

Fair Housing Holiday Tips

Fair Housing laws have application towards holidays and holiday decorations. Best practices and compliance need to be solidly based on Fair Housing law and not on personal opinion.

As a professional in the housing industry, you may be faced with holiday-related items that are simply viewed as potentially offensive and/or insensitive but that are not against Fair Housing laws.



That puts you as an industry professional into a bit of a quandary. What are best practices when it comes to holidays and holiday decorations? Let's first see where Fair Housing law applies to holiday decorations.

Memorandum Advertisement Guidelines

On January 9th, 1995, a memorandum was released by HUD (Housing and Urban Development) that in part addressed Fair Housing holiday decorations. The subject was "Guidance Regarding Advertisements Under 804(c) of the Fair Housing Act". Here is a direct quote from that document.

"The use of secularized terms or symbols relating to religious holidays such as Santa Claus, Easter Bunny, or St. Valentine's Day images, or phrases such as Merry Christmas, Happy Easter, or the like does not constitute a violation of the Act."

So which protected class is being referenced? That's right. It's religion. What's the guiding principle behind the Fair Housing Act? You are right again. It's equality. Now that we can clearly see how the Fair Housing Act applies to holidays and holiday decorations, let's look into some overall best practices.

Community

Fair Housing Holiday Tip #1

Many of us have attended housing related educational events and typically you will find sessions that discuss "building community" as a resident retention technique. That's really a short expression for doing whatever it takes to make sure our residents feel at home. Building community is not just an end of year initiative, it's year round.



Fair Housing Holiday Tips (Cont'd)

In the spring we may be focusing on community gardening or community charity events. In the summer it may be community cookouts or community poolside events. In the fall it may be harvest-related events or tailgating. The point is that throughout the year you are building community. Those community events are for **EVERYONE** in your community.

The same principle and best practice apply to the end of year holiday times. Think of **EVERYONE** in your community.

You may have residents who come from numerous religious background. You may have residents who have no religious affiliation. Just like all of your other events throughout the year, what are you doing to continue that feeling of community?

Choice of Wording

Fair Housing Holiday Tip #2

Fair Housing applies to your wording during holiday times. This can come from your mouth or on what you have on display. Be inclusive of everyone with your vocabulary. There is a difference between using the expression *'Happy Holidays'* versus the expression *'Merry Christmas'*. Although the law does not prohibit the use of certain expressions, the principle is to promote equality and build a sense of community. Be beyond the law.

Common Areas – Community Events

Fair Housing Holiday Tip #3

Your facility may have common areas that are used by your residents. Some communities have clubhouses, game rooms, sitting areas etc. Whatever your policies are regarding usage of these areas, be sure that they are all neutral. If your policies allow for religious activities, make sure your policy covers all religions.

If you are hosting community events during the holidays, give careful consideration to the planning, decor, attendees, theme etc. This is something of a much bigger scope than how your residents are using your common areas. Your community events are endorsed by YOU as the community and if applicable, your property management company. It's your corporate social responsibility to get this right! Every detail should be vetted through the lenses of equality to make sure that it is an occasion where everyone feels welcome.

Fair Housing Holiday Tips (Cont'd)

Holiday Decorations

Fair Housing Holiday Tip #4

Holiday decorations for the inside of a resident's home should really be none of anyone's business unless they are breaking a community policy. For example, you may have a policy against setting up 20-foot trees inside an apartment that has only 10-foot ceilings. Other than that it's really a decorative choice of the resident that does need to be micromanaged.

Complaints

Fair Housing Holiday Tip #5

No matter what you do and how careful you are you will always have people who will complain. Make sure you address this with your team. Your team needs to understand how Fair Housing laws could apply and why. Address all complaints of religious discrimination. This includes complaints amongst neighbors. Document – document – document everything. And remember to...document.

Fair Housing Holiday Tips...Celebrate Diversity

Fair Housing applies to any and all holiday time periods. On a year-round basis, it is a must that housing professionals make their communities welcoming. Don't just follow the law. Understand the Fair Housing Act and its intent. Make sure your community eats, lives, and breathes equality. Have solid policies in place. By following these Fair Housing holiday guidelines and tips you will make it easier for you, your team, and your residents to have a happy and festive time.

HUD Seeks Investigation of Websites Selling “Worthless” ESA Documentation

U.S. Department of Housing and Urban Development (HUD) Secretary Ben Carson is seeking action against online companies that profit from selling sham assistance animal documentation at the expense of rental housing providers and renters who have legitimate needs. These companies' documents are intended to justify reasonable accommodation requests for assistance animals (service animals and emotional support animals (ESAs)) in housing but are often used to skirt pet restrictions under false pretenses.

In a letter sent to Chairman of the U.S. Federal Trade Commission Joseph J. Simons and Director of the Bureau of Consumer Protection Andrew Smith, Secretary Carson expresses several concerns in line with those of the apartment industry and asks the FTC to investigate some websites selling assistance animal verification documents. As HUD General Counsel Paul Compton states, “These websites are using questionable business practices that exploit consumers, prejudice the legal rights of individuals with disabilities, dupe landlords, and generally interfere with good faith efforts to comply with the requirements of the Fair Housing Act.”

HUD Seeks Investigation of Websites Selling “Worthless” ESA Documentation (Cont’d)

For four years, NAA and NMHC have articulated the industry’s concerns about abuse by those who do not legitimately require emotional support animals. We continue to urge HUD to issue new guidance as more clarity is urgently needed in the face of growing abuse of the law intended to protect the rights of disabled persons.

In its March 2019 letter to HUD, NAA and NMHC emphasized that these companies make a profit by taking advantage of consumers who do not know what is required as proof for the need for a reasonable accommodation. Not only do these companies offer unnecessary certification and registration documents, they often provide the required attestation after completion of a simple online form and payment. Most consumers do not realize that these practices are illegitimate. An online form evaluated by a mental health provider or a single consultation alone does not constitute a legitimate treatment relationship. In short, these companies are less about helping disabled persons fully use and enjoy their housing and more about enabling bad actors to avoid pet restrictions and fees.

Secretary Carson’s November 6 letter further explained that: “These certificates are not an acceptable substitute for authentic documentation provided by medical professionals when appropriate. These websites that sell assistance animal certificates are often also misleading by implying that they are affiliated with the federal government. Nothing could be further from the truth. Their goal is to convince individuals with disabilities that they need to spend hundreds of dollars on worthless documentation to keep their assistance animal in their homes.”

NAA is pleased with HUD’s attention to this important issue and will continue to monitor the situation for future developments. We encourage all members, owners and operators, to wait for further guidance from HUD before altering any policies or procedures for evaluating reasonable accommodation requests for animals. While this announcement should not interfere with an applicant or resident’s right to ask for an accommodation for an assistance animal, remember rental housing providers have the right to request reliable documentation when the disability or disability-related need are not readily apparent.



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