LOUISVILLE METRO HUMAN RELATIONS COMMISSION

LOUISVILLE, KY SPRING 2018 NEWSLETTER

Greetings!

Please allow me to introduce myself. My name is Kendall Boyd, and I was appointed as the Executive Director of the Louisville Metro Human Relations Commission ("HRC") by Mayor Greg Fischer in August of 2017. I took this position after the untimely passing of the previous director, Carolyn Miller-Cooper, knowing that I had some very big shoes to fill. Carolyn was a dedicated and passionate advocate for civil rights and anti-discrimination, and it's my sincere desire to continue this critical and important work with the same energy and enthusiasm as my predecessor.

Since my arrival, the agency has continued to investigate and resolve claims of discrimination, and I am proud to say that my team has done excellent work in resolving these claims. Nationwide we are seeing a decrease in the filing of the number of employment cases alleging discrimination, which has resulted in fewer cases coming to our agency due to low unemployment and continued improvement in the economy since the Recession of 2008. However, as we continue to do this great work, I (unfortunately) am reminded that there is still a lot of resistance to anti-discrimination measures in fair housing. Also, as our nation continues to witness an adversarial political environment, we are seeing an uptick in the number of hate crimes being committed. Therefore, we remain steadfast in investigating such claims and have committed to undertaking whatever measures that must be taken, in order to eliminate bias and discrimination from our community.

Along with the anti-discrimination work that the agency is involved in, the Human Relations Commission is continuing to certify Minority, Female and Handicapped Business Enterprises ("MFHBE"), and has been working with the Mayor, Economic Development and local developers, to push for increased utilization of MFHBEs for development projects. There is a lot of great development work being performed throughout the Louisville community, and it's the HRC's intent to provide MFHBEs with continuous opportunities to assist in this increased development.

One of my favorite quotes is "To leave footprints, one must be undefeated." If we look at history, those who have paved the way for change to occur, never stopped in their mission and continued to make footprints for us to follow and prosper. It's my hope and my desire that you will continue to partner with our agency, to ensure that everyone's voice is heard and that we remain undefeated in our quest for fairness, equity, freedom and justice. Thank you for continued support and let's keep up the great work!

Kendall Boyd

FIFTY YEARS OF FAIR HOUSING

by: Jesse Renn, Volunteer Intern

The year 2018 marks the 50th Anniversary of the Kentucky Fair Housing Act and the Civil Rights Act of 1968. For the Human Relations Commission, this provides an important opportunity to reflect upon such an important law. The goals of fair housing are central to our mission, and periodic reevaluation of our history and progress provide an important lens through which we can see our impact on the community and our fellow citizens.

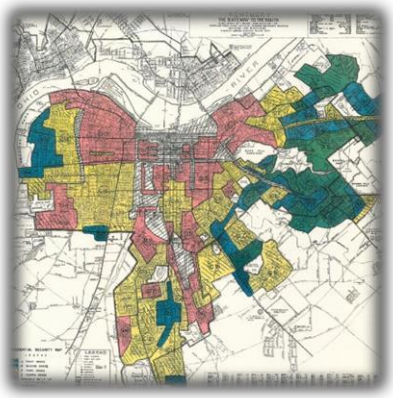
The civil rights laws enacted in 1968 now protect a multitude of different communities, but the original impetus for them has its roots in the segregation of African Americans in Kentucky and the United States in general. The progress of the past fifty years was undertaken to rectify inequalities in our community that have been present since the founding of the city in 1778. Although the antebellum city did not experience the severe segregation commonplace in other Southern cities and regions, black communities remained

economically and politically disenfranchised, often relegated to impoverishment and squalor.

The harsh anti-black laws in the city were made even worse in 1914 when the Louisville Board of Alderman passed a housing segregation ordinance, barring integration between white and black people and calling for "the elimination of negroes from squares wherein the majority of residents are white." However, the landmark 1917 Supreme Court case *Buchanan v. Warley* overturned the law on the grounds of private property rights. Legal segregation may have been overturned, but societal groups such as realtors' associations and homeowners' groups used new tactics including restrictive covenants, legal agreements prohibiting the sale or rental of property to certain racial groups, to enforce the status quo outside of the legal sphere. The 1930's and 40's continued these discriminatory trends and brought about the practices of zoning and redlining. The first prevented the widescale construction and use of affordable multi-family dwellings within the city, while the second channeled mortgage funding and investment away from black neighborhoods, preventing families from financing single- family homes. The results of these tactics continued to push Louisville's minority communities farther behind in economic outcomes.

As the Civil Rights Movement gained traction after World War II, Louisville's housing crisis and racial animosity continued to worsen. The growth of manufacturing swelled the black population, meaning the unofficial designated black areas of the city could not support the burgeoning number of families. Realtors were eventually forced to start selling black families homes in other areas. This, combined with large urban renewal programs aimed at knocking down old buildings, pushed black families out of their traditional neighborhoods and into the west end of Louisville. The sales caused white families in those areas to quickly sell their own homes out of fear that their property values would fall, a tactic called block-busting giving realtors great profits and draining any retained wealth from the area. The circumstances created the foundations for what would be Louisville's first true ghetto by the mid 1960's.

REDLINING MAP OF LOUISVILLE



LOUISVILLEKY.GOV/GOVERNMENT/REDEVELOPMENT-STRATEGIES/REDLINING-COMMUNITY-DIALOGUE

The sit-in protests of the early 60's led Louisville and Jefferson County to jointly create the Human Relations Commission in 1962, a governmental force tasked with improving interracial relations. The first successes of the Commission and outside civil rights groups were concessions by the local government creating an open accommodations ordinance in 1963. Open housing ordinances were submitted to the Board of Alderman over the next several years, and by 1967 demonstrations in the south side of Louisville became a near daily experience. When a proposal was again rejected, forces aligned against the city government and by December an almost entirely new Board was elected and an open housing ordinance was finally passed. By 1968, both the state and federal government had also passed open housing laws, which prohibited discrimination in the renting and financing of housing. It originally protected groups on the basis of race, color, national origin, gender, and religion.

PROTESTS AT 4TH AND CHESTNUT

The successes of the decade were many, but short-lived. In the Spring of 1968, riots broke out in the west end of Louisville over police brutality with two men killed and hundreds arrested. The economic downturn of the 70's and the start of Louisville's busing program caused even more whites and many affluent black families to leave the area and county completely. As the Reagan Administration took control of the federal government at the start of the 80s, the death knell was signaled for funding HUD would provide to

aid in the rebuilding of Louisville's black neighborhoods. Due to these factors, by the end of the 20th century, Louisville would be more racially segregated than at the beginning.

Despite these setbacks, much good has come from the Kentucky Fair Housing Act and

the Civil Rights Act of 1968. In 1988, the Civil Rights Act of 1968 was amended to include familial status and persons with disabilities to the classes of protected people. Landlords, banks, and realtors could no longer discriminate against people based upon their physical, mental, or psychological disabilities. They could also no longer discriminate based on familial relations such as grandparents raising children and single mothers. Although they are not protected at the federal or state level, sexual orientation and gender identity are two protected classes that Louisville incorporated into their laws in 1999.

The specific problems related to Louisville's minority populated areas continue to be intractable *de facto* segregation. Persistent poverty coupled with low investment and a lack affordable of housing creates a vicious cycle. People are spending most of their income on bad housing that owners cannot or will not maintain. New people are not moving into the area and people with means move out. Even those people who do have wealth spend it elsewhere. This drives away outside spending and businesses. The constant removal of any wealth prevents people from accessing affordable, livable housing.

One important strategy for improvement in our community is education. When people know their rights, they can spot discrimination, and can help prevent it from happening again. Knowledge is important and goes hand-in-hand with enforcement—a city that stays committed to enforcing the rights of its citizens is a city that will prosper. The issues within Louisville's housing markets abound, but when problems are identified, solutions can be crafted and carried out. It should also not be expected that any solutions will work completely or in any short length of time. Change is often a laborious process, however the last fifty years have proven that progress can be made when people are dedicated and determined. The Human Relations Commission and Louisville Metro Government are committed to making the city a better place. The employees and city leaders are working one day at a time to make Louisville more free, equal, and prosperous for all of its citizens.

FAMILIAL STATUS DISCRIMINATION

Protections offered for children and guardians

by: Jesse Renn, Volunteer Intern

Although the Civil Rights Act of 1968, commonly known as the Fair Housing Act (FHA), protects mostly self-evident physical or social characteristics, family status is a protected class that few people may realize is also included. Fair housing discrimination claims based on family status made up 15% of all housing claims reported to the Department of Housing and Urban Development (HUD) from 2010 to 2012. The class was added, along with disabilities, in 1988. Because the words "family status" are not necessarily intuitive, some people may not be aware of the protections afforded to them. This article provides a brief educational overview of the types of discrimination that are prohibited under the FHA regarding familial status.

The basic explanation of familial status is people who have children under 18 years old or people who are pregnant. The reason that parents or other guardians with children are now included in the FHA is to prevent landlords and sellers of homes from discriminating against families solely

because of their children. Landlords can be held liable for discrimination claims in housing even if they had no subjective intent to discriminate against families, so knowing what constitutes discrimination is important for all stakeholders. There are two legal theories under which discrimination lawsuits can be brought against landlords.

The first and most blatant type of discrimination is disparate treatment, which specifically singles out children and families. An easy way to spot this type of discrimination is to replace the word children with another protected class. For example, a rule stating that "no children can be out after dark" may be easier to spot as discriminatory if it instead stated, "no Christians can be out after dark." These rules can be rebutted by landlords—often in cases of safety and crime prevention—but they must provide a compelling business interest and prove the policy is carried out in the least restrictive means possible.

Policies interfering with the enjoyment of common spaces have generally been ruled as discriminatory unless there is a compelling business interest. For example, a rule that restricts all children under 18 from using a pool without parental supervision would probably be struck down as too restrictive because it unnecessarily limits who can use the pool. A 17-year-old who is a competent swimmer would not be able to use the pool without a parent even though they may be a better swimmer than the parent. If instead the rule stated that no young children may use the pool without the supervision of an adult or other competent swimmer, it more narrowly tailors the rule to be as unrestrictive and nondiscriminatory as possible while still furthering the compelling business interest. While still discriminatory, this rule would more likely to survive a legal challenge.

The second legal theory under which a discrimination lawsuit may be brought is disparate impact. These policies do not specifically mention children but are nevertheless targeted at them. They include such things as signs reading "no toys, skateboards, or playing allowed on grassy areas or sidewalks." Even though this does not mention children, it blatantly targets childhood activities in a discriminatory manner and has a disproportionate impact on children. A sign saying, "Unruly behavior and personal property are banned on grassy areas and sidewalks" is a more neutral way of achieving much the same result. A complainant must prove that the rule in place disproportionately impacts children (although they may be neutral on their face) while respondents can then rebut those claims.

Other important information for family status is the actual rental and sale of homes and apartments. Apart from certain exceptions such as age-restricted living, landlords may not refuse to provide housing to families solely based on having

children and they may not steer families with children away from certain living areas or set unreasonable occupancy restrictions for families. An example of the first type would be refusing to sell apartments to families with children. Examples of the second type would be only offering specific types of apartments to them in a certain area of an apartment complex and segregating them from single occupancy units.

Landlords often attempt to set rigid occupancy restrictions, at times referring to a “two heartbeats per bedroom” standard. However, it is important to note that this is not a law, regulation, or executive order, and does not preclude a bright-line rule. Thus, occupancy standards for housing units are bound by a more “common sense” approach, with factors such as age of children and the size of the unit considered. For example, while a family with three teenage children might not receive protection for renting a one-bedroom apartment, a couple with a single infant child likely would. Or, for example, a residence with small rooms or insufficient plumbing may be cleared to have a lesser occupancy while the inverse may be cleared to have a greater occupancy, especially if one of the residents is a small child or infant.

These problems are related to family status because landlords may attempt to require families with children to rent larger and more expensive apartments even though they can make do with

smaller, more affordable units. If a landlord set a one person per room occupancy limit, then a single mother of two would have to rent a three- bedroom apartment, while under current standards they may be able to rent a one room apartment. This problem also appears when women become pregnant. Because a new child technically increases the number of occupants, landlords may try and force families to transfer to larger units that they may not need or be able to afford.

These types of practices discriminate against families with children by discouraging access to fair and affordable housing based solely on their status of having children. Policies such as these are in opposition to even the most liberal interpretations of fair housing law and regulations, but landlords may not even recognize their actions are illegal, so it is important to educate and inform people of their rights and responsibilities under the FHA. When more people can learn what discrimination looks like then fewer people can get away with violations, making housing outcomes better for everyone in the community and the country.

SERVICE, SUPPORT, & THERAPY ANIMALS

by: Jud Adams, Fair Housing Intern

While the difference between a service, support, and therapy animal may not be easily discernable, the distinctions include unique abilities and responsibilities, and are afforded a unique classification under the ADA and FHA. With these unique definitions come unique rights and responsibilities for their companions.

A service animal is one that is trained to perform a specific task for their companion. This task must be directly related to that person's disability; for example, a guide dog or seeing eye dog for a visually impaired person is considered a service animal. It is important to note that under ADA protections, service animals are limited to dogs.

Other support or therapy animals (not limited to just dogs) are not considered service animals, but still assist owners and others in a variety of ways. They provide companionship to combat anxiety, depression, and more. Therapy animals are meant to provide comfort to many people, while emotional support animals provide support for their owner only. Though they may not necessarily be trained to perform a special duty, they are still a valuable resource for their owners.

Both service and support animals are afforded protections by the ADA and FHA. Under these laws, landlords and HOAs must provide a reasonable accommodation to tenants. Oftentimes this will include the waiving of a pet fee or deposit, or the waiving of a no-pet policy altogether. Landlords and HOA's are also prohibited from inquiring about the nature or extent of a person's disability, but they may request certification to prove the necessity of the accommodation, often via a doctor's note. The infographic to the right, created by servicedogcertifications.org, provides a comparison between the three distinctions.