



Crime Free Housing

Newsletter



October 2016

Message from the Coordinator

I know the phrase “*encouraging statistical trends over the past few years continue*” seems to be cited in every newsletter we’ve distributed in past years, but 2015 was yet another year where police calls for service (CFS) Village wide and at apartment properties have, again, decreased. Since the Village Board established the Crime Free Housing Program in March of 2007, the cooperation and communication between the Village and the rental community continues to be the driving force behind these positive trends. In March of 2010 and again in 2013, many of you attended our **Mount Prospect Landlord/Manager EXPOS**. Last October we held our first **Landlord and Property Manager Special Presentation** where we were able to provide legal updates on topics like concealed carry, medical marijuana, discrimination, social media issues and more. This past May we hosted our first annual **Special Presentation for On-Site Managers** where specific issues associated with those properties were presented. As indicated in the notice below we will host our second annual **Landlord and Property Manager Special Presentation** on Wednesday evening, November 16. The primary focus of this two hour presentation will be legal updates, specifically, new federal guidelines on criminal background checks. The session is a continuation of our efforts to keep the rental community informed and up to date with current trends. For many of you, it has been nearly **nine** years since completing the seminar, so we strongly encourage you to attend.



Communication is key! Remember to follow us on Social Media.

Facebook (www.facebook.com/mountprospectcrimefree) (www.facebook.com/mountprospectpolice)

Twitter (@Mppcrimefree) (@Mountprospectpd)



The Mount Prospect Crime Free Housing Program

Presents the Second Annual

Landlord & Property Manager

SPECIAL PRESENTATION

Legal Updates

Kovitz Shifrin Nesbit Law Firm

- *New HUD Requirements for Criminal Background Checks*
- *Gang and Drug Updates*
- *Evictions*

