Spotlight on Current HOME Cases

By M. DeAnna Eason and Jennifer Metzger Kimura

Although HOME processed over 150 discrimination cases during 2013, we haven’t even begun to make a dent in this pervasive issue. The Buffalo Niagara Falls metropolitan area is currently ranked as the 6th most segregated in the nation. Every day, qualified applicants are denied safe and adequate housing based on their race/color, familial status, religion, disability, national origin, source of income or other protected classes. There are still housing providers who erroneously believe that because it is their property they can deny whomever they chose for reasons that are discriminatory. HOME has vowed to continue to fight discrimination in housing, but we need your help. If you suspect that you or someone you know has been discriminated against, please contact HOME at 716-854-1400. The following is a small sampling of some of HOME’s current cases:

A.S. v. Landlord

Client is a 45 year old African American female with a Section 8 housing voucher who was interested in moving to Lockport NY with her three sons. Client called and spoke with the housing provider about an advertisement he posted on Craigslist.com for an apartment. The landlord told the client that he did not like dealing with people on “HUD” because they are poor and they break things. Client contacted HOME and was informed that there is often a bias attached to the Section 8 voucher holder as a pretext for racial discrimination. HOME sent investigators and discovered that the landlord discouraged the African-American tester when she viewed the

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REMEmBERING SAmUEL LOLIGER

By Scott W. Gehl

In a long Buffalo winter, the sun emerged and temperature passed freezing on one Sunday afternoon in January as hundreds of people crowded into the Unitarian Universalist Church of Buffalo to honor the memory and celebrate the life of Samuel Loliger.

A past chair of the board of Housing Opportunities Made Equal, Sam Loliger had for 27 years been a leader in the struggle for fair housing in Western New York. At the request Sam's husband, Donald Behr, HOME's executive director was invited to speak to that very full church.

Goodmorning!

My friend DeAnna Eason suggested that is how Sam would have begun his remarks this afternoon and, in tribute to him, I begin the same way—undeterred by the strange looks I receive. Of course, Samuel E. Loliger was seldom deterred by anything.

I met Sam in 1983, when we were both appointed to the Division of Human Rights’ Regional Advisory Council. I was for a time its chair and Sam the vice chair and I quickly developed both great respect and affection for my colleague. By 1987 I talked him into joining the board of Housing Opportunities Made Equal. It probably helped that HOME’s mission already committed us to fighting discrimination due to sexual orientation long before the Legislature and Governor Pataki caught up.

Although properly lauded for his leadership in addressing LGBT concerns, from the very beginning Sam understood that we can never merely advocate for the rights of some—but must insist on civil rights for all. For more than a quarter century Sam was at the center of HOME. In 1996—when HOME led the opposition against government efforts to create barriers to shelter and services for people with disabilities and the poor—our Chair was compelled by her employer to resign. In that chilling moment, Sam stepped forward to lead us.

But Sam Loliger was so much more than a determined advocate and leader, he was a delightful gentleman who could consistently break thru the din and grab the attention of any audience. In 1997 he began his report to HOME’s 34th Annual Meeting (always a raucous crowd) with a cacophonous recorder solo—followed by unveiling an improbable scheme to boost our troubled finances by charging a five-cent royalty every time a business used the word “HOME”. Of course a nickel went further in those days, but by the time he finished, Sam had made his point. Perhaps Sam & I are too much alike to agree all the time. But even in the heat of debate when he would raise that disapproving eyebrow, one could never question Sam’s good intent or caring heart.

In 2012—while Sam was simultaneously battling cancer and compiling a Michelin Guide to WNY health care facilities—there came a time when he seemed almost ready to slip away. At that juncture the HOME Family conspired with Don to generate a tremendous number of notes & get well cards mailed to Argonne Drive, which Don would carry—one a day—to Sam. Afterwards Sam told me of the unbelievable number of greetings he had received, never imagining how many people cared about him. Because we all did care there was no reason to admit our conspiracy.

