



# Landlord Letter

February 2017

## Fair Housing & Mystery Shoppers

No landlord or property manager wants to deal with any lawsuit, especially a Fair Housing claim. Our advice to clients is to (1) understand what your fair housing obligations are, and (2) play it safe, which means landlords shouldn't see how close to the "Fair Housing Cliff" they can get before falling off.

There are seven federal protected classes (race, color, sex, religion, national origin, disability and familial status), and three state protected classes (source of income, gender identity and sexual orientation). That does not mean that a member of a protected class is granted infinite rights to do whatever they please. If a tenant falls into one of these classes, landlords are forbidden from discriminating against them based on the



facts that placed the tenant in a protected class.

For example, a person with a disability must still qualify as an applicant by showing (1) stable income and ability to pay rent, (2) good rental history, (3) adequate criminal history, etc. But the landlord cannot deny that applicant or treat them differently because of their disability.

Fair housing violations may subject the landlord to three types of fines/fees: (1) administrative fines – up to \$10,000 for a first offense!, (2) civil lawsuits – seeking a judgment for damages and suffering, and/or (3) punitive damages if the courts feel the landlord needs to be punished – which could be \$1,000,000+. Most landlords think it won't

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## Mark your calendars!

Jeremy Should will be teaching two UAA Eviction Trainings!  
Find one in your area and come with questions!

### Provo—Vision Real Estate

495 North University Ave (Basement), Provo  
Wednesday, February 22, 2017 @ 7PM

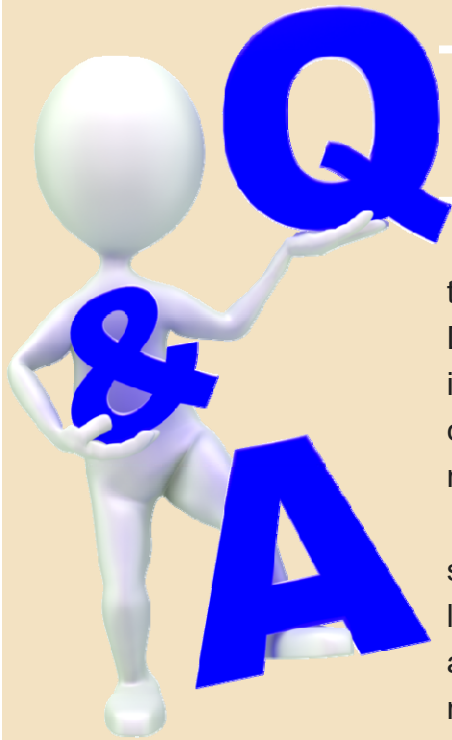
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### Murray—Utah Apartment Association

448 East Winchester Ste #460, Murray  
Thursday, February 23, 2017 @ 7PM



## Dear Attorney,



***I think my tenant may be conducting illegal drug activity in the property, specifically meth. What should I do?***

First, you should take this allegation seriously. Consider conducting inspections according to your lease and contact the police if you see anything illegal. Depending on how strong your evidence is, you may want to think about serving an eviction notice (lease violations, criminal acts, nuisance, etc.). Meth can also damage the property, so you may want to consider a waste eviction notice as well.

If meth use is suspected, you may want to schedule a meth test to make sure you know what is going on in the property. Provide your tenant with at least 24 hours written notice and get a trained professional in there to conduct a test. If the tests come back positive, you should proceed with the eviction. It may be beneficial to contact the health department for further assistance.

Each case is different, so you should definitely contact an attorney to figure out the best way to go.

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happen to them, but you can see why we recommend to our clients to play it safe when it comes to fair housing issues.

A lot of clients ask where these complaints come from. The most common source is from existing tenants or those applying to become a tenant. If a tenant makes a complaint for fair housing, often times a “Mystery Shopper” will call or visit the landlord to ask questions. These mystery shoppers are used to corroborate the initial complaint and/or investigate additional fair housing violations. If they find a policy or practice that they feel is in violation of fair housing laws, a complaint can be filed against the landlord. All those in a protected class should not be subjected to discrimination and should be treated equally and fairly. That applies to showing the property, talking with tenants, and even quick phone calls in response to an advertisement placed by a landlord.

Also, a tenant does not need to pay for an attorney to make a fair housing complaint. The Department of Housing and Urban Development (HUD) awards literally MILLIONS of dollars in federal funds each year for the primary purpose of confronting, investigating and pursuing fair housing issues and discriminatory housing practices. In September 2016, HUD announced that just over \$38,000,000 was awarded nationwide with Utah receiving approximately \$282,000. These funds are often used to pursue claims made by tenants even if they don’t hire their own attorney.

When it comes to fair housing claims, what is better? (1) Winning a lawsuit, or (2) Avoiding a lawsuit altogether? Even if you win in court, you’ve still lost on some level for having to deal with the lawsuit. As landlords approach fair housing, instead of thinking about how to WIN a lawsuit, they should think about how to AVOID a lawsuit.

*Attorney Jeremy Shorts*



# Know Your Notice

## •Unlawful Business•

**Purpose:** To evict your tenant for conducting an unlawful business on your property.

*Make sure your evidence is strong (witnesses, police reports, activity logs, etc.).*

*Keep good records of the unlawful business being conducting (i.e. pictures, emails, texts, etc.)*

*Like other eviction notices, it must be served in person, posted or sent via certified mail. It cannot be given verbally, texted or emailed.*

*This notice does NOT give the tenant an opportunity to cure. The tenant must vacate within 3 days or face an eviction.*

## DO's and DON'Ts After Hiring an Attorney



Tell them EVERYTHING—Surprises are harder to deal with than facts.



Ask Questions—This can help resolve all issues of the case.



Respond to your attorney. Failing to respond can be difficult for your attorney's ability to achieve a good outcome for you.



Discuss the case with your tenant directly.



Contact the court or opposing counsel.



Accept payment from your tenant once you've hired an attorney.

