

# Preventing and Addressing Sexual and Other Discriminatory Harassment in Housing

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Fair Housing Training  
For Private Housing Owners  
And Managers Participating  
in Voucher Programs



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- **Explain** how sexual and other types of discriminatory harassment violate the ***Fair Housing Act.***
- **Inform** you, housing owners and managers, about your responsibilities for preventing harassment in your properties and for helping to correct and end it when it does occur.
- **Use** hypothetical scenarios to learn how to recognize and properly respond to sexual harassment in housing.
- **Identify** steps that you (and any employees or agents) should take to help prevent sexual harassment and help victims of harassment.

## ***The Fair Housing Act:***

- **Prohibits discrimination in housing** and housing-related services and transactions because of *race, color, religion, sex, national origin, familial status, or disability*.
- **Prohibits retaliation against someone** who has made a complaint about discrimination or otherwise exercised his or her fair housing rights or who has aided someone else in doing so.







**This training focuses on  
SEXUAL HARASSMENT**  
*(i.e., discrimination because of sex).*

But harassment because of:

- race
- color
- religion
- national origin
- familial status
- disability

also violates the **Fair Housing Act.**

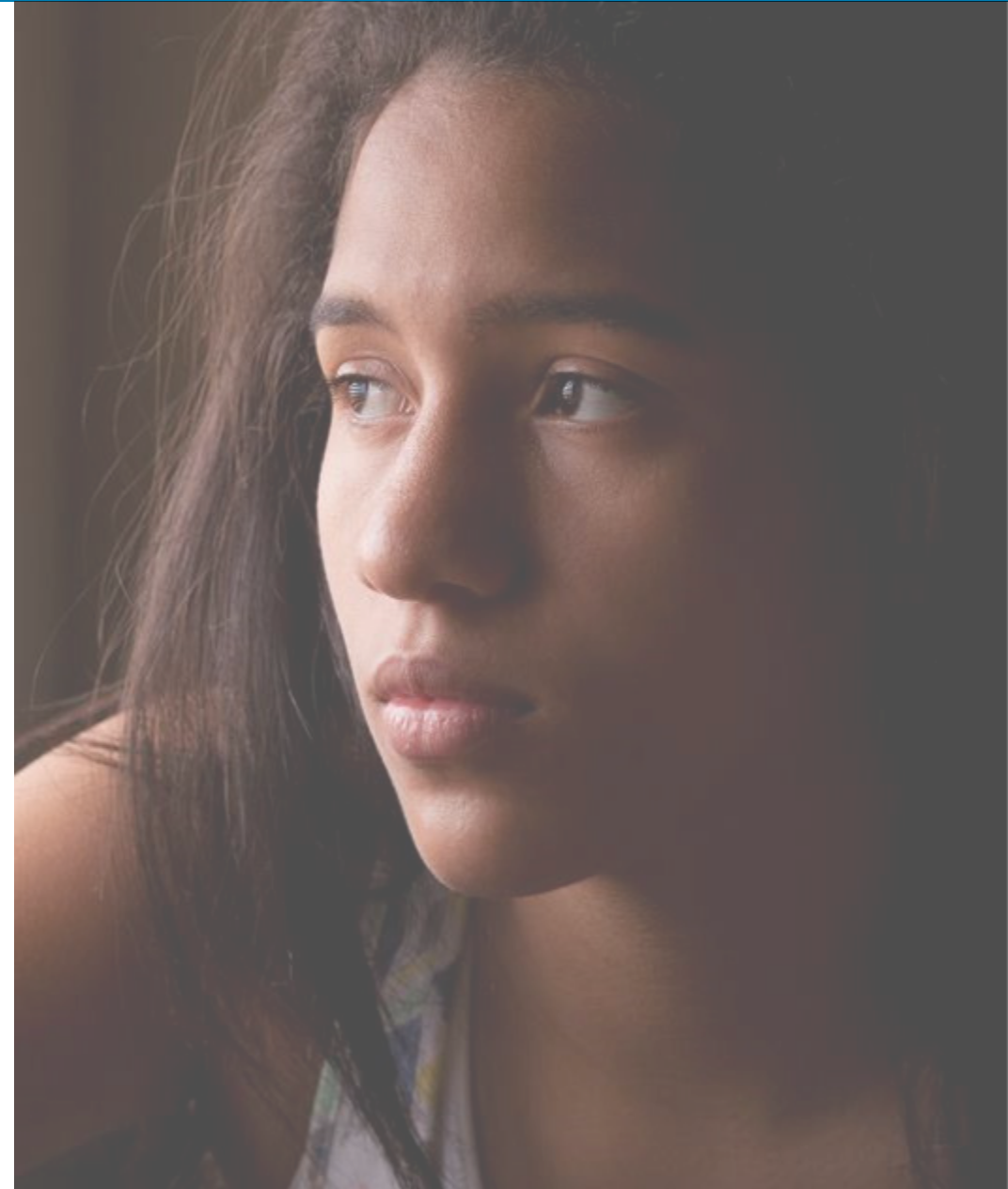
### **Sexual harassment in housing can take many different forms:**