HOME’s Board met last October 10th, only a couple days after Sam had undergone a surgical procedure. (Continued on Page 6)
Within memory of many HOME members, there was a time when the first families of color entering a community had been greeted not by suburban “welcome wagons” but by crowds of protesters—making clear the new residents were not welcome. Sometimes protests were followed by acts of vandalism and terror.

Last weekend there was an eerily similar protest in the Town of West Seneca as residents marched to a group home whose developmentally disabled residents included one or more “sex offenders”. According to news reports, marchers promised to come back every week until the State of New York removed the offending residents. I found the scene chilling.

Group homes for people with developmental disabilities have at long last gained grudging acceptance in many municipalities across New York. Since the passage of the Padavan Law in 1978, countless communities have gone through a process that begins with fear and ends with acceptance, and often acknowledgement that the group homes can be good neighbors. Now hysteria about sex offenders has been thrown into the mix: a flammable substance poured on top of a tinderbox of fear.

While a discussion of recidivism rates or the range of crimes and circumstances which can lead one to be branded as a “sex offender” for life is beyond the scope of this column, the fact remains that of the 37 people listed on the Town of West Seneca’s on-line registry of sex offenders the only ones subject to protest marches were those living in group homes for the developmentally disabled.

That is a fair housing issue. Another approach

In the northeast corner of Erie County, the Town of Newstead is also grappling with community concerns arising from the inclusion of “sex offenders” in two group homes operated by People Inc. A special committee of the Town Council is holding a series of public meetings with officials of People Inc. and the NYS Office for People with Developmental Disabilities.

Aided by comprehensive and responsible coverage under the byline of Marilyn Kasperek, publisher of the Akron Bugle, the story of Newstead’s two group homes has been laid out without histrionics. As a result, the people of the Village of Akron and the Town of Newstead are able to learn about the protections of New York State law, the range of people eligible for placement in a group home, and understand the levels of screening, staffing and security that are standard operating procedure for People Inc.

The dramatic visuals provided by a hundred people marching down a street with signs and drumbeats and chants have attracted TV cameras like moths to flame. By contrast, Newstead residents have been informed by a series of newspaper articles which report both fears and facts.

Which community do you suppose has a better idea of what is going on?
Seven Questions with . . .
Jennifer Metzger Kimura

Meet Staff Attorney Jennifer Metzger Kimura, who joined the HOME team in 2008. Read as she discusses her adventures, successes and challenges with the agency as well as sharing her hopes for HOME’s future.

1. **What is your earliest memory of HOME?**
   
   My earliest memory of HOME was moving back to Buffalo after law school. I spent two semesters working with my law school’s fair housing clinic and really enjoyed my time there, so moving back home, I wanted to volunteer at a local fair housing agency. At the time, I did not know HOME existed. I had a strong suspicion that there was a local fair housing agency here because the Western New York region is so segregated. So I started to research online and found HOME. I contacted [Executive Director] Scott [Gehl] asking to volunteer and the rest is history!

2. **What would you consider your greatest accomplishment at HOME?**
   
   My greatest accomplishment was the Stephanie Gilliam and HOME case versus William B. Johnston (Gilliam & HOME v. Johnston). This was one of the first cases that I filed back in early 2009. Our client found a discriminatory advertisement on Craigslist and was ultimately denied [housing] because of her familial status. HOME’s testing evidence found discriminatory behavior based on familial status, age, and disability. We filed two fair housing complaints and we won at the public hearing at the New York State Division of Human Rights. Thereafter, Mr. Johnston filed an appeal and we won on appeal. A judgment was filed against Mr. Johnston which puts a lien against his real property. Currently, Mr. Johnston owes $16,060.03 to HOME.

3. **How have things changed since you began with HOME?**
   
   I think the major change was our move to our new office here at 1542 Main Street. We finally have working heat in the cold temperatures and air conditioning in the warmer temperatures!

4. **What are some of the biggest legal challenges that HOME has faced during your tenure?**
   
   One of the major challenges that I face is that, as an attorney, I don’t have easy access to a case law search database like Westlaw or Lexis Nexis. If I need to research case law on an important issue, I generally will have to go to Erie County’s Supreme Court library, which then takes time away from my other responsibilities.