Wednesday - November 16, 2016

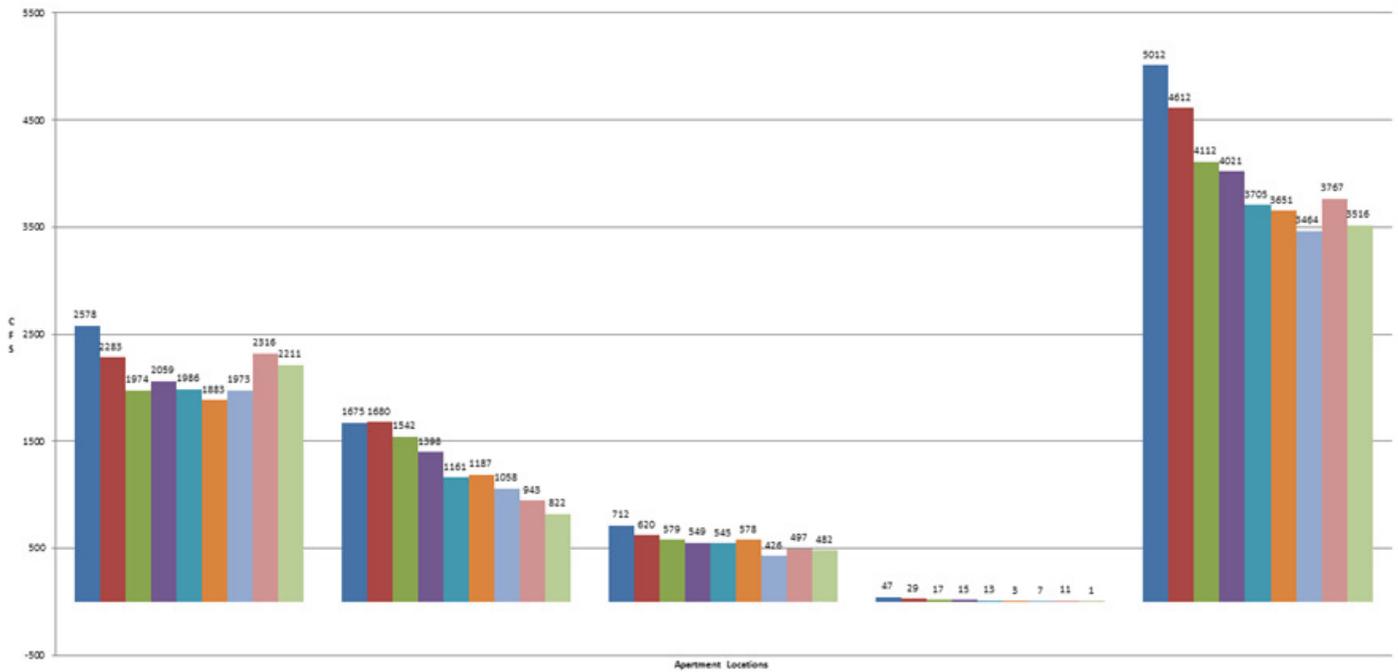
Village Hall, 50 S. Emerson 7 to 9 PM

*Police, Human Services and Code Personnel will be available at 6 PM
for consultations/questions.*



CALLS FOR SERVICE DECREASED AT APARTMENTS AGAIN IN 2015 : DOWN 30% SINCE 2007 !!

PLACE CODE	2007 CFS	2008 CFS	2009 CFS	2010 CFS	2011 CFS	2012 CFS	2013 CFS	2014 CFS	2015 CFS	Decrease	Decrease %
Apartments	2578	2283	1974	2059	1986	1883	1973	2316	2211	262	10%
Apartment Parking	1675	1680	1542	1398	1161	1187	1058	943	822	732	44%
Apartment Common Area	712	620	579	549	545	578	426	497	482	215	30%
Apartment Storage	47	29	17	15	13	3	7	11	1	36	77%
Totals	5012	4612	4112	4021	3705	3651	3464	3767	3516	1496	30%



FROM COMMUNITY DEVELOPMENT —

Despite the best of intentions landlords and tenants, at times, unfortunately find themselves at odds. Be prepared when you are confronted with problems such as these:

- Late payment of rent
- No payment of rent
- Unreasonable demands
- Tenants demand repairs for tenant's damages
- Loud music
- Disruptive visitors
- Long term guests
- Tenant or guests yelling, making threats, or invading your personal space

You do not want to retaliate by doing any of the following:

- Ordering them to move
- Yelling
- Getting physical
- Getting in someone's space
- Entering dwelling w/o notice
- Refusing to make repairs
- Withholding security deposit w/o cause
- Changing locks
- Removing belongings
- Threatening to report status to authorities
- Threatening lease renewals
- Not giving a receipt for cash rent

The following are available to download from the **Environmental Health Division** section of the Village website (www.mountprospect.org)

- "Landlord/Tenant Rights"
- "Property Maintenance Guide"
- "Property Maintenance Video"
- "Maintenance of Your Apartment"

*Cheryl Scherbaum
Housing Inspector*

HUD ISSUES NEW GUIDANCE ON THE USE OF CRIMINAL RECORDS IN HOUSING TRANSACTIONS (Page 1)

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April was fair housing month and to celebrate this year, the Office of the General Counsel of HUD released "Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions", a memo to give property owners guidance on how the Fair Housing Act applies to the use of criminal background checks in making rental decisions. The issue, as HUD sees it, is that using criminal background checks in tenant screening will result in possible discrimination under fair housing laws. Therefore, HUD warns against blanket policies under which any prospective tenant with a criminal record is denied the opportunity to rent.

The Fair Housing Act and Disparate Impact

As a brief recap, the Fair Housing Act prohibits discrimination in real estate transactions based on race, color, religion, sex, disability, familial status or national origin. However, even if a landlord is careful in his practices, certain policies could lead to "disparate impact." Disparate impact is defined by HUD as a violation of the Fair Housing Act when the landlord's policy or practice looks neutral on its face, but has an unjustified discriminatory effect – even when the landlord has no intent to discriminate. So a landlord may treat all applicants exactly the same, but the application process results negatively against a protected class – that is disparate impact.