- It can take the form of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- It also can take the form of offensive remarks, insults, or other hostile behavior because of a person's sex.
- It can consist of oral, written, or other conduct and does not require physical contact between the harasser and victim.



- **You** must ensure your housing is free from discrimination. **All owners and managers, as well as their agents and employees**, are responsible for helping meet this obligation.
- **Owners and managers** are responsible for establishing and enforcing anti-harassment policies.
- **You and your employees** must know what to do if you become aware of housing harassment by another employee or by one tenant against another.
- **An owner** should foster a sense of investment and openness among staff – staff must be encouraged to speak up and be assured that they will be protected from retaliation for doing so.

- **When a tenant is sexually harassed**, the property owner and/or management company may be liable under the ***Fair Housing Act***.
- **Property management employees** can also be liable.
- **Liability for sexual harassment** can arise in multiple ways – we'll discuss them later.





**We are going to use a hypothetical** to illustrate how owner and management company liability for sexual harassment can arise. As we go through each part of the hypothetical, we will discuss:

- **What happens;**
- **Why the conduct is harassment;** and
- **What went wrong** that allowed the harassment to happen.
- We'll also discuss what owners and/or property management employees must do to **correct and end** the harassment, the **consequences for inaction**, and **best practices** for addressing and preventing harassment.

**Jane, who has a Housing Choice Voucher, rents an apartment at the Terrace View Apartments. Terrace View is owned by Julie and David Smith and managed by ABC Management Company.**

Jane submits a maintenance request to fix a leak under her kitchen sink.



**John, ABC's maintenance man,  
responds to the request.**

When fixing the sink, John asks Jane  
if she has a boyfriend. Jane says that's  
none of his business. He responds  
by saying she is "really hot" and  
that "we should hang out."



Jane calls Laura, ABC's property manager at Terrace View, and leaves a **voicemail** explaining that John "came on to her" and "made her uncomfortable."

Jane doesn't hear back from anyone at the management company.



- John's conduct may violate ABC's employee conduct rules but – as we'll discuss later – might not constitute a **Fair Housing Act** violation **yet**.
- However, if Laura, the property manager, does nothing, John's conduct will likely get worse – to the point that it **does** violate the **Fair Housing Act**.





The property manager must take **effective steps** to ensure that the harassment stops immediately and does not progress. **Steps she should take include:**

- informing Jane of her right to file a ***Fair Housing Act*** complaint at any time;
- initiating an investigation into Jane's allegations; and
- encouraging Jane to report any other harassment that she experiences.

Terrace View  
Property Manager



If the property manager doesn't have the authority to investigate or take corrective action, she must refer Jane's complaint to another ABC employee who does, or to the property owner.