5. **What are your hopes for HOME for the next five years?**
   
   I’d really love to see HOME expand the fair housing unit and program so that we are able to do more for the community at-large. Also, I’d love to see the CHC [Greater Buffalo Community Housing Center] program fully funded. This program makes a huge difference to our community and to our clients.

6. **How has your life changed since you first began at HOME?**
   
   Life has changed a lot and for the better! I married my husband and we ended up having our first baby, Benjamin, in May 2013. It was really great to add more people to our HOME family.

7. **What is next for Jennifer Metzger Kimura?**
   
   As of right now, I just see myself developing my skills as a practitioner and also giving back to our community. Since Benjamin’s arrival, I’m learning to take things in stride!

HOME Turns 51!

By Jody M. Harvey

Housing Opportunities Made Equal, Inc. will be holding its 51st Annual Meeting with a complimentary wine and cheese reception on Thursday, April 10, 2014 at the Buffalo Chapter of the American Red Cross. The reception begins at 5:00 p.m. and will feature an opportunity to meet and mingle with the Board of Directors as well as hear a series of speeches and reports regarding the agency’s progress over the last year and what HOME will be doing in the future.

Following the Annual Meeting, HOME continues its anniversary celebration with a dinner and program at the Buffalo Niagara Convention Center on Friday, April 25, 2014. This year’s theme is “Communities Without Borders.” Speaking about this year’s theme are The Honorable Betty Jean Grant, The Honorable Gregory T. Rabb and Mr. Christopher Hull, of the Hamburg Community Development Agency. They will share their experiences from the various communities they have represented.

Past Chair Janet Barnes has resumed her role due to the passing of longtime committee member and 2014 Chair Samuel Loliger. She is supported by a volunteer committee featuring Christina Akers-DiCenzo, Margaret D. Brown, Don Licht, Faith Perry and staff. The celebration will begin with a cocktail hour at 5:30 PM followed by the dinner and program at 6:30 PM. We look forward to the honoring of the 2014 winner of the Joanne Champion Granger scholarship and other honorees who have supported fair housing initiatives.

Returning this year is Fund-A-Family, which allows donors to “bid” to support the families and children who are
**Ask Nichelle**

*A guide for those with questions about fair housing, landlord/tenant rights, and everything in between.*

**Dear Nichelle,**

*Can a landlord not accept you as a tenant due to credit history? My husband and I both work and pay rent on time, but we have had a history of problems with our credit.  
Sincerely,*  
*Anne*

**Dear Nichelle,**

*Yes, it is true that a landlord can deny you as a tenant due to credit history.  Credit is not a protected class as long as the landlord uses that same practice for all potential tenants.*

*All the best,*  
*Nichelle*

**Dear Nichelle,**

*I am looking to move into an apartment with my family. I recently saw an apartment that has a “different” set-up. The apartment’s bathroom is in the basement of the building that has no heat. It is literally a toilet, sink, and shower head (no bathtub) placed in the basement. Is this a suitable layout? Are there any laws that would prohibit this type of housing?  
Sincerely,*  
*Martin*

**Dear Martin,**

*If you have any doubts or concerns about a different set-up of an apartment, you have the right to call a building code specialist to come and assess the area in question. Please keep in mind that each municipality has their own codes and rules.  
All the best,*  
*Nichelle*

**Dear Nichelle,**

*I have a lease and recently had the landlord replace a refrigerator with a new one (the old one stopped working). Now my landlord is stating that the rent is going up because of the new appliance. Can he do that?  
Sincerely,*  
*Teddy*

**Dear Teddy,**

*If the refrigerator came with the apartment, your landlord should not be charging you for replacing something that stop working which came with the apartment.  
All the best,*  
*Nichelle*

**Dear Nichelle,**

*Help! My apartment is infested with cockroaches. I called the landlord, who hired an exterminator, but they are still there. I’ve continued to contact the landlord, and now she is dodging my calls. What is your advice?  
Sincerely,*  
*Rich*

**Dear Rich,**

*Tenants should put concerns in writing to their landlord regarding insect and other infestations if calls are not being answered. If the landlord doesn’t respond to the written request of extermination, tenants should contact the health department.  
All the best,*  
*Nichelle*

Nichelle Brown has been a Senior Counselor in Housing Opportunities Made Equal’s Fair Housing Unit since 2008. She has 5 years of counseling experience and is currently attending Daemen College to obtain a Bachelor’s Degree in Social Work. If you have a question for Nichelle, please contact her at nbrown@homeny.org or weekdays at 716-854-1400 ext. 20.

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**HOME turns 51!**

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helped through HOME’s Community Housing Center. There will also be a basket raffle, silent auction and the extremely popular “Everyone Wins.” Some of the exciting items available in the auction are a PGA Champion Phil Mickelson autographed visor, a Flip video camera, a Toshiba Portable DVD player and tickets to the Shaw Festival. Sponsorship opportunities and tickets to the event are available on HOME’s website www.homeny.org or by calling 854 - 1400.
Disparate Impact: From the Criminal Justice System to Public Housing

By Alyssa Bergsten

In her 2012 book The New Jim Crow: Mass Incarceration in the Age of Colorblindness author Michelle Alexander explains, “what is key to America’s understanding of class is the persistent belief—despite all evidence to the contrary—that anyone, with the proper discipline and drive, can move from a lower class to a higher class”. This principle is arguably a major driving force behind much of our country’s public policy but, as Ms. Alexander alludes, that idea may not reflect the reality of the situation for many formerly incarcerated Americans. Through her analysis of the causes and effects of the extreme racial disparities within the criminal justice system, the author makes the argument that our current system is functioning much like Jim Crow laws once did to limit people of color to second-class citizenship. While these disparities are argued to have wide-reaching effects on many aspects of life for former inmates, this article will focus on the consequences in terms of housing opportunity, specifically for federally subsidized housing.

A recent study published by Open Buffalo entitled ALARMING DISPROPORTIONATE NUMBER of African American and Hispanic People in Erie County Criminal Justice System uses U.S. Census data to analyze how people of color are disproportionately represented at each stage of the criminal justice process. Based on U.S. Census data from the American Community Survey 2007-2011 for Erie County, the report finds that racial disparities are highest in cases of violent and drug-related crimes. Specifically, African Americans account for 13.9% of the population but 60% of violent felony and drug felony arrests; and Hispanics account for 4.7% of the population but 8.4% of violent felony and drug felony arrests. Moreover, this issue has grown in stride with the massive expansion of the criminal justice system in the past 30 years. According to The New Jim Crow, by 2008, 2.3 million Americans lived in prisons and 5.1 million more were on probation or parole. As the Open Buffalo report points out, the majority of increases in state and federal prisons from 1985 to 2000 come from drug-related offenses, or the “War on Drugs”, and African Americans and Hispanics account for 75% of that increase. Violent and drug related criminal histories in particular can be determining factors for eligibility in public housing.

The Open Buffalo study and The New Jim Crow both provide a number of possible factors contributing to this situation. Residential segregation, implicit racial bias, and certain laws, policies and practices all contribute to the disparately negative impact of the criminal justice system on people of color. One example of this is the incentive for law enforcement to show results in numbers, or quantity of arrests, in order to receive funding. This can have the effect of law enforcement targeting denser urban areas where they can likely make the greater number of arrests. According to a 2008 study by The Sentencing Project (Reducing Racial Disparity in the Criminal Justice System) this, in turn, means that the people living in these areas, mostly people of color, are targeted for arrests over the general population. An example of the effects of these policies on people of color is given in The New Jim Crow: up to 80% of young African American men in the cities most affected by the War on Drugs now have criminal records and consequently are subject to legalized discrimination for the rest of their lives, including in terms of housing opportunity. Ms. Alexander points out that, at least in terms of the War on Drugs, “[T]hese stark racial disparities cannot be explained by rates of drug crime. Studies have shown that people of all colors use and sell drugs at remarkably similar rates”. Furthermore, according to the Open Buffalo study, the higher poverty levels among African Americans and Hispanics in Erie County does not fully account for the disparity.

