



HDLI MESSENGER

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WHAT'S HAPPENING AT HDLI?

HDLI'S FIRST GENERAL COUNSEL'S FORUM - JANUARY 20, 2005 in Tampa, FL!

PHAs won't want their **General Counsel and/or outside attorney(s) functioning as GC** to miss HDLI's first annual **General Counsel's Forum** taking place **Friday, January 20, 2006 in Tampa, FL**. The Forum will address current operational and legal issues facing PHAs and provide for networking and problem solving. Come and sit face-to-face with your colleagues round-table style and tackle such issues as **(SEE ATTACHED PROGRAM)**:

- * **Surviving Asset Management: Where Does HUD's New Operating Subsidy Rule Leave Us?**
- * **Kelo v. New London and Subsequent Developments: Protecting Our Remaining Eminent Domain Power**
- * **Managing Conflicts of Interest**
- * **Stretching the Legal Budget: Pots of money, Effecting advocating for your department, Best practices in prioritizing, assigning and managing legal work**
- * **Maximizing Relationships: With the E.D., Board of Commissioners, and Residents**

SPACE IS LIMITED, SO PLEASE REGISTER USING THE ATTACHED REGISTRATION FORM SOON!

MINNESOTA SUPREME COURT HOLDS THAT "REASONABLE" ACCOMMODATION DOES NOT REQUIRE EXCEPTION TO VOUCHER RESIDENCY REQUIREMENT

In *Hinneberg v. Big Stone County Housing and Redevelopment Authority*, No. A04-435 (Minn. Nov. 23, 2005), a disabled woman living outside of the jurisdiction of a rural housing authority sought to use one of the PHA's Section 8 vouchers in an outside metropolitan area. She claimed that her disability required her to live close to her medical providers. When the PHA denied her request invoking its one-year residency requirement, she asked for an exception as a reasonable accommodation. After a grievance hearing upheld the denial of her request, the voucher holder sought review in the state appellate court, alleging disability discrimination under the ADA, FHAA and the state human rights act.

The court affirmed; however, its holding was problematic because, in addition to holding that the requested accommodation was not reasonable, the court also (incorrectly) held that the FHAA did not apply to PHAs because entities that administer housing vouchers did not specifically fit among the enumerated categories of entities to which the Act applied. The voucher holder appealed. The state's highest court, sitting *en banc*, (correctly)

disagreed with the lower court's finding that the FHAA was not applicable to PHAs, finding that the catch-all phrase "to otherwise make available or deny" a dwelling extends the FHAA to PHAs. The court then found that, as a nonresident, the voucher holder could not be admitted to the program or ever use the voucher unless she lived within the jurisdiction for a year. Since her disability prevented her from moving to the locale, the court found that the requested accommodation was necessary to afford her "equal opportunity to use and enjoy a dwelling." Then, for purposes of its decision, the court assumed, but did not find, that the request was reasonable. The final element was whether the requested accommodation imposed undue hardship on the PHA. In finding that it did, the court found that the exception "had the potential of swallowing the policy," and that **the policy was important to the PHA's ability to administer its program**. The court recognized the need of PHAs to serve the needs of their local residents, and sanctioned their ability to allocate their resources accordingly. The court also considered the cumulative effect that similar requests would have on the PHA. *HDLI and others filed an amicus brief in support of the PHA in this case.*