Even if ABC is unsure who is telling the truth, it should **warn John that harassing conduct is prohibited.**

ABC and/or the owner must ensure that any corrective action is effective in stopping John's unwelcome conduct.

Terrace View  
Property Manager



## Best Practices:

**How can you, as an owner or property manager, ensure complaints don't "fall through the cracks"?**

- Establish policies and procedures that make it easy for tenants to make a complaint.
- Identify who is responsible for responding to complaints. Make sure the designated complaint coordinator processes complaints quickly and appropriately.
- Document and maintain records of complaints, investigations, and any corrective actions taken.
- Follow up with victims to ensure corrective action was effective; take further corrective action if it wasn't.

## Best Practices

### **You should collect this information when taking a complaint:**

- Victim's name and contact information for follow up;
- Summary of what happened (tell victim to save any evidence – e.g., texts, photos, voice mail, letters, notes, journals, etc.);
- Names of harassers, witnesses, and other possible victims, if known;
- Property name, address, and unit number; and
- Dates, times, and locations of harassment.

A week later, **John uses his master key to enter Jane's apartment at night**, without knocking.

Jane is home and is startled by his entry. He tells Jane he's there to check on the sink, even though the sink was fixed a week ago and she had not made another maintenance call.





In the kitchen, John touches Jane on her buttocks, points to a photo of Jane on the fridge and says, “Wow, you look hot in that bikini. You should put that bikini on for me right now.” Jane refuses and tells John he needs to leave. John leaves, saying he was “just kidding.”



Jane calls the property manager, Laura, again and explains that John entered her apartment without knocking, touched her, and made “inappropriate comments” about her body.

The property manager apologizes to Jane and tells her she will make sure “it doesn’t happen again.”

Jane doesn’t hear further from the property manager.



- John's latest actions and comments now violate the ***Fair Housing Act*** because they are **severe** or **pervasive**.
- The property manager must take all actions necessary to ensure that John's unwelcome conduct stops immediately and that Jane is protected from any retaliation.



- Immediate interim action may be required even before any investigation is finished – for example, taking away John’s master key, a temporary re-assignment, issuing a no-contact order, or special oversight or monitoring pending the conclusion of an investigation.
- A verbal reprimand to John is **grossly inadequate** given the severity of his actions.
- The property manager or another employee designated by the owner **must investigate**, tell Jane of her right to file a **Fair Housing Act** complaint, and ensure that corrective action is effective in stopping John’s unwelcome conduct.



## Best Practices:

### **Adopt an employee code of conduct that:**

- prohibits harassment of applicants, tenants, and other employees or agents;
- provides for disciplinary actions for harassment, up to and including termination where necessary;
- encourages employees to report any inappropriate conduct they witness or hear about; and
- provides for discipline of employees who do not respond appropriately to harassment complaints.

**If you learn that another employee is harassing a tenant or that one tenant is harassing another, you must take corrective action or report it to an appropriate supervisor.**



Two weeks later, Jane's hot water heater stops working. She calls in an emergency maintenance request.

Jane gets a call from John, who says he is "too busy" to fix the water heater that day, but that he will find the time to fix it that evening if they could "test out the shower together."

Jane says "no!"

