



# HOLLYWOOD TO HOME

*HUD reports several sexual harassment settlements.*

**FOR THE PAST** couple of months, we have been besieged with claims of sexual harassment in almost every type of industry. No one seems to be immune to claims of sexual harassment. Actors, politicians, sports stars, news casters – the list seems to go on and on and getting longer every day.

Unfortunately, our industry is no different. Sexual harassment can be a violation of the Fair Housing Act.

In the April issue of *ABODE*, I reported on new HUD rules involving allegations of harassment on the basis of a protected class. The new rule specifies how HUD will evaluate complaints of quid pro quo harassment and hostile environment harassment under the Fair Housing Act.

As we see each day in the news, sexual harassment is nothing new. It seems many of the allegations made today occurred several years, even decades, ago. Historically, HUD has viewed claims of sexual harassment in the apartment industry to be sex discrimination. With the new rules regarding quid pro quo and hostile environment harassment, certain sexual harassment allegations may also be considered to be a violation of these rules.

HUD has reported on its website recent accomplishments of its housing and civil enforcement section. Among these “accomplishments” are the following complaints and settlements involving sexual harassment cases:

- On Oct. 3, 2017, a Michigan owner signed a settlement agreement in a case alleging that the owner engaged in a pattern or practice of sexually harassing actual or prospective female residents in violation of the Fair Housing Act. The alleged conduct included making unwelcome sexual comments and advances towards the residents, engaging in unlawful sexual touching of the residents and offering housing benefits in exchange for sex acts, and taking or threatening to take adverse housing actions against women who object to the owner's harassment. Under the agreement, the owner agreed to pay

\$140,000 to compensate 10 victims of discrimination plus \$10,000 as a civil penalty.

- On Sept. 29, 2017, the Kansas City Housing Authority entered into a settlement agreement after a complaint was filed alleging that three housing authority employees engaged in a pattern or practice of sexually harassing female housing applicants and residents, and that some incidents of sexual harassment by employees of the housing authority were known to housing authority management. Under the agreement, the housing authority agreed to pay \$360,00 to 14 current and former residents and applicants and \$5,000 in civil penalties.

- On Sept. 14, 2017, an Indiana housing authority entered into a settlement agreement after a complaint alleged that the housing authority engaged in a pattern or practice of discrimination and denial of rights against residents of its public housing units on the basis of sex and disability. Under the agreement, the housing authority agreed to pay \$70,000 to compensate seven victims of discrimination.

- On July 13, 2017, a complaint was filed against a North Carolina owner who was alleged to have sexually harassed current and prospective female residents in violation of the Fair Housing Act. The suit alleged that the owner's conduct included making unwelcome sexual comments and advances, engaging in unwanted sexual touching and groping, offering tangible housing benefits in exchange for sex acts, and taking or threatening to take adverse housing actions against women who object to the harassment.

- On July 10, 2017, a West Virginia court entered a consent decree after owners and managers of 70 rental properties were alleged to have committed sexual harassment and retaliation. The manager pled guilty to charges related to his sexual harassment of residents and repeatedly violated a prior state court consent decree prohibiting him from sexually harassing his residents. The consent decree provided for the payment of \$500,000 to victims and

\$100,000 in civil penalties and prohibited the manager from participating in the management of the rental properties.

- On Dec. 15, 2016, a Tennessee court entered a consent decree against an owner who was alleged to have engaged in quid pro quo and hostile environment sexual harassment over a three month period by, among other things, bombarding a resident with text messages demanding sexually-provocative photographs and requesting that she pose nude for him, offering to reduce or waive her rent if she acquiesced and evicting her when she refused. The consent decree provided that the owner was to pay \$15,000 in damages and exit the real estate rental business.

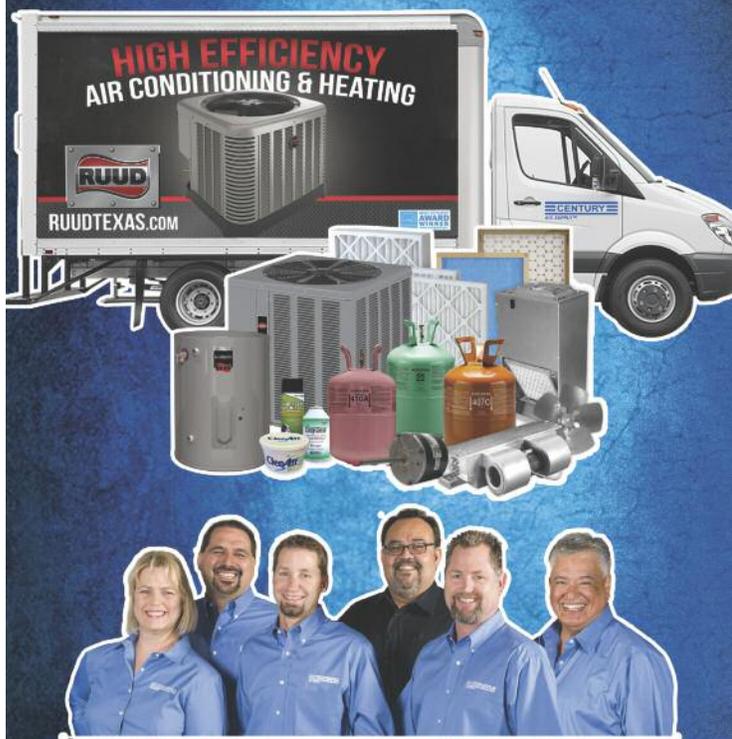
- On Aug. 31, 2016, a complaint was filed against a Missouri owner alleging a violation of the Fair Housing Act when the owner made unwanted sexual advances and sexually explicit comments to a resident, propositioned her for sex in exchange for reduced rent, attempted to touch her breasts, and ultimately evicted her after she rebuffed his sexual advances, claiming that she gambled and made too much noise in a six-unit apartment community.

