



Rutgers Center for
State Health Policy

NATIONAL ACADEMY
for STATE HEALTH POLICY

April 2003

Fact Sheet

Community Living Exchange

Funded by Centers for Medicare & Medicaid Services (CMS)

Housing Information Update #4:
Justice Department Settles
Fair Housing Lawsuit

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The Community Living Exchange at Rutgers/NASHP provides technical assistance to the Real Choice Systems Change grantees funded by the Centers for Medicare & Medicaid Services.

We collaborate with multiple technical assistance partners, including ILRU, Muskie School of Public Service, National Disability Institute, Auerbach Consulting Inc., and many others around the nation.

This document was developed under Grant No. P-91512/2 from the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services. However, these contents do not necessarily represent the policy of the U.S. Department of Health and Human Services, and you should not assume endorsement by the Federal government. Please include this disclaimer whenever copying or using all or any of this document in dissemination activities.

This Information Update is the fourth in a series to be made available to improve awareness and understanding of alternative approaches to expand affordable and accessible housing choices for Americans with disabilities. These updates will feature new publications, policy developments at a federal, state, and local levels, and other strategies being pursued by grantees, community and faith-based organizations, and housing agencies to respond to the Olmstead "Community Inclusion" mandate. These Information Updates are being prepared by Michael Morris, Director of the National Disability Institute at the NCB Development Corporation on behalf of the Community Living Exchange at the Rutgers University Center for State Health Policy. To contact Michael Morris directly, his email address and phone number are mmorris@ncbdc.org, (202) 521-2930.

HOUSING INFORMATION UPDATE NUMBER 4

Justice Department Settles Fair Housing Lawsuit

On April 30, 2003, Savannah Pines, LLC and Hampton, LLC entered into a consent order with the Department of Justice (DoJ) to pay nearly \$90,000 in penalties for discriminatory policies that violated the Fair Housing Act (FHA) (42 U.S.C. §§ 3601-3619 (2000)). The policies for which the Department of Justice prosecuted Savannah Pines discriminated against persons with disabilities.

Savannah Pines and Hampton are the owners and operators of Savannah Pines Retirement Community, a multi-family development located in Lincoln, Nebraska. Savannah Pines consists of a three-story building containing 123 units and two elevators. Savannah Pines has one and two-bedroom units. The common use facilities on the property include a theater with a projection television and a stage for live events, an exercise room with a free exercise therapist on staff, travel agency, bank, library, computer room, rental office, salon, gift shop/ pharmacy, laundry facilities, and several conference rooms. The facility also includes a dining area that serves three meals per day, the cost of these meals are included in the rent.

Each resident was required to sign a rental agreement. This rental agreement contained a provision that stated if the resident's health deteriorates to the point where they can no longer take care of their personal needs, "then the manager of Savannah Pines shall notify the family, or party responsible for [the] resident, who will then make appropriate housing arrangements elsewhere for [the] resident." Savannah Pines placed several restrictions on the use of motorized scooters and wheelchairs. These restrictions included: (1) that "Motorized scooters may be used only to enter or exit the building and a resident's apartment, and may not be driven or parked in hallways or any of the common areas of the building"; (2) residents who use motorized scooters must occupy a first floor apartment unit; and (3) residents who use motorized scooters must pay an additional \$1,000 security deposit. These restrictions, the Department of Justice argued, deprive residents needing such mobility aids of many benefits their monthly rent guaranteed them.

Section 3604 of Title 42 of the U.S. Code is the provision of the Fair Housing Act that is applicable to the Savannah Pines case. There, prohibited practices in the sale or rental of housing are articulated. Section 3604 makes it unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling because of the potential buyer or renter is handicapped. (42 U.S.C. § 3604(f)(2)(A) (2000)) “A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use or enjoy a dwelling” is included in section 3604’s definition of discrimination. (42 U.S.C § 3604(f)(3)(B) (2000))

Savannah Pines’ rental clause that limited mobility impaired residents who use wheelchairs or motorized scooters to using those devices only for entering or exiting the building was the most obvious violation of section 3604. Such a restriction prevented residents using such devices from accessing the common areas and meals in the common dining room. As portions of their monthly rent was applied to paying for these services, Savannah Pines’ restrictions prohibited the disabled from accessing all common areas and services for which they paid. Through another lens, the restrictions forced mobility impaired residents to pay for services only accessible to those without such impairments.

The owners of Savannah Pines, on behalf of their officers, employees, agents, successors, and assigns entered an agreement with the DoJ in which, as a result of the aforementioned policies, they were found in violation of the Fair Housing Act.

The settlement requires Savannah Pines to rescind the policies that violate the Fair Housing Act and ensure that persons with mobility impairments have full and equal access to the facilities in accordance with the FHA. Savannah Pines is required to post and prominently display a sign in the rental office indicating that all of the apartment units are available for rent on a nondiscriminatory basis. The Department of Justice also required Savannah Pines to place the fair housing logo on all publications about, advertising for, and materials marketing the complex. The owners and employees of the community were required to complete an educational training program to teach participants about the FHA. Graduates of the program must provide the DoJ with documentation proving their completion of the classes.

The DoJ required Savannah Pines to create a Rental Inquiry Log in which the names of individuals inquiring about the complex were recorded and whether that individual used an assistive device. If an individual using an assistive device is denied housing, a detailed explanation of the rejection must be included in the Log. The owners were also required to provide the DoJ with a report detailing the occupancy of each dwelling unit in which a person who uses an assistive device for mobility resides and a photograph of the fair housing signs. The consent order also requires the owners to notify the Department of Justice in writing within fifteen days of receipt of any written or oral complaint regarding equal opportunity or discrimination in housing.

The owners of Savannah Pines were required to provide restitution to the affected tenants. Some of the affected tenants received a cash award while others received the

option of free rent or a cash award. Savannah Pines was required to create an aggrieved persons fund in the form of an interest-bearing escrow account. Savannah Pines must, initially, deposit \$5,000 into the account. The account's purpose is to compensate any aggrieved persons who may have suffered damages as a result of discriminatory housing policies. Finally, the owners were required to pay a \$4,000 civil penalty to the Department of Justice.

This consent order remains in effect for three years.

For more information about this case, please visit the United States Department of Justice at www.usdoj.gov. The consent order can be found by visiting: www.usdoj.gov/crt/housing/documents/savannahsettle.htm. Other information may be found by visiting the Fair Housing Section of the HUD website at www.hud.gov/offices/fheo/index.cfm.