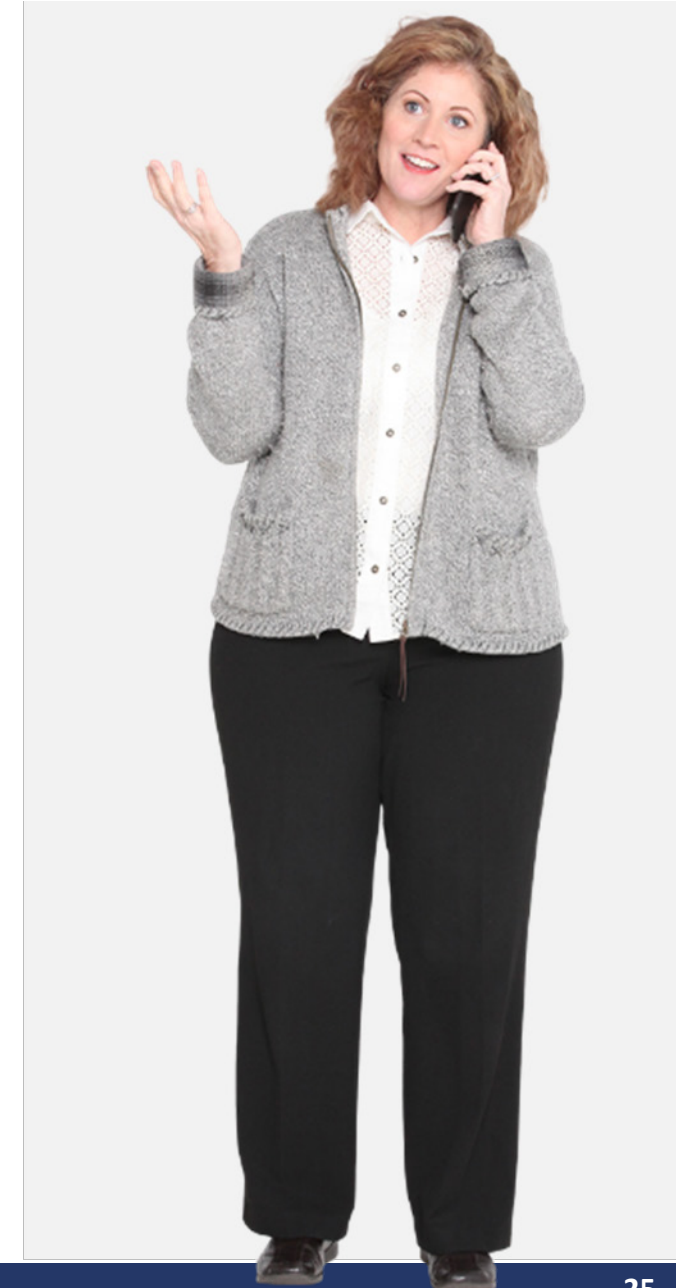
The water heater remains broken when Jane gets home that evening.



**The next day, Jane calls the property manager to complain about the lack of hot water and that John was saying “inappropriate things” again.**

The property manager tells Jane she will make sure that her water heater gets fixed by the end of the day. **The property manager doesn’t inquire about or otherwise respond to Jane’s complaint about John’s inappropriate comments.**

John is sent to Jane’s apartment and the water heater is repaired by the time Jane gets home.



John conditioned his repair of the water heater on Jane's agreeing to shower with him. This is sexual harassment that violates the **Fair Housing Act**.



- **The property manager should NOT have assigned John** to make the repair, given his prior harassing conduct.
- The owner, property manager, or other designated employee should have investigated Jane's complaint, stopped John's harassment, and ensured that Jane was protected from any retaliation.
  - Fixing the water heater isn't enough; the harassment needs to be stopped.
  - The owner and/or property manager must **enforce** employee standards of conduct against John: termination is appropriate.

The owner or the designated employee/agent should tell Jane of her right to file a **Fair Housing Act** complaint, and inform her of the steps taken to protect her from further harassment.



- The next week, Jane encounters John in the hallway of her apartment building.
- As Jane tries to walk past him, John says, “Hey, cutie” and touches Jane’s buttocks.
- Tired of the property manager’s inadequate response to her complaints about John, Jane contacts HUD to file a **Fair Housing Act** complaint against John, ABC Management Co., the property manager, and the owners.
- After Laura, the property manager, is notified of the complaint, she confronts Jane and tells her she’s going to evict her and make sure she loses her voucher unless Jane withdraws her complaint.





Retaliation against a person because he or she complained about being sexually harassed is prohibited by the ***Fair Housing Act***.