Because African Americans and Hispanics are more disproportionately likely to have a criminal record than the general population, it stands to reason that people of color are also more likely to be subject to legalized discrimination in housing. As Ms. Alexander states, “[t]oday it is perfectly legal to discriminate against criminals in nearly all the ways it was legal to discriminate against African Americans. Once you’re labeled a felon, the old forms of discrimination... are suddenly legal”. Perhaps in light of this fact, the Department of Housing and Urban Development (HUD) has been encouraging Public Housing Authorities for the past two years to relax their admission policies. According to law, federally-subsidized buildings must follow certain criteria in screening their tenants, including a provision that Public Housing Authorities (PHAs) may deny applications if the tenant has a criminal record. But PHAs are allowed exceptions to these rules, and HUD policy is clear that it supports PHAs in making decisions about the tokenization of felons on the premises during a “reasonable” time prior to application for housing.

In light of the discretion afforded PHAs concerning violent and drug-related crimes; it becomes clear that public housing policies can aid or inhibit the continuing cycle of discrimination. One possible piece of the solution is being explored through a pilot program in New York City in which its PHA will loosen restrictions on inmates in former housing. According to the November 14, 2013 New York Times article “Ban on Former Inmates in Public Housing Is Eased”, state corrections officials report that nearly one-fifth of formerly incarcerated individuals lost a spot as their first known residence. Additionally, research has shown that familial and residential supports in the first month after release are crucial in preventing recidivism for former inmates. In light of these issues, the program will place 150 former inmates in public housing over two years while providing social services to assist with finding employment and maintaining stability. The program hopes to see a number of benefits from the program, including a reduction of homelessness and recidivism, and allowing for family members who have previously taken in a former inmate against policy to avoid eviction.

While certain policies must exist for the safety and effective functioning of public housing, excessive restrictions on former inmates are examples of the rules upon which its PHA will loosen restrictions on inmates in former housing. Accord-
Spotlight on HOME

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apartment and even informed her that the only reason why he was showing her one of the apartments was because the other tenant was African-American. Client’s case was filed with the U.S. Department of Housing and Urban Development and investigated by the NYS Division of Human Rights. It was determined that there was probable cause that discrimination had occurred and client settled the case for $2,000.

HOME v. LJ Hooker Enterprises

Craigslist advertisement stated “This apartment is ideal for the college student or young couple just starting out.” Respondent LJ Hooker distributed applications to prospective applicants that asked for date of birth and made inquiries regarding the presence of children in the family. According to the New York State Human Rights Law, it is impermissible to require disclosure of age and familial status on a rental application. HOME contacted Hooker and requested that he remove the inquiries from the application, but he refused. HOME filed a complaint with the New York State Division of Human Rights and received a probable cause determination. HOME settled the case for various affirmative relief including training and monitoring and $800. Hooker no longer manages rental properties.

HOME v. Prasad Mattala

Craigslist advertisement stated “…great place for a student or working person.” HOME sent investigators and testing evidence determined that the tester playing the role of a single mother was never afforded an opportunity to view the apartment, but the tester playing the role of a college student was able to schedule an appointment and view the apartment. HOME’s case was filed with the U.S. Department of Housing and Urban Development and investigated by the NYS Division of Human Rights. HOME received a probable cause determination and settled the case for affirmative relief and $2,665 in damages.

HOME v. 2890 Delaware LLC

Craigslist advertisement stated “P.S. PLEASE NOTE.... IF YOU HAVE 5 KIDS, PLEASE DON’T WASTE MY TIME THERE’S NO WAY YOU CAN PUT 5 KIDS PLUS YOUR SELF AND A BOY-FRIEND IN A 3 BED APARTMENT COME ON LET’S BE REAL!!!! DON’T WASTE MY TIME IM TOO BUSY TO HEARTHING’S LIKE THAT!!!!!” Respondent distributed applications to prospective applicants that asked for date of birth and disclosure of any other occupants under the age of 18 years old. According to the New York State Human Rights Law, it is impermissible to require disclosure of age and familial status on a rental application. HOME’s several attempts at requesting Respondent remove the inquiries on the application, went unanswered. HOME filed a complaint with the New York State Division of Human Rights and HOME settled the case for various affirmative relief and $2,000.