



# HDLI MESSENGER

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## **WHAT'S HAPPENING AT HDLI**

HDLI's next **SPRING CONFERENCE** entitled "**Current Disability, Accessibility and Reasonable Accommodations Issues Affecting PHA Applicants, Residents, and Employees**" takes place **May 5 and 6, 2005** in Washington. Register now!

Come to the Spring Conference a day early on **May 4, 2005** and participate in another HDLI **EMPLOYMENT LAW TRAINING** conducted by the law firm of Epstein, Becker & Green. You may register separately on the Spring Conference registration form.

**ON-SITE CUSTOMIZED FAIR HOUSING TRAINING!** No traveling necessary! Contact HDLI at (202) 289-3400 for more details on fair housing training on-site at your agency. See attached flyer.

The newest edition of the **INDEX TO HUD REGULATIONS** through 12/31/04 is available for purchase! Order now!

### *The following Q&A was adapted from recent discussions on HDLI's active list serve:*

**Q:** Someone has asked a PHA to release the names and addresses of public housing and Section 8 residents. Must the PHA do so?

**A:** This question exposes potential conflicts between a resident's federal and local constitutional privacy rights and the demands of public "right to know" laws. Sometimes, state and/or local laws specifically address public housing benefit data and may require full or partial disclosure, or may designate such data as "private" precluding disclosure. Federal regulations don't provide a clear answer; however, they do require PHAs to comply with all federal, state, and local privacy laws when collecting, maintaining, using, and disseminating information related to a participant's social security number. See 24 CFR 5.212.

Some district courts have declined to extend any federal privacy protections, finding that a PHA is not an "agency" as contemplated under either the Federal Privacy Act or the Federal Freedom of Information Act. See, e.g., *Housing Authority of the City of Daytona Beach v. Gomillion*, 639 So.2d

States law varies. Some states provide little or no protection for resident information. For instance, in Florida tenant files containing a family's personal, medical, and financial information are considered public information. Proponents of this view argue that the public's right to know about

PHA operations trumps a tenant's privacy rights. On the other hand, some states including New York, Louisiana, and Nebraska have statutory protections for both tenant and Section 8 landlord information. See N.Y. Pub. Hous. Law §159; Louis. Publ. Hous. L. §528; Neb. Hous. Author. Law §71-1541. With regard to disclosure of the location of Section 8 properties, there also is no universal answer. Proponents of disclosure argue that persons receiving public money forfeit privacy interests. States such as New Jersey and Illinois have decisions on the books requiring disclosure of both landlord names and property addresses. See, e.g., *Lakewood Residents' Assn v. Lakewood Hous. Auth.*, 682 A.2d 1201 (N.J. Super.Ct.App.Div. 1996); *Mid America Tele. Co. v. Peoria Hous. Auth.*, 417 N.E.2d 210 (Ill. App. Ct. 1981). The rules may even change when the tenant has breached her lease obligations. Some courts have held that delinquent tenants waive their right to privacy because the public has a higher right to be concerned with knowing whether tenants are paying their rent on time. See, e.g., *Doe v. Sears*, 263 S.E.2d 119 (Ga. 1979).

The Model Public Housing Act that HDLI and NAHRO developed some years ago protects the identities and files of both public housing residents and Section 8 landlords. See Model Act §306.