The property manager's threat of eviction and loss of voucher assistance is **illegal** retaliation.



- **What** is sexual harassment under the *Fair Housing Act*?
- **Who** is liable for sexual harassment?
- **Additional best practices** that owners and property managers can adopt to prevent and/or stop sexual or other forms of discriminatory harassment.

### Hostile Environment Harassment:

- **Unwelcome conduct** because of sex that is **sufficiently severe or pervasive** as to **interfere with** a person's ability to obtain, maintain, or use and enjoy housing or housing-related services.
- Can be created by a **single incident, if severe.**
- Violates the ***Fair Housing Act***, even if there is no eviction, termination of assistance, increase in rent, withholding of repairs, or similar act.

Thinking back to our hypothetical scenario,  
**did John create a *hostile environment* for Jane?**

The answer is **YES**.

His conduct created a hostile environment.



### John's conduct created a hostile environment because it was:

- Unwelcome
- Severe or pervasive (or both), and
- Interfered with Jane's enjoyment of her home because:
  - He repeatedly asked to spend time with Jane, even after she showed she was not interested.
  - He entered Jane's apartment with a key without knocking and without a legitimate reason.
  - He made comments about her body and asked Jane to put on a bikini.
  - He touched Jane without permission.

Some of John's conduct by itself was severe enough to create a hostile housing environment, specifically, John's unwelcome entry into Jane's apartment without a legitimate reason.



### Quid Pro Quo Harassment:

- Making a person's **submission to an unwelcome request** to engage in sexual conduct a **condition of** any aspect of obtaining or maintaining **housing or housing-related services**.
- Can be explicit or implied.
- A single quid pro quo act violates the ***Fair Housing Act***.



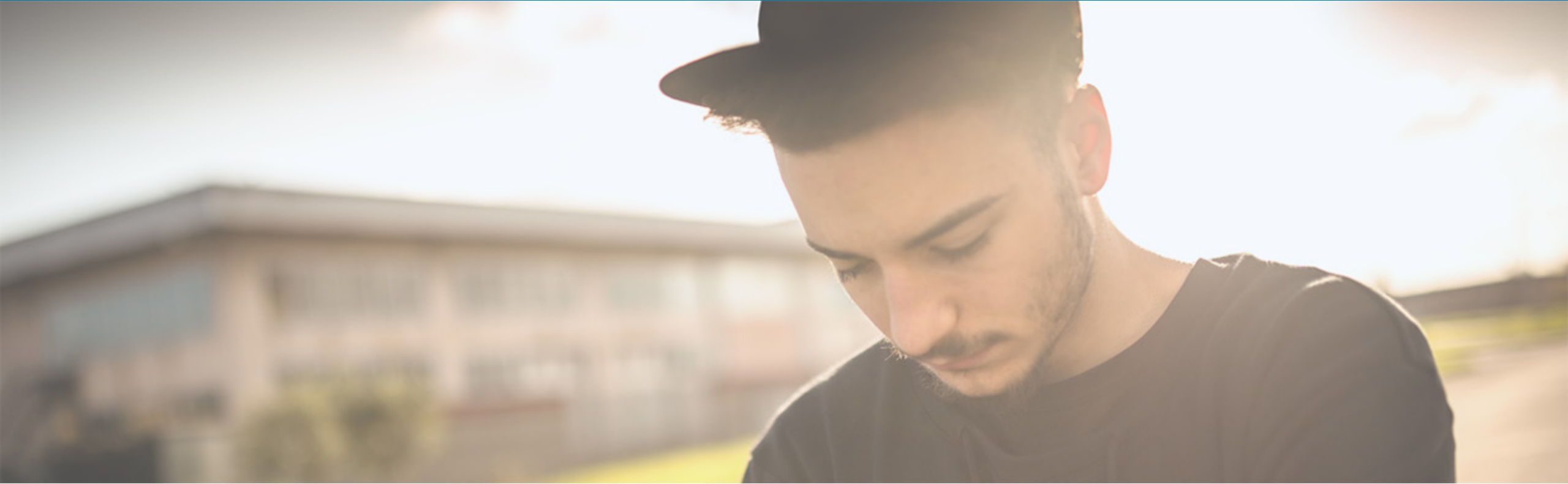
Did John commit *quid pro quo* harassment?