Criminal background checks come into play with disparate impact because, as HUD advises, if a landlord runs a background check evenly, against every prospective tenant, that landlord will actually end up discriminating against minorities because research and statistics show that a higher percentage of minorities have a criminal history than the white population. HUD provided a list of statistics demonstrating disproportionately high rates of arrest and incarceration based on race, noting that African-American men are imprisoned at a rate nearly six times that of white men, and Hispanic men at more than twice the rate of white men.

Therefore, when a landlord's practice of denying applicants on the basis of criminal history impacts a particular protected class more than the general population, that practice is illegal under fair housing law unless (1) there is a "substantial, legitimate nondiscriminatory interest" and (2) there is no other way to get the same result without the discriminatory effect – standards that, under HUD's requirements, may be impossible for a landlord to establish in defense.

What must every landlord know about these guidelines?

An applicant absolutely **cannot be denied based upon arrests alone**. HUD explicitly stated that a landlord who denies housing based on prior arrests without convictions can never justify the policy. It doesn't matter if an applicant has 36 drug possession arrests – if there are no convictions, a landlord cannot deny the application on that basis alone.

HUD ISSUES NEW GUIDANCE ON THE USE OF CRIMINAL RECORDS IN HOUSING TRANSACTIONS (Page 2)

A landlord **cannot impose a blanket restriction against criminal convictions** in the application process, but must consider each conviction on a case-by-case basis factoring in information outside of the criminal record, including the age of the individual at the time they committed the crime, evidence of good behavior since that time, evidence of being a good tenant BEFORE and AFTER the crime, evidence of rehabilitation efforts, how long ago the conviction occurred, and the nature of the criminal activity. Interestingly, this practice is contrary to what all landlords have been trained to do – establish a bright-line policy that treats every applicant exactly the same. Now, landlords must treat applicants with a criminal conviction differently than an applicant with no criminal conviction, and in most cases, will treat applicants with the same criminal conviction differently based upon these surrounding circumstances that HUD now requires be analyzed.

An applicant **CAN be denied for a drug manufacturing or distribution conviction**. HUD says that a landlord will not be liable under the Fair Housing Act for excluding individuals because they have been convicted of drug manufacturing or distribution crimes, regardless of any resulting discriminatory effect. Just take note that drug possession is not one of these convictions – only manufacturing and distribution.

The Effect on Local Crime-Free Leasing Ordinances

The practical implications of these HUD guidelines in municipalities that have adopted crime-free housing programs, like Mount Prospect, are remarkable. Where a local municipality attempts to increase safety and protect its community by restricting rentals to convicted felons, the federal government steps in threatening liability against landlords who comply with the local ordinance by denying applicants with criminal convictions. So where does that leave landlords? Either violating a local ordinance or violating the Fair Housing Act, with very little leeway in between.

In sum, denying a prospective tenant's rental application based on his or her criminal background may violate the Fair Housing Act, but in some cases, turning down an individual because of his or her record can be legally justified. To determine whether your practice is legal or if it may violate the Fair Housing Act, we invite you to attend the Landlord and Property Manager Special Presentation on November 16, 2016 at the Mount Prospect Village Hall, 50 S. Emerson at 7p.m.

Civil Law Suit Case Records (to include Orders of Possession/Evictions) are Available

<http://www.cookcountyclerkofcourt.org/>

Checking for eviction history can be helpful when evaluating prospective tenants. **It's always best to obtain a full application from prospective tenants and conduct a full background (references, work history, rental history, credit report, criminal background check, etc.);** but landlords can quickly search for prior evictions in Cook County using this option on the County Clerk of the Court's web-site.

The screenshot shows the website for Dorothy Brown, Clerk of the Circuit Court of Cook County, Illinois. The page features a navigation sidebar on the left with various menu items. The main content area is titled 'Electronic Full Case Docket Search' and includes a search form with fields for 'Division Name', 'Search by Case Number', and 'Search by Name'. A red arrow points to the 'ONLINE CASE INFO' option in the sidebar. Another red arrow points to the 'Search by Name' field. A text box above the search form reads: 'From the ONLINE CASE INFO option Select "Electronic Full Case Docket Search"'. A text box below the search form reads: 'Enter Tenant's Name - hit "Search Now"'. The search form also includes a 'PLEASE NOTE' section and a 'Search Now' button.