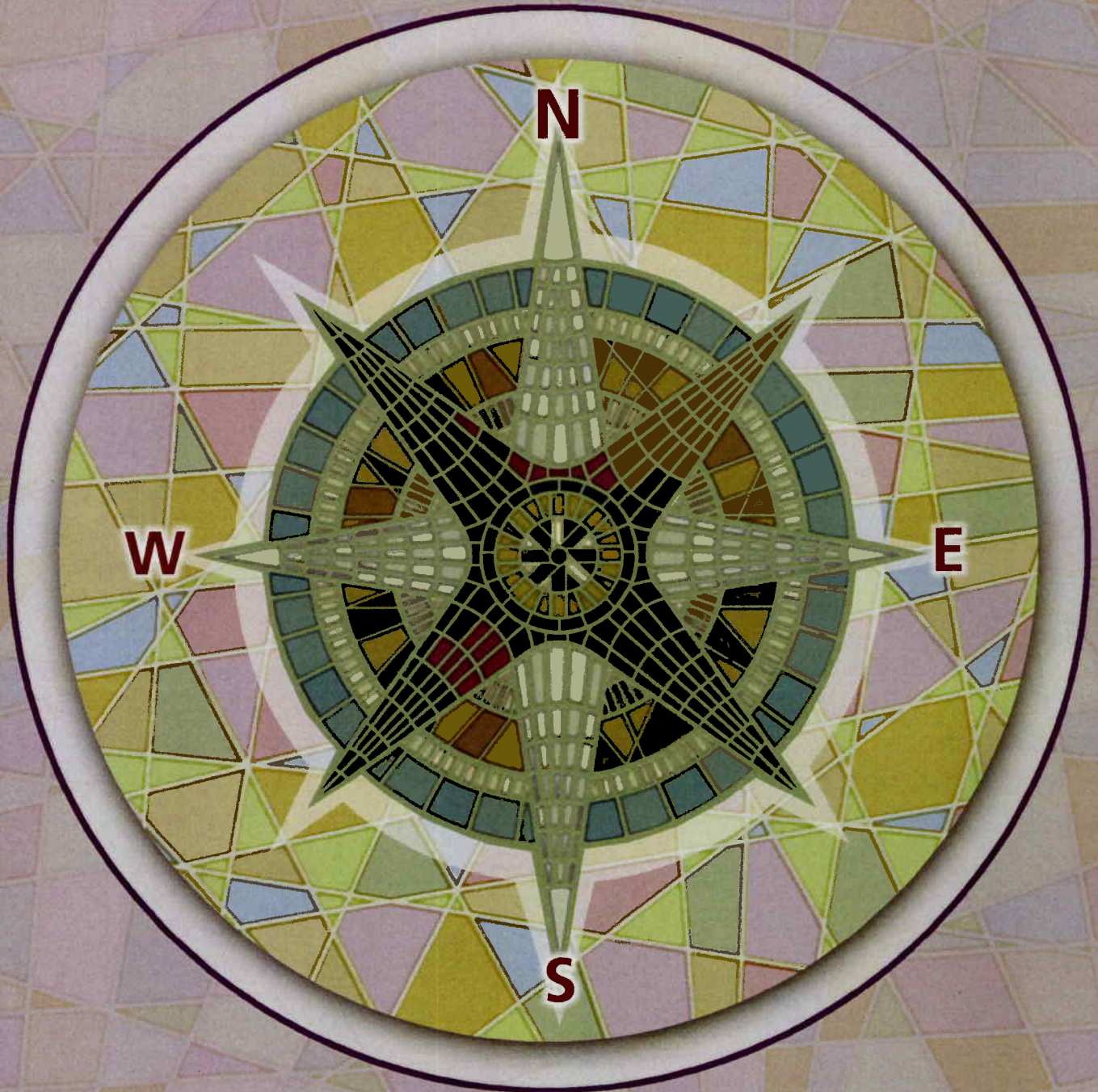


FAIR HOUSING COMPLIANCE GUIDE

# Charting The Way

Fourth Edition



American  
Seniors  
Housing  
Association



HansonBridgett

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FAIR  
HOUSING  
COMPLIANCE

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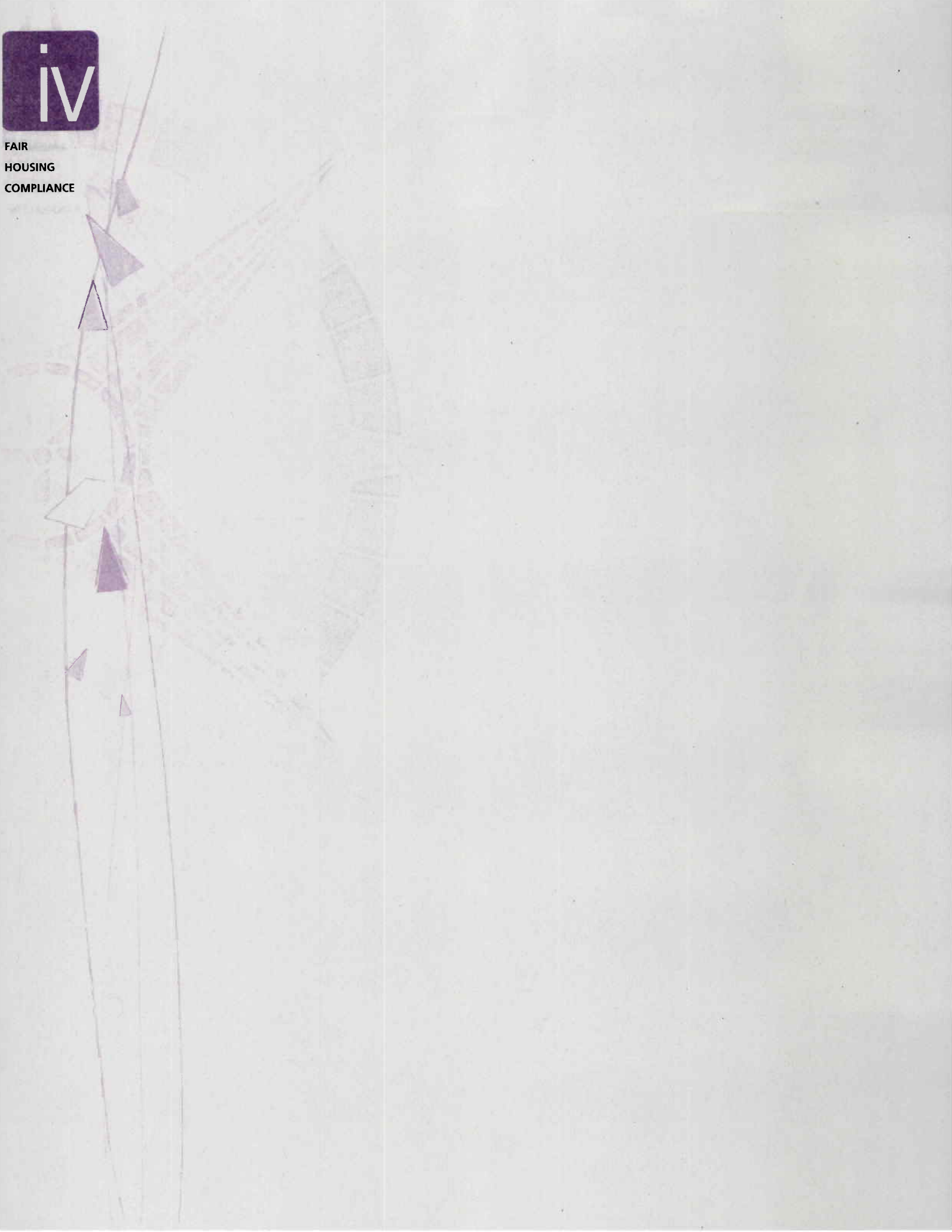


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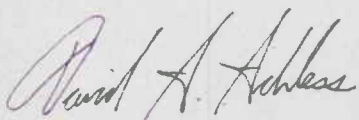
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## INTRODUCTION

As a leading voice for the nation's professional owners and managers of seniors housing, the American Seniors Housing Association (ASHA) is pleased to present this updated and expanded edition of the *Fair Housing Compliance Guide*. This publication is part of a long-standing communications effort by ASHA to update members with timely information about evolving issues regarding fair housing compliance.

I am confident you will find this publication an invaluable and practical resource to enhancing operational compliance. We are especially fortunate to have Paul Gordon's expertise in this area, and his thoughtful, comprehensive analysis of the issues and practical approaches to fair housing.



David S. Schless  
President  
American Seniors Housing Association

## EXECUTIVE SUMMARY

The seniors housing industry has come under increasing scrutiny in recent times regarding its fair housing practices. Since the last edition of this manual was published, fair housing advocates nationwide have stepped up the level of litigation directly targeting seniors housing properties. The U.S. Department of Justice also continues to file suit against seniors housing owners and managers regarding policies affecting residents and prospective residents who are disabled. Courts struggle with the subtle dividing lines between discrimination and legitimate safety and quality-of-care concerns. Race, religion, marital status, sexual orientation and age are also key areas in which there may be liability for the unwary operator.

Seniors housing owners and managers need to carefully review their advertising, policies and practices regarding new resident intake and contract termination, resident contracts and handbooks, and factors that might restrict a resident's access to facilities and services, and determine that they comply with federal and state fair housing laws. It is important to involve legal counsel in such a process, as the issues can be subtle and complex.

Each organization should also have a process for accepting and responding to requests for "reasonable accommodation." Training for key employees is also important, as they can unwittingly increase liability through their words and actions.

Fair housing is a contentious and rapidly evolving area. Executives should familiarize themselves with the basic issues and take action that results in a comprehensive and thorough risk management audit for their organizations on this subject.



## USE OF THIS GUIDE

This Guide is designed to identify fair housing issues and approaches for seniors housing properties, including senior apartments, independent living,<sup>1</sup> assisted living and continuing care retirement communities. Subjects include federal statutory, regulatory, and case law dealing with discrimination on the basis of age, health care status/disability, religion, income and race.<sup>2</sup> Typical operational situations for retirement communities, such as advertising, screening and acceptance of residents, access of occupants to facilities and services at the community, and relocation of residents are identified and discussed.

This is a constantly expanding subject with sweeping laws that contain few details outlining the boundaries of appropriate conduct. The guidance presented in this handbook is based upon the statutory language and major case holdings and is not intended to constitute legal advice. Often, the issues are so subtle, and the guidance of the courts and enforcement agencies so complex, fact-specific, or even contradictory, that it is difficult to articulate a course of action that is clearly right under a given set of circumstances. Retirement communities should consult legal counsel in determining how best to minimize the risk of a discrimination claim, and to respond to any actual claim.

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<sup>1</sup> Independent living properties, unlike senior apartments, usually offer hospitality services, which may include dining, housekeeping, transportation and recreational programs. Misapplication of the term "independent living" can raise disability discrimination issues (see Section VII.B.).

<sup>2</sup> The Guide does not attempt to discuss in detail the architectural standards for handicap accessibility, zoning and planning issues, or state or local anti-discrimination laws. The issues and regulations particular to the development and operation of skilled nursing facilities and detailed discussion of U.S. Department of Housing and Urban Development (HUD) tenant selection standards are beyond the scope of this Guide.