The answer is **YES**.

John committed quid pro quo harassment when:

- He refused to fix Jane's water heater unless she agreed to "test the shower out" with him.
- Even if Jane had agreed to participate in unwelcome conduct (showering with John in order to get her water heater fixed), it's still sexual harassment.





- **BOTH hostile environment** and **quid pro quo** harassment violate the **Fair Housing Act**.
- **EITHER** type can lead to liability for owners and property managers.

**YES!** Any owner or property management employee is liable for their own discriminatory conduct.

John violated the *Fair Housing Act* in two different ways:

- He created a *hostile housing environment* for Jane.
- He also engaged in *quid pro quo* harassment.



### What about the Property Manager?

Would she be liable under the *Fair Housing Act*?

**YES!** Property managers are liable when:

- They **engage** in harassment themselves; or
- They **fail to take actions within their power to stop harassment** by other employees/agents—such as subordinates or contractors—that **they knew or should have known about**.
- They are also liable if they **retaliate** against someone who complains about harassment.



### What about the Property Manager?

Why, based on our scenario, is she liable?

- In our scenario, the property manager didn't engage in harassment herself. But she knew of John's harassment and did little or nothing to stop or correct it.
- As John's supervisor she could have, for example: given John a warning when Jane first complained, suspended him, or taken other action to address and stop his harassing conduct.
- She's also liable because she threatened to evict Jane in retaliation for Jane filing a fair housing complaint with HUD.



## Would ABC Management Co. *AND* the property owner be liable for John's harassment?

**YES.** Owners *AND* property management companies are liable for:

- **Harassment or retaliation committed by employees/agents, *even if they don't know about it.***
  - This applies to **any** employee, regardless of position, and **any** agent, including contractors.
  - Here, ABC and the property owners, Julie and David Smith, are liable because both John, who harassed Jane, and the property manager, who retaliated against Jane, are their employees/agents.
- **Failing to take actions within their power to stop harassment by their employees/agents that they knew or should have known about.**
  - Here, the owners and ABC are both liable because they knew, through the property manager, of John's harassment and allowed it to continue without attempting to correct or end it.



- Property owners and their employees/agents may be held liable through **HUD's administrative enforcement process**. After Jane filed her fair housing complaint with HUD, HUD would investigate the case and could file a lawsuit on her behalf before an administrative law judge (ALJ).
  - The ALJ can issue an order imposing liability, requiring payment of monetary relief to Jane and penalties, and mandating other relief.
- Also, owners and their employees/agents may be held liable through **lawsuits brought by the Department of Justice in federal court**.
  - Such lawsuits often originate from HUD investigations, but also are brought by DOJ based on its authority to investigate possible pattern or practice violations of the ***Fair Housing Act***.

Bill, who is Black, lives in an apartment building.

For weeks, Bill's white neighbor curses at him. The neighbor uses racial slurs, tells Bill that Blacks shouldn't be allowed to live there, spits at him, and repeatedly tells Bill to "go back to Africa."

Bill complains to the property owner, who does nothing.

Neighbor



Bill



In this scenario, one tenant is racially harassing another.

- Owners and their employees/agents are liable for **failing to take actions within their power** to stop one tenant from harassing another because of race, sex, disability, or any another protected characteristic if they **knew or should have known about it**.
  - “Should have known” means the owner had info that would lead a reasonable person to conclude that harassment was occurring.
  - But (unlike with harassment by agents/employees) owners cannot be liable for tenant-on-tenant harassment if they did not know or have reason to know about it.
  - An owner’s corrective action must not adversely impact the harassed tenant.
- The neighbor who harassed Bill is also liable for his own discriminatory conduct.