- On Aug. 12, 2016, a West Virginia court entered a consent order after an owner was alleged to have sexually harassed residents. The consent order required the payment of \$110,000 to seven adult and four minor victims and a \$10,000 civil penalty.

- On March 21, 2016, a North Carolina court approved the distribution of a \$1 million settlement fund to 71 aggrieved persons after a complaint alleged that a public housing agency that administered the Section 8 Voucher Program and two of its employees sexually harassed female participants and applicants of the voucher program in violation of the Fair Housing Act. After combining this case with another case, the court entered a consent decree requiring the payment of \$2.7 million in damages to victims of discriminatory conduct, including fees and costs, and more than \$25,000 in civil penalties.

# WE DELIVER

MORE THAN JUST A/C & HEATING



Exemplary Customer Service

HVAC Expertise

Training & Tech Support

Thousands of HVAC Parts  
and Equipment In Stock Today

WE HELP KEEP YOUR RESIDENTS  
COMFORTABLE AND HAPPY  
ALL YEAR LONG!

**CENTURY**  
A/C SUPPLY™

Place your order today!

281-776-1900

CenturyAC.com | CenturyAC

The consent decree also barred the individual defendants from participating in the management of any Section 8 Voucher Program and any residential rental properties in the future. The housing agency was required to establish non-discrimination policies, require employees to attend training, and hire an independent manager to oversee the agency's Section 8 Voucher Program.

Sexual harassment is not exclusive to Hollywood or Washington D.C. There are plenty of examples in the apartment industry nationwide where sexual harassment allegations are the source of Fair Housing complaints, court orders and settlements. This conduct is not only disturbing, but it can be quite expensive and cost the offender, including the owner or management companies the offender works for, to lose the ability to stay in business.

As we reported in April, there may be certain policies you could adopt to minimize allegations regarding unwelcome conduct. Consider the following:

**1. Don't fraternize with residents.** One of the unique aspects of the apartment industry is that oftentimes on-site personnel live amongst their residents. What could be looked at as making friends with neighbors could also create an environment under which a sexual harassment claim could flourish. When owner or management personnel have a relationship with a resident, bad things can happen. There may be claims under the Fair Housing Act by residents who feel that they have been unfairly treated because they don't have the same relationship. If there is a possibility of an allegation being made that one resident was not given the same housing-related services as a resident that had the relationship with the employee, the person that didn't get the benefit may pursue a claim under the act. When the relationship sours, claims could be made regarding sexual favors or that any future adverse action is taken because of the break up.

**2. Avoid potentially offensive jokes.** We all like a good joke or two. However, a hostile environment could be created if a joke is made and offends someone. Remember, jokes are viewed in the eye of the person making the claim, not the person making the joke. What may seem like a perfectly innocent statement or action, may be offensive to another. Keep in mind this would apply equally to emails. Forwarding email humor to others may be offensive if it falls into the wrong hands or if someone inadvertently views the email. Think before you press send.

**3. Don't talk about others in an inappropriate manner.** Maintenance personnel sometimes can find things in units that may be fun to talk about. However, this could get you in trouble. If maintenance sees a sex toy or lingerie on the vanity in the bedroom while changing the air conditioning filter, there is no need to report it, take photos or share it with anyone. Everyone should be trained to be as cautious as possible with respect to what might be considered as sensitive or private information.

**4. Take precaution before entering a unit.** Under the standard lease, the owner has a great deal of latitude with respect to entering a unit. The owner or its representatives can enter an apartment at reasonable times for reasonable business purposes. Procedures should be put in place to avoid uncomfortable situations caused by maintenance or management personnel walking in on residents' private moments, such as being in the shower. What could have been a perfectly harmless situation can very easily turn into a resident being offended and claiming hostile environment harassment.

American culture is changing to shine a light on issues of sexual harassment. Everyone, including residents, prospects, judges and HUD officials are becoming more aware and sensitive to these issues. Allegations will continue to increase in a number of industries, including the apartment industry. By adopting some common-sense policies, you may be able to minimize claims of sexual harassment as well as quid pro quo and hostile environment harassment.