



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR FAIR HOUSING
AND EQUAL OPPORTUNITY

JAN 27 2017

Richard A. Hite, Executive Director
Indiana Commission on Civil Rights
100 North Senate Avenue
Indiana Government Center North, Room N103
Indianapolis, IN 46204

Dear Mr. Hite:

I have recently become aware of a bill pending before the Indiana General Assembly – Indiana Senate Bill 558 – that creates a very serious concern with respect to the continued substantial equivalence of Indiana’s fair housing law in the area of familial status discrimination.

Section 3 of the bill deals with reasonable occupancy standards established by a landlord or owner of rental units, and sets up a standard for reasonable occupancy codes that is fundamentally inconsistent with HUD’s interpretation under the Fair Housing Act. As I’m sure you are aware, HUD views occupancy code cases through the lens of the “Keating Memorandum” issued in 1991, which holds that an occupancy standard of two persons per bedroom is presumptively reasonable. The guidance goes on to discuss a number of specific factors that can be used to rebut the presumption of reasonableness. Note that Congress directed HUD to formally publish the Keating Memorandum as a statement of HUD’s interpretation.

Section 3 of Senate Bill 558, on the other hand, sets out a standard that is *per se* reasonable, without any resort to the actual facts relative to the dwelling, and with no opportunity to rebut the presumption of reasonableness. As such, Section 3 of Senate Bill 558 creates serious concerns with respect to the continued substantial equivalence of Indiana’s fair housing law in the area of familial status discrimination and Indiana’s continued participation in the Fair Housing Assistance Program.

Sincerely,

A handwritten signature in black ink, appearing to read "J. A. Pelletier".

Joseph A. Pelletier, Esq.
Director, Fair Housing Assistance Program

cc: Maury McGough, FHEO Region V Director