## Best Practices:

### **Enforce lease provisions and other rules.**

- Issue verbal and written warnings and notices of lease or rule violations to the harassing tenant.
- Evict a harassing tenant if necessary.
- Do not take adverse action or retaliate against the harassed tenant.



- Harassment of a tenant or applicant due to disability **violates the Fair Housing Act.**
- For example, **property owners and managers could be liable** for not taking appropriate corrective action in response to a complaint from an applicant with a disability that an employee harassed him because of his disability multiple times during the application process.



**Property owners and property management employees** may be required to pay damages to victims for:

- **Psychological** harm;
- **Physical** harm;
- **Economic** harm.





- Victim's family members may be entitled to damage payments.

- Civil penalties up to nearly **\$103,000 for a first violation.**
- A public housing agency may take action for violation of the Housing Assistance Payments (HAP) contract when an owner or property manager engages in or fails to correct harassment. For example, a PHA may:
  - **Abate, suspend, or terminate** the HAP contract; **prohibit** the owner's future participation in the PHA's housing programs, or
  - Ask HUD to enforce a **limited denial of participation (LDP), suspension, or debarment.**

Enforcement by the  
**U.S. Department of Justice**  
**Civil Rights Division**



**United States v. Webb** *Filed in 2016 in federal court in the Eastern District of Missouri*

- **Mr. Webb harassed tenants while managing rental properties that he owned with his wife.**
- **Settlement terms:**
  - \$600,000 in monetary damages for 15 women.
  - Prohibited Mr. Webb from entering or managing the rental properties.
  - Webb agreed to sell or transfer ownership of all residential rental properties within 180 days.



**St. Louis landlords reach \$625,000 settlement  
over 20 years of alleged sexual harassment**

Accused of offering cheaper rent and other benefits in exchange for sexual favors



**United States v. Encore Management Co.**    *Filed in 2014, Southern District of West Virginia*

- District manager and maintenance worker harassed tenants.
- Property manager engaged in retaliation.
- Owner and property management company knew or should have known about the harassment.
- \$110,000 in monetary damages for 7 women and 4 minor children.

FOR IMMEDIATE RELEASE



Wednesday, September 30, 2015

**Kanawha County, West Virginia, Property Manager and Owner to  
Pay \$120,000 to Settle Sexual Harassment Lawsuit Filed by Justice  
Department**

**United States v. Boston Housing Authority**    *Filed in 1999, District of Massachusetts*

- Pervasive and violent harassment of public housing tenants, by tenants and visitors
  - Racist graffiti
  - Racial slurs
  - Racially motivated violence
  - Intimidation
- Alleged a systematic failure by the public housing authority to protect tenants
- \$1 million monetary damages to victims







- **Money** does not rectify all harms done.
- The **impact** can be far-reaching.



- **Reputation** – prospective tenants won't want to rent from an owner/property management company that failed to protect its tenants from harassment.
- **Operations Risk** – lawsuits can lead to PHA/HUD sanctions.
- **Asset Management** – resident fear of harassment and/or retaliation can lead to other property management issues.



Tom, who is gay, uses a Housing Choice Voucher to rent an apartment.

After Tom moves in, Tom's landlord learns that Tom is gay and issues him a notice of eviction.



- Tom's landlord can't do this.
- HUD's ***Equal Access Rule*** prohibits landlords who accept HCVs and have a HAP contract from refusing to provide housing (or evicting a tenant) because of a person's actual or perceived sexual orientation, gender identity or marital status.
- The ***Equal Access Rule*** applies to all HUD programs, including the project-based voucher program.



## Best Practices:

### **How can you be proactive about preventing harassment?**

- Talk with your staff to identify shortcomings in existing policies and protocols for handling harassment complaints and make improvements.
- Talk to tenants to find out if they are experiencing (or have heard about others who are experiencing) harassment.
- Tell tenants about their fair housing rights and where to report harassment.

## Best Practices:

- Post and distribute anti-harassment policies.
- Attend and require your staff to attend fair housing trainings that emphasize preventing harassment on a recurring basis, and provide your staff with the time and resources to attend such training.

## Where to File a Complaint

### A Fair Housing Act complaint can be filed:

- With HUD **online** at --  
[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/online-complaint](https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint);
- With HUD **by phone**: 800.669.9777;  
Federal (Relay Service/TTY: 800.877.8339);
- With a **state or local fair housing agency** --  
[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/partners/FHAP/agencies](https://www.hud.gov/program_offices/fair_housing_equal_opp/partners/FHAP/agencies);

In addition to filing a complaint, a person may wish to notify the **Department of Justice, Civil Rights Division**, which has authority for patterns or practices of discrimination: 1-844-380-6178; [fairhousing@usdoj.gov](mailto:fairhousing@usdoj.gov); <https://www.justice.gov/crt/sexual-harassment-housing-initiative-how-report>.

### For Equal Access Rule complaints, owners and property managers should:

- Instruct residents to contact their **local HUD office**, which can be found at:  
[https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/localoffices](https://www.hud.gov/program_offices/field_policy_mgt/localoffices).
- Direct residents to the following **website** for more information: [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/LGBT\\_Housing\\_Discrimination](https://www.hud.gov/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination)
- And/or contact the PHA that issued HCV or PBV.





## Questions?

Please email questions to:  
[HUDQuestions@hud.gov](mailto:HUDQuestions@hud.gov)

### Fair Housing Act and its Regulations, Equal Access Regulations

- Fair Housing Act, 42 U.S.C. §§ 3601 – 3619 (“the Act”), 24 C.F.R. parts 100, 103, 180
- Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices Under the Fair Housing Act, 81 Fed. Reg. 63054 (Sept. 14, 2016), final rule (“Harassment Rule”)
  - Available at <https://www.gpo.gov/fdsys/pkg/FR-2016-09-14/pdf/2016-21868.pdf>
  - Codified at 24 C.F.R. § 100.600
- Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, 77 Fed. Reg. 5662 (Feb. 3, 2012), as amended by Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs, 81 Fed. Reg. 64763 (Sept. 21, 2016), and Equal Access to Housing in HUD’s Native American and Native Hawaiian Programs – Regardless of Sexual Orientation or Gender Identity, 81 Fed. Reg. 80989 (Nov. 17, 2016) (“Equal Access Rule”)
  - Available at: <https://www.gpo.gov/fdsys/pkg/FR-2012-02-03/pdf/2012-2343.pdf>; <https://www.gpo.gov/fdsys/pkg/FR-2016-09-21/pdf/2016-22589.pdf>; and <https://www.gpo.gov/fdsys/pkg/FR-2016-11-17/pdf/2016-27196.pdf>
  - Codified at 24 C.F.R. §§ 5.105(a)(2), 5.106

### PIH Regulations and Notice

- **PIH Regulations:**
  - 24 C.F.R. § 966 - Public Housing Lease and Grievance Procedure
  - 24 C.F.R. § 982 - Section 8 Tenant Based Assistance: HCV Program
  - 24 C.F.R. § 983 – Project Based Voucher (PBV) Program

- **PIH Notice 2014-20 (HA):**

**Program Eligibility Regardless of Sexual Orientation, Gender Identity,  
or Marital Status as Required by HUD's Equal Access Rule**

- Available at <https://www.hud.gov/sites/documents/PIH2014-20.PDF>



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Please visit the HUD Exchange website to register for trainings on “Preventing and Addressing Sexual Harassment in Housing” and to view relevant materials.

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Complete the brief post-training survey located in the Activities section of the class page in the HUD learning management system.

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