputed that the residency policy existed. In fact, he indicated in court filings that the policy was enacted by the authority's officials in 2010 to save money on postage and labor costs "as a temporary measure due to the present economic conditions."

But Stedronsky denied that the authority's intent was to discriminate. At the time of the lawsuit, he noted, 30 percent of the 260 people on its Section 8 waiting list were African-American or Hispanic, which is a far greater proportion than the minority population in the Litchfield County towns.

Even before a settlement was reached in the case, the authority got rid of its residency requirement. Relman, the D.C.-based attorney, in published reports scoffed at the notion that there was any cost-saving justification for the policy.

"I can't imagine that the cost of a couple of stamps justifies a policy that has a clearly segregating effect," he said.

The settlement calls for the state to eventually take over Section 8 housing in Litchfield Country. Until that happens, the housing authority has agreed not to violate the law and to treat all Section 8 applicants equally, regardless of town of residency. The authority further agreed to have all employees undergo fair housing training, to notify all future applicants of their fair housing rights, and to generally abide by the Fair Housing Act.

"Housing segregation is a pervasive and persistent problem in Connecticut as evidenced by the few people of color living in the area served by the Winchester Housing Authority and its partners," said Erin Kemple, executive director of the Connecticut Fair Housing Center. "The center looks forward to working with the town of Winchester and the other towns in Litchfield County to ensure that all Connecticut residents are able to take advantage of the safe neighborhoods, high quality schools and rural character that is the hallmark of these towns."