

Insight

HOME

Housing Opportunities Made Equal

Western New York's Source for Fair Housing News



A Bittersweet Resolution

By Dan Corbitt, Esq.

The Buffalo-Niagara region is experiencing a major demographic shift. More people are living longer than ever before – well into their late 80s and 90s. As more people age and require greater assistance, they are choosing to transition into senior living facilities, attracted by the promise of quality care in a safe and comfortable setting. Most people probably do not consider the possibility of confronting housing discrimination at one of these facilities. Nevertheless, discrimination is a pervasive and insidious problem that can strike anyone, anywhere, at any point in one's life. It robs people of the opportunity to live where they choose or unjustly denies them the full use and enjoyment of their home.

We are all members of a protected class, whether it is based on our sex, religion, age, disability, or other characteristic. When housing discrimination occurs, courageous individuals must be willing to stand up and fight against this injustice.

Henry Schwede was one such courageous individual. A kind and generous man who dedicated his life to helping others, he was an ordained minister who tended to his parishioners at Kenmore United Church of Christ and St. Stephen's-Bethlehem United Church of Christ in Amherst. After retiring from the ministry, Rev. Schwede continued to serve and nurture younger generations as a substitute teacher in the Sweet Home district.

In 2007, Rev. Schwede and his family faced a difficult choice confronting many in Western New York. Due to health and mobility concerns, Rev. Schwede decided to move into Crestwood Commons, a senior living community in Wheatfield. Shortly after the move, Rev. Schwede requested permission to make a reasonable modification to his apartment: the installation of shower grab bars so he could safely bathe. Under the federal Fair Housing Act and New York State Human Rights Law, housing providers are required to grant reasonable modification requests when doing so would permit a person with disabilities an equal opportunity to use and enjoy the apartment. Instead, management instructed Rev. Schwede to purchase and install suction cup grab bars, an inadequate alternative. The suction cups were incapable of supporting Rev. Schwede and would easily fall off, putting him at greater risk.

Rev. Schwede also requested permission to purchase a motorized scooter to help him get around the complex. In response, Crestwood required that he pay a non-refundable \$200 scooter fee and purchase liability insurance. Rev. Schwede even had to take a scooter "driving test" and sign a separate lease addendum.

Rev. Schwede complied with Crestwood's unreasonable demands and eventually got his scooter. Still, management was adamant that Rev. Schwede could not

Continued on page 6...

Better days ahead for refugee family

By Katherine Sponaugle

Note: Names have been changed to ensure client confidentiality.

Kasim Safar had lost two months of sleep. After witnessing the brutal killing of his parents and brothers, he fled war-torn Iraq with his wife and four children and settled in the United States under refugee status. But in Buffalo he has met a whole new set of struggles, from housing discrimination to roadblocks in social services.

Leaving war-torn Iraq was a heavy decision. Mr. Safar had run to help his brothers and father in their final moments, but a Christian neighbor restrained him, reminding Mr. Safar that if he went back, he would certainly lose his life too and be unable to care for his family. Mr. Safar says that every day he feels his brother's grip on his calf, pulling him for help.

Coming to the U.S. was the family's chance at freedom, safety, and stability. Buffalo is currently home to over 10,000 refugees, most of whom work hard to assimilate, build up their communities, and eventually become citizens. Sadly, it is families like the Safars who are also at risk for being taken advantage of by unscrupulous landlords. With mouths to feed, a new language and culture to learn, and coping with the trauma of civil war, Mr. Safar has had to navigate the complex world of social services for support. His 14-year-old son is usually in tow to translate from Arabic.

A local resettlement agency initially assisted the Safar family in finding quality affordable housing when they first arrived, but when their Section 8 voucher came through, they were encouraged

Continued on page 3...

From the Director:

Suppose You Passed a Law

by Scott W. Gehl

*S*uppose—after 38 years of struggle—a community passes a municipal law and then, over another decade, never enforces said law. Would anyone take such a law seriously?

This almost sounds like the beginning of a bad joke. And it might be, but for the fact we are talking about a fair housing law and serious violations of human rights. I wish we weren't speaking about my city, Buffalo.

Pulling back the covers

In 2006 the Buffalo Common Council enacted a fair housing law with exemptions broader than those of New York State Human Rights Law. In fairness, that statute did prohibit discrimination due to source of income and gender identity (which are not protected by state or federal law). Over the last ten years, source of income became the most frequently reported type of housing bias in Western New York.

On February 29, 2008 HOME filed the first two complaints under the Buffalo ordinance against a property management firm and absentee owner who had refused to rent to Naima Stewart, a young woman who would have used a Section 8 voucher to pay a portion of the rent. After investigating Ms. Stewart's allegation, HOME contacted the City's Fair Housing Officer to forewarn of the pending filings. I actually made an appointment to hand over the complaints and sworn affidavits—along with another copy of the law and an outline summarizing the law's steps and timeframes.

After the complaints were filed, nothing happened. There was no notice to the parties of the complaint, no demand for an answer, and no determination of cause within 120 days filing. Follow-up calls and emails went unanswered.

Determined to make the new law work, HOME reached out to our colleagues at the Western New York Law Center and Neighborhood Housing Services about commencing action in State Supreme

Court. In August of 2008 the case was filed, with Neighborhood Legal Services representing Ms. Stewart and the WNY Law Center representing HOME.

In October 2013 State Supreme Court Justice Patrick NeMoyer issued a decision—upholding the Buffalo fair housing law, affirming HOME's independent standing under the law, and finding that the defendants had discriminated due to source of income. In March of 2015 Justice NeMoyer awarded \$51,840 in damages and attorney fees.

All told, it took more than seven years for Ms. Stewart to win justice.

Meanwhile in City Hall

When administrative filings in other discrimination cases yielded no appropriate responses from the City, HOME reached out to then-Corporation Counsel David Rodriguez. While HOME and NLS received a sympathetic hearing, there was no discernable improvement in the City's handling of complaints.

In May of 2015 Supervising Attorney Grace Andriette of Neighborhood Housing Services wrote to Corporation Counsel Timothy Ball about the case of Mr. H., who had twice filed discrimination complaints against the Crescent Avenue Apartments. Supported by testing evidence, the City had issued a determination of probable cause—but then declined to take further action to prosecute the matter.

On June 5, 2015 Grace Andriette and I went to City Hall to meet with the Corporation Counsel, who directed an Assistant to appear in his stead. That Assistant found the City's history of inaction difficult to understand and assured us he would meet with the Corporation Counsel and get back to us. After several unanswered calls and emails, we were advised he had been transferred to serve as Prosecutor from Buffalo's Traffic Violations Agency.

Again Ms. Andriette protested in writing to the Corporation Counsel, who arranged for a meeting with yet

another Assistant Corporation Counsel. On November 2, Grace and I again spoke of the case of Mr. H—allowed to languish for years—as well as a long list of other complaints filed by HOME.

At a follow-up meeting on December 8, 2015 we were given assurances that the City would convene a conciliation conference in the matter of Mr. H and additionally would prosecute a more recent discrimination case. Neither promise was kept. Later the second Assistant Corporation Counsel left the City's employ.

A plan and a promise

On July 27th of this year, Delaware Councilmember Joel Feroletto convened a meeting in his office. Attending were the Deputy Corporation Counsel, an Assistant Corporation Counsel, Grace Andriette and I. By this time the list of complaints filed by HOME with the City had grown to 31.

In these 31 cases, the City had issued 11 determinations of probable cause. Twenty others (as old as 2009) were still awaiting determinations despite the law's requirement that determinations be issued within 120 days of filing. As of the July 27th meeting, the City had yet to begin enforcement actions in any of the 31 complaints.

The representatives of the Law Department also raised concerns that the City may be time-barred from taking action in any case more than three years old despite the fact that all 31 had been filed within the fair housing law's one-year statute of limitations.

HOME and Neighborhood Legal Services were offered assurances that it was the City's intention to fulfill its legal obligations going forward. We are hopeful that this commitment will be honored.

Councilmember Feroletto has requested that the Law Department review the eight complaints filed by HOME over the last 24 months. A follow-up meeting has been scheduled for September 29th.

The final chapter in this decade-long drama has yet to be written.

HOME UPDATES

Ways to Contribute: Through HOME's website, you can now make a donation in honor of someone who has championed civil rights or in celebration of an anniversary, birthday, or special event. In turn, we will send your honoree a special card recognizing the milestone and telling them about your gift! You can make this contribution through our regular donation form at: www.homeny.org/get-involved/donate

You can also give through your workplace!
HOME participates in United Way campaigns, SEFA, and the CFC!

• • •

Fair Housing Town Hall: The NYS Division of Human Rights is hosting a panel discussion on housing rights of people with disabilities. Panelists will include HOME Associate Director DeAnna Eason, who will speak on disability rights in housing and source of income discrimination; Todd Vaarwerk of WNY Independent Living; and other disability rights advocates in our area. Community members are encouraged to attend. **When:** Tuesday, October 4, 1pm - 4pm **Where:** Hyatt Regency Buffalo Conference Center

• • •

Case Update: Moving slowly toward justice

Last December we told the story of a Rwandan refugee whose family came to the U.S. in search of freedom and peace. After purchasing a vacant house in Buffalo's Old First Ward, he went daily after work to prepare it for his family. In March 2011, the house was vandalized and set afire. He attempted repairs, but in May 2011, one day before he was to move in, the arsonist returned and burned the house to the ground. Investigations by three federal agencies resulted in an indictment of Michael Fijal, a lifelong resident of the neighborhood and board member of the Old First Ward Community Association.

While Fijal pled guilty to arson conspiracy, sentencing has been delayed several times due to the defendant's illness. U.S. District Court Judge Richard Arcara ruled to increase the maximum sentence from 36 to 51 months. He also ordered restitution of \$26,800 for construction materials purchased by the victim. In mid-August, HOME Fair Housing Attorney Dan Corbitt accompanied our client to pick up the check from the U.S. Attorney's office. Once Fijal is sentenced (likely in 2017), HUD will commence action on the complaint filed by HOME in 2012. The wheels of justice turn slowly — very slowly.

Continued from page 1...

Better days ahead for refugee family

to move. With Mrs. Safar working, the family received a mere \$11 per month from their voucher only to move to a more expensive apartment in worse condition than the one they had been living in. The family had to borrow money from a friend to pay the security deposit — a debt that has kept Mr. Safar awake at night.

Upon move-in, the Safar's new dwelling was filthy and in disrepair. Their Section 8 administering agency provided the new landlord, Ms. Amir, with a list of necessary repairs to meet the program's housing quality standards. Ms. Amir refused to bring the dwelling up to code.

At HOME, we refer to this as "constructive eviction." When a landlord refuses to do habitability repairs, especially ones required by Section 8, the tenant is forced to move or lose their voucher. This practice is not uncommon, especially when landlords do not want to maintain their properties or in situations where tenants do not know their rights. Ms. Amir later promised the Safars that she would move them into a better apartment as long as they gave up their Section 8. The Safars felt their voucher had only led to trouble, so they gave it up in order to move to better conditions; however, the landlord never kept her promise. Instead, she brought the Safars to eviction court. Additionally, when the family was finