JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

Federal Fair Housing Basics

Webinar Transcript

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Lauren Carden: Hi, everyone. Welcome to today's webinar on Federal Fair Housing Basics. I'm Lauren Carden, the Director of California Housing Advocacy at Justice In Aging. I'm joined today by Jenny Kye, our Justice in Aging Director of Federal Housing Advocacy.

So before we begin, I'll just review a few of our webinar logistics. Everyone's on mute. You're welcome to participate in the presentation through the Q&A function and the Zoom control panel. Actually, I'm not seeing that function, but I believe it's there for folks. Also, available in the Zoom control panel is the CC button, which enables closed captioning if folks need that. I'll watch the participant questions as they come throughout the webinar and I'll be uplifting high-level themes for discussion during our Q&A portion at the end of today's presentation. And we will try to follow up after the webinar for any questions we're not able to answer live in the presentation today. You can also use the Q&A function if you have any technical assistance needs.

The webinar is being recorded today. So at the end of the webinar, the slides and recording of the presentation will be available on our website and will be e-mailed to everyone that registered. We also appreciate your participation in our post-webinar survey that will pop up on your screen after the webinar ends.

For folks who aren't aware, Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable healthcare, economic security, housing, and the courts for older adults with limited resources. Since 1972, we've focused our efforts primarily on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ+ individuals, and people with limited English proficiency. At Justice In Aging, we believe that to advance justice in aging, we must ensure that everyone has access to what they need as they age without discrimination and regardless of race, gender, gender identity, sexual orientation, ability,

language, or country of origin. We push for policies that will ensure that those experiencing the greatest barriers to economic security, healthcare, and housing can exercise their rights and fully access the services and programs they need.

And then lastly, please join our network to stay up to date on our webinars and resources that we release via e-mail. One can join our network by going to our website and signing up, or you can e-mail info@justiceinaging.org.

Thank you everyone.

Jenny Kye: So for today's agenda, first we're going to go over the basics of who and what the Federal Fair Housing Act covers. And we're not going to talk about state fair housing laws today, but we will be doing a webinar in the fall about California fair housing basics. So if you're in California, please be on the lookout for that. And then, we're going to talk about some common fair housing issues affecting older adult renters. And I do want to note that the Fair Housing Act does apply in other contexts as well like homeownership and mortgages. It applies to nursing homes. It can apply to shelters, but today we'll be focusing on renters. And then finally, we'll be talking about fair housing enforcement, including where to refer people with fair housing problems.

And one thing I'll mention is that with the Trump administration, there have been a lot of recent policy developments around fair housing, but today we're not going to get into all the details about those developments. And our goal for today is to give you a broad introductory overview of the Fair Housing Act and we hope the training will help you recognize some basic fair housing issues so that you can help older adults enforce their rights.

Lauren Carden: Okay. I'm going to go over some of the basics first before passing it back to Jenny. I saw some issues with audio, I hope everything is resolved now, but please put in the Q&A if there's still an issue. We can move to the next slide.

So the Federal Fair Housing Act of 1968 is a federal law that makes it illegal for housing providers to discriminate in the rental, sale or financing of housing based on certain protected characteristics. We also call these protected classes. The FHA is one of several federal laws that provide protections against discrimination. The FHA only applies to dwellings, which we're going to get into in more detail later, but other anti-discrimination laws apply to other settings. So we're not going to be discussing ADA or other federal anti-discrimination laws in this presentation, but just know that they exist and they provide additional rights to certain individuals.

The Department of Housing and Urban Development, HUD is responsible for enforcement of the Federal Fair Housing Act, which Jenny is going to discuss later, but I just wanted to flag this because I may mention HUD during my portion. And then many states have additional fair housing laws that are similar to and expand upon the protections under the FHA. The FHA is kind of like the

floor, but states are able to enact more protective state fair housing laws. So if you're working on a fair housing issue with a client, please review your state laws or consult with an attorney in your state to see how your state protections differ from the FHA. Like in California, for example, our state for housing laws include additional protected classes and many times attorneys in California will rely more heavily on the state law rather than the FHA since it is more protective. That's just a note.

And we can move to the next slide.

So who is covered by the FHA? The Fair Housing Act prohibits discrimination based on race, color, national origin, religion, sex, familial status, and disability. These are the only protected classes under the FHA. So again, your state law may add additional protected classes. So while say source of income discrimination does not violate the Federal Fair Housing Act, it may be prohibited under your state law. I'm not going to go into the specifics around each protected characteristic, but older adults, as we will discuss, could have claims under a variety of these protected classes.

Next slide.

Okay. So as you saw in the previous slide, under the FHA, age is not a protected class or protected characteristic. However, older adults can claim discrimination under the FHA based on other protected characteristics. So we commonly see older adults bringing claims based on disability discrimination. So old age itself is not a disability, but many older adults may develop impairments as they age, which could be considered disabilities under the FHA. An estimated 40% of individuals 65 and older have an impairment that affects one or more activities of daily living and for folks 75 years or older, these incidences of disability increase even more. Additionally, as we'll see on the next slide, even older adults who are regarded as having a disability could be covered under the FHA.

Next slide.

Okay. So how is disability defined under the Fair Housing Act. There are three categories. So the Fair Housing Act defines disability as... I'm just going to read these because we're going to be talking about this a lot today. One, a physical or mental impairment, which substantially limits one or more of a person's major life activities, a record of having such an impairment, or being regarded as having such an impairment. So this is a very broad definition, though again, your state definition may be even broader. This definition covers physical or mental disabilities affecting a major life activity. Major life activities are defined as activities like caring for yourself, performing manual tasks, walking, seeing, hearing, speaking, breathing, working. Courts have recognized that difficulties with major life activities that are commonly associated with aging like reduced mobility, vision or hearing loss, chronic health conditions, or cognitive decline can qualify as disabilities under the FHA. The key requirement is that the

disability has to substantially limit a major life activity. This is a determination that is generally made on a case-by-case basis. So it's focusing on the individual's actual condition rather than assumptions about age.

Additionally, older adults do not always need to prove that they have an actual substantial limitation to be protected under disability under the FHA. Many can receive the Fair Housing Act protections because they are regarded as having a disability. So if a housing provider treats an older person differently based on a perception, whether it's accurate or not, that the person is substantially impaired and then that differential treatment could be considered disability discrimination under the Fair Housing Act. So this could include decisions based on stereotypes about aging rather than on the person's actual abilities. So again, although age is not a protected class under the Fair Housing Act, the broad definition of disability ensures that a lot of older adults are protected either because of their age-related disabilities or because of the assumptions about those conditions.

Next slide.

So what types of housing are covered? So again, the Fair Housing Act applies to dwellings. So this includes most types of housing with few exceptions that we have listed on the next slide. Under the FHA, a dwelling is defined as listed on this slide. I won't read through the definition, but it's essentially like any building that is used as a residence by one or more families. And this definition is interpreted very broadly. So under the definition, like most housing is covered, houses and apartments are covered, as well as mobile home parks, condos, co-ops. Things like a shopping center or like a non-residential office building would not be covered under the FHA, but places like a nursing home, assisted living facilities or other communal facilities for older adults should be covered as dwellings under the FHA and I think there's like many cases that have reinforced this.

For temporary housing settings like a homeless shelter, these could be covered by the FHA, but this is a very fact-specific inquiry and you would need to look at the individual circumstances of that setting and the expectations of the people who are staying in that setting. Again, this is, FHA is really intended to cover places where people live or intend to live as their home, but we always advise, because I know we have kind of like a mixed audience today, so we always advise to consult with an attorney if you're not sure if a particular living setting is covered by the Federal Fair Housing Act or your state law.

You can go to the next slide.

I'm not going to go into too much detail on this slide. I just wanted to flag that the FHA does contain a few specific exemptions from the definition of dwellings, meaning that housing providers that are in these settings do not have to comply with some or all of the requirements in the FHA. So the four exemptions are

listed here. These exemptions apply in specific circumstances and in most cases don't allow the housing provider to fully ignore all the mandates of the FHA, but just wanted to flag that these do exist. The one we see that pops up a lot for older adults, since it's like this older adults in the title, is housing for older persons, which can be exempt from prohibition against the familial status discrimination.

And we can move to the next slide.

So who's covered by the FHA? So this should actually be like who can be liable for discrimination under the Fair Housing Act. This again is a very broad category and it's not specifically defined under the Act. So the Fair Housing Act defines the unlawful actions. So like the reverse is anyone who engages in those actions could be liable under the Fair Housing Act. So this would include most housing providers and their agents, landlords, owners, management companies, maintenance companies. Again, I think I see this on the next slide, it's listed on the next slide too. We're kind of just talking about the Fair Housing Act in the rental space right now, but also know that it applies to like sale and would include all the actors in the sale of homes as well. And housing providers can be directly liable for their discriminatory actions under the FHA, or they can be vicariously liable for the actions of their agents. So that's why it is a very broad interpretation.

We can move to the next slide.

So what are the discriminatory practices under the FHA? This is a list of what housing providers cannot engage in related to dwellings. Again, we're just kind of referencing the practices that relate to the rental of housing, but generally these discriminatory practices have to be in a covered dwelling and on the basis of an individual's protected characteristics for it to be considered a discriminatory practice under the FHA. So these can include, I'm just going to read through them briefly, these can include refusing to rent housing to an individual, treating people differently in their terms of their rental unit, treating people differently in the services or facilities in their housing, advertising or stating a preference based on protected characteristics, refusing to make reasonable accommodations or modifications, and failing to build housing that meets accessibility requirements.

Jenny is going to go into more detail of some of these practices and we actually have some hypos and a few slides that will also give examples of these actions like how they work in practice.

We can do the next slide.

Okay. So I just very briefly wanted to talk about the theories of discrimination under the FHA, though again, this is just like a high-level overview of the topic. So again, please reach out if you have additional questions or need assistance

on a specific case. So discrimination under the FHA can be shown through intentional discrimination or discriminatory effect. Intentional discrimination is much more straightforward. So this is when a housing provider's actions are motivated by considerations of protected characteristics or the housing provider is intentionally considering a protected class when making a housing decision in an adverse way. Many times testers are needed or investigation is needed to determine if there is a discriminatory intent or motive, unless the landlord just outright says something like, "I don't want to rent to anyone with a disability," and puts that in writing. So a lot of time all the fair housing cases need that investigation and testing to determine if discrimination is present.

Discrimination under the FHA can also be shown through discriminatory effect. So this means that the housing provider may not have a stated motive or intent to discriminate based on a protected class, but an action or a practice that the housing provider is partaking in had a discriminatory effect on members of a protected class, usually like excluding a class or adversely impacting a specific class.

So this is like a very hot topic right now. So as Jenny said, we're not going to get into too much detail, but I just wanted to flag in 2015, the Supreme Court held in Texas Department of Housing and Community Affairs vs. Inclusive Communities that disparate impact claims can be brought under the FHA. This case has not been overturned at this time. However, folks are probably aware of the current administration's attacks on disparate impact liability under the FHA, so how does rescinded guidance on disparate impact and propose to rule to rescind existing regulations. We've also heard that HUD is not pursuing complaints under a disparate impact liability. So Jenny is going to talk about the different enforcement options in the current landscape and then folks may also find their state laws provide additional avenues of enforcement aside from filing a complaint with HUD.

So we can go to the next slide, which I think is our hypotheticals.

Okay. So we're going to attempt to do a poll. So I will just read through the hypothetical and then we will watch the poll. So Mrs. M is 78 years old and is looking for a new apartment. She finds an apartment community advertised as four working professionals and decides to apply. During the application process, management asks Ms. M questions about whether she needs a caretaker to assist her. She mentions she has a daughter that will come and help her out. After reviewing her application, the apartment community denies her application. They state in the denial that she would be more at home in a senior community instead.

Oh, okay. And then I think we can move to the next slide too.

So could this be considered discrimination under the Federal Fair Housing Act? I'm just going to wait as we see the answers come in. I don't want to take too

long, but we'll see until it gets to 50% participation. Okay, maybe that's good. Okay. Thank you, everyone. Okay. I'm sharing the results. So the answer is yes, based on disability discrimination. Again, there's no age discrimination under the FHA, so age is not by itself a protected class. So this would be discrimination based on perhaps a perceived disability and that's really just based on management's actions appear to point to comments about disability-related characteristics, like having someone take care of her, saying she'd be more at home in the senior community, but also the advertisement listed as an apartment complex for working professionals. So that could all be disability-based discrimination.

Okay. And go to the next slide.

So this is the same scenario as hypo 1, but instead of denying her application, management says they will rent to her, but she'll need to put down a larger deposit to cover their liability if she falls. Management also informs her that she'll not be able to use the communal pool area unless her daughter is with her and management includes both these terms in her lease. So same question, could this be considered discrimination under the Federal Fair Housing Act? This one's much more straightforward. Okay. Okay. So yes, everyone got that right. Yes, so it could be considered discrimination because the landlords is imposing different terms based on her perceived disability, which is a prohibited discriminatory practice under the FHA.

Okay. I am now going to pass it to Jenny to go more in depth on these issues. Thank you.

Jenny Kye: Thanks, Lauren. So now we're going to talk about some common fair housing issues for older adult renters. So as Lauren mentioned, a lot of fair housing issues for older adults involve disability and disability discrimination. And one issue that comes up is disparate treatment based on disability, which is basically intentional disability discrimination. And the hypotheticals we just went through illustrate this and examples of disparate treatment based on disability include refusing to rent to someone because of their disability, charging them higher rent because of their disability, or not allowing someone with a disability to use communal spaces. And disability discrimination is the most common and prevalent type of housing discrimination and every year over 50% of fair housing complaints are based on some type of disability discrimination. So that includes disparate treatment, but it also includes other types of disability discrimination as well.

Another very common disability related issue for older adults is reasonable accommodations and reasonable accommodations are changes in rules, policies, or practices to ensure that people with disabilities have equal opportunity to use and enjoy their home. And the denial of a reasonable accommodation is its own form of disability discrimination. And reasonable accommodations, they have to be related to a person's disability. So for

example, a housing provider may need to provide someone with mobility issues with a closer parking space or may need to allow that person to transfer to a ground level unit if that's what they need. A lot of people with disabilities need some kind of assistance animal like a trained service animal or an emotional support animal and in that case, a housing provider may need to waive no pet policies or pet fees.

And some of you may be aware that the Trump administration is trying to limit reasonable accommodations for emotional support animals. That's been in the news recently and we're not going to get into all of that today, but our position is that people should continue to request reasonable accommodations for emotional support animals or any other kind of assistance animal that they need. And then of course many older adults also need live-in aides and in that case, a housing provider may have to waive certain policies to allow a live-in aide to reside in the unit.

Reasonable accommodations are also a big part of eviction defense for people with disabilities and they are really critical in helping to prevent evictions and homelessness. So some examples of reasonable accommodations in the eviction context are more time to move out. So sometimes in eviction cases, a client may decide to voluntarily move out rather than risk being evicted. And in those cases, for clients with disabilities, a lot of times they just need extra time to find new housing because the housing search is more difficult for them, it takes longer and so it's very common that a client with a disability may need to ask the landlord for more time to move out.

Another common example is there may be a client who is facing eviction because of disability related behaviors. So for example, some older adults may have hoarding issues, which then result in lease violations. And in that case, you could ask for a reasonable accommodation in the form of withdrawing the lease violation notice, so that the older adult can address the underlying mental health issues and get treatment and services so that they can hopefully comply with the lease going forward. And then finally, a third example is a client may be getting disability benefits or some other disability related income and these clients sometimes end up constantly paying their rent late because they get their disability benefits later in the month. This is more an issue for people who get social security disability, but in that case, a very standard reasonable accommodation request is just asking the landlord to change the due date for the rent.

Reasonable modifications are similar to reasonable accommodations, but instead of changes to policies, we're talking about physical, structural changes to the premises to allow a person with a disability to have equal opportunity to use and enjoy their home and these structural changes they can be to the person's unit, it can also be to common areas as well. Some examples of reasonable modifications are wheelchair ramps. Sometimes people need grab bars installed in the bathroom. Some people may need kitchen cabinets to be

lowered. And one issue that comes up a lot with reasonable modifications is who pays for these modifications. The general rule is that the tenant is responsible for the costs unless it's federally subsidized housing, in which case the landlord generally pays.

The Fair Housing Act also includes what are called design and construction requirements. These are requirements that basically require newer multifamily housing to meet a certain minimum level of physical accessibility. And these requirements, they apply to multifamily housing built after March 1991 with four or more units and there are seven basic requirements. I'm not going to go into all of these, but I've just included them here for your reference. And in recent years, there have been some major fair housing cases involving these design and construction requirements. So for example, there was a lawsuit against the city of Chicago for failing to ensure that its affordable housing units met these and other federal accessibility requirements. And that case recently settled and Chicago will have to take various steps to make sure that going forward, affordable housing units are accessible and that they meet federal accessibility requirements.

Criminal records also affect a lot of older adult renters and there was a study of older adults experiencing homelessness in California and in that study, they found that 17% of the older adults had criminal records and those records were creating barriers to regaining housing. And a common problem is housing providers, they may have blanket bans on applicants with criminal records or they may otherwise engage in overly broad denials based on criminal history. And this can violate the Fair Housing Act by having a disparate impact on protected classes like people of color or people with disabilities. And another issue to be aware of is that people may be able to get reasonable accommodations for disability related criminal records if those records are creating housing barriers. And if you'd like more information on these issues, we've linked to a Justice in Aging issue brief on fair housing protections for older adults with criminal records and that has some more information.

And then lastly, LGBTQ+ older adults also face a significant amount of housing discrimination, and discrimination based on sexual orientation or gender identity is a form of sex-based discrimination. And a fair housing organization called the Equal Rights Center, they conducted fair housing testing to try to uncover the extent of housing discrimination against LGBTQ+ older adults, and I'll talk more about fair housing testing later on in the presentation, but this testing revealed that 48% of LGBTQ+ testers seeking senior housing experienced housing discrimination. So for example, sometimes the housing provider gave them fewer options in terms of units, sometimes the housing provider told them that they would have to undergo a more extensive application process, and sometimes the housing provider quoted them higher fees and rent. And if you would like to read more about this study, we've linked to it on this slide.

So now we're going to talk about fair housing enforcement. A lot of times fair housing cases can be resolved just through informal means like negotiating with the landlord, but if that doesn't work, a client has the option to file an administrative complaint with the US Department of Housing and Urban Development or HUD and/or they can file a lawsuit. So sometimes that means people go through the administrative process first and then later file a lawsuit, or it could mean that someone files a lawsuit right away. You don't have to use the administrative complaint process, but that is what most people tend to use because it's just a lot easier to file an administrative complaint than it is to file a lawsuit. And in terms of deadlines for administrative complaints, the deadline is one year from the date of the last act of discrimination. And then for lawsuits, the deadline is two years from the date of the last act of discrimination.

So as I mentioned, in most cases, people will be filing administrative fair housing complaints and most administrative complaints do end up settling and the settlement agreement is called a conciliation agreement and HUD regulations require that this agreement not only provide relief for the person filing the complaint, but also relief in the public interest, which we will talk more about on the next slide. So conciliation agreements, they usually include these types of common remedies. The first is equitable relief. So this is basically when the housing provider agrees to take steps to correct the fair housing violation. So for example, if a housing provider previously denied a unit for discriminatory reasons, they'll agree to offer the unit, or if a housing provider previously denied a reasonable accommodation, they might agree to now grant the accommodation.

Monetary damages are also a big part of conciliation agreements. People can get money for out-of-pocket costs that they might have incurred because of the discrimination. They can also get money for emotional distress that they experienced and exactly how much people can get in damages just really depends on the facts of the case and what the precedents are in your jurisdiction. And I used to practice in Delaware and for our routine cases, I think damages usually range from around 2000 to 20,000, sometimes more if a case was more egregious. But again, the amount of money will just be case specific.

I mentioned in the previous slide that the conciliation agreement has to include relief in the public interest. And so conciliation agreements, they usually require housing providers to make systemic policy and practice changes to prevent future discrimination for other people. So for example, the agreement will usually require the housing provider to take some kind of fair housing training. It might require the housing provider to develop new written policies or change their tenant screening practices. And again, the goal is to deter future housing discrimination. And then finally, the person filing the complaint can also get attorney's fees as well. So overall, a well-negotiated conciliation agreement that includes all of these remedies can really provide meaningful benefits for the client and it can also result in housing providers making some systemic reforms.

So even though HUD oversees enforcement of the Fair Housing Act in practice, the vast majority of Fair Housing work actually occurs through what are called FHIPs and FHAPs. And most states have these organizations and these organizations, they help enforce the Fair Housing Act on behalf of HUD. And I know the acronyms are kind of odd, but these programs, they're called FHIPs because FHIPs get funding from HUD's Fair Housing Initiatives Program and FHAPs, they're called FHAPs because they get funding from HUD's Fair Housing Assistance Program and so that's just where the acronyms come from. And then FHIPs, these are nonprofits doing Fair Housing work and so they're usually either standalone fair housing organizations or their legal aid organizations that do fair housing work as part of their overall work. And we'll talk more about FHIPs on the next slide.

And then FHAPs, these are state and local civil rights agencies that enforce fair housing laws in their jurisdiction. So in Delaware, for example, it's the Delaware Division of Human and Civil Rights, in Pennsylvania, it's the Pennsylvania Human Relations Commission. So these are the types of agencies that are usually FHAPs. And these agencies, the FHAP agencies are usually the ones that actually process most of the administrative fair housing complaints on behalf of HUD. HUD itself only directly handles 5% of administrative complaints. So when people file administrative complaints, they're usually going to be dealing with a state or local civil rights agency that is acting as the FHAP agency.

So FHIP organizations, again, these are nonprofits like fair housing organizations or legal aid agencies. FHIPs are often the first point of contact for people who have fair housing issues and these organizations can provide advice or legal representation if they offer legal services. And they handle over 70% of all fair housing cases in the country, so they really are the primary organizations that are helping people navigate fair housing issues. And some FHIPs also do fair housing testing. And so in terms of what that looks like, I used to work for a FHIP and we would hire and train a pool of testers who would go out and pose as potential renters with certain characteristics, like a renter with a disability. And we would test certain properties with these testers to see how the properties responded and whether there were differences between how different testers were treated. We also used testers to survey properties to determine whether they were accessible or not.

So there are a lot of different ways to use fair housing testing. It can be really useful to investigate cases to get additional evidence. And it's also really useful for uncovering discrimination that might not be as obvious. So race-based discrimination, for example, that usually tends to be more covert and so fair housing testing can be a really useful way for uncovering that. And then another unique feature about FHIPs is that they have standing to file their own administrative fair housing complaints or litigation based on the testing that they do. So in other words, they don't always need to file on behalf of a client. And so what all of this means basically is that FHIP organizations, they have some unique and additional tools to investigate fair housing cases and enforce

the Fair Housing Act, so they are a very useful resource for people with fair housing issues.

And this slide includes more information about where to refer people with fair housing problems, assuming you don't do fair housing work yourself. So again, I would highly recommend contacting a FHIP organization. They can provide advice or legal representation and they usually do the broadest range of fair housing work. People can also contact FHAP agencies. Again, these are state or local civil rights agencies that handle administrative fair housing complaints on behalf of HUD. But if someone does need to file a complaint, I would suggest contacting a FHIP organization first because if someone does need to file an administrative complaint, the FHIP can provide advice and maybe even provide representation for the complaint.

Legal aid programs that do housing work also often do fair housing work, especially in the eviction context. Disability rights organizations, I'm sorry I'm having trouble speaking today, they sometimes do fair housing work on behalf of people with disabilities. And then, people can also file complaints with HUD directly, but again, most of the time HUD will give the case to a FHAP agency to actually handle the complaint.

And this is a slide with some additional resources. I've included sites to the Fair Housing Act and some relevant HUD regulations. And then we've also included an article that Justice in Aging co-wrote about federal housing protections for people with disabilities and it discusses a lot of what we talked about today, but more on a policy level and it also goes into the current political environment and what that means for fair housing. And it is an unusual time because the Trump administration is actively trying to undermine fair housing enforcement, but I think that's why it's even more important now to be aware of fair housing issues and how to help people enforce their fair housing rights.

And now I think we have time for some questions.

Lauren Carden: Yeah. There was a few that kind of touched on issues that you just discussed two slides ago. Someone asked, "Can nonprofit legal organizations partner with FHIPs to bring enforcement actions or do they litigate them on their own?" Do you recommend reaching out to the FHIPs in our state to collaborate with them on cases?

Jenny Kye: Yes, I would definitely recommend that. And I think it's really good for organizations to collaborate and that can be really helpful. And no, FHIPs don't always just bring cases on their own.

Lauren Carden: Yeah. Same thing. It'll depend on the existence of the relationship. It will depend on your state, but like in California there's a lot of FHIPs and legal aid. They work really closely together because there's that open referral channel at all times. This was kind of related to another question that came up which said,

would our local legal services program likely handle eviction cases for people with disabilities?

Jenny Kye: I'm sorry, can you repeat the question?

Lauren Carden: It says, would our local legal services program likely handle eviction cases for people with disabilities?

Jenny Kye: Yes. Legal aid programs, I think they routinely handle eviction cases for people with disabilities and I would definitely reach out to your legal aid organization or your FHIP. They may be the same thing. But yeah, that's a very common type of case that legal aid programs handle.

Lauren Carden: Okay. There was one question about the conciliation agreements and I haven't answered, Jenny, but I'll ask it to you. Are money damage awards or money damages/awards for administrative hearings and/or settlements reported anywhere? Have there been studies or reports by different agencies that other advocates can use?

Jenny Kye: Yes. So conciliation agreements, they have to be public, although information can be redacted. Different FHAP agencies may be better about actually posting conciliation agreements and HUD, their website also used to include a site where you could see different conciliation agreements, but they've taken that down, unfortunately. But yes, they should be public. You can also usually ask around on listservs and things like that and people are usually more than willing to share different conciliation agreements of comparable cases. But yes, usually if you can search for them online, they should be available somewhere.

Lauren Carden: Yeah. That's essentially what I was going to say. For California, the California Civil Rights Division has, they post recent settlement agreements and they put out an annual report with like disaggregated data about the different outcomes for the complaints for that year. So it might be your local FHAP might have that information at the state level.

Okay. Some more technical questions. There's some questions about charging for reasonable accommodations and whether you can charge the tenant for a reasonable accommodation.

Jenny Kye: Yeah. For reasonable accommodations, the landlord is going to be responsible for the costs and again, that's different from reasonable modifications that involve structural changes. And for modifications, the tenant is generally responsible unless it's federally subsidized housing. But yes, again, for reasonable accommodations, landlords need to be responsible for any costs associated with those.

Lauren Carden: Okay. That was perfect. You answered the other question too, which is about repeating the general rule for who pays for modifications.

Jenny Kye: Yeah. Reasonable modifications, the general rule is the tenant is responsible for the costs, but if it's federally subsidized housing, then the landlord is generally responsible.

Lauren Carden: And then there was a question about, this was at the very beginning of the presentation, an example of housing for older adults that we mentioned on one of the slides, just what that is and you can answer or I can answer, whichever.

Jenny Kye: Yes. Could you answer because I'm not sure what they're referring to?

Lauren Carden: Oh, yes. So this was in the exemptions from the FHA, which specifically it's just the exemption from familial status discrimination. So housing for older adults is like a term of art. It would be housing that is like a 55-plus community and there are specific requirements that I don't know off the top of my head for a dwelling to count as housing for older adults. So it has to meet all the requirements in order to be exempt from that familial status discrimination. And essentially, that's just saying you could exclude families with children because the housing is specifically for people 55 years and older.

Maybe we should answer... I'll do this one. Are there any best practices for next steps when a landlord has engaged in a discriminatory practice like the ones that we listed on the slides?

Do you want to answer, Jenny?

Jenny Kye: Best practices if a landlord has...

Lauren Carden: Has taken one of the discriminatory actions?

Jenny Kye: Yes. Well, I mean, I would suggest contacting a FHIP and also I think it's really important for clients to just keep good records of their interactions with landlords. So I would advise them to keep every notice, to take notes about any kind of verbal interaction they have, say voicemails, e-mails, all of that. And then that will be really helpful for whoever is investigating that case and evaluating that case.

Lauren Carden: I just want to flag that we... I see there are many questions in the Q&A about more specifics about a certain reasonable accommodation request. We will try to get to those after the webinar because that may require a bit more back and forth and we don't want to say anything incorrect on this webinar. So just know that I'm not ignoring those questions, but we will just follow up afterwards on those. And if something is really urgent, you can always reach out to us directly if you need an answer more quickly.

Someone did ask a question about Justice in Aging services. The question was, "Are we able to reach out to Justice in Aging for assistance with litigation?" Not necessarily co-counsel, but open to that too.

Jenny, do you want to answer or I can answer?

Jenny Kye: Yes. I mean, I would encourage people to contact us whenever they would like to.

And yeah, Lauren, I think maybe do you want to talk more about litigation in California?

Lauren Carden: Yeah. In California, we're a state bar funded support center, so that's part of our mission and the services we offer to the legal aid community. You can always reach out to us for consultations on your cases, issue spotting, like systemic issues, technical assistance on litigation, or requests for us to co-counsel with you on litigation. So yes, always reach out to us. I mean, our email is listed here. You can reach out to Jenny and me directly or reach out to our info@justiceinaging.org if you need assistance like that.

Maybe I'll just leave it at that for questions. Again, we'll try to follow up with folks after if your question wasn't answered live. Just due to, as a disclaimer, due to summer plans and some holidays, it may take us a little while to respond, but we do try to respond to all the questions that we can after the webinar. And again, if anything is urgent, please reach out to us directly.

And then another flag, please complete the post-webinar survey that will pop up after this webinar closes. We really appreciate your feedback when we use it to structure future trainings.

So thank you, everyone, and have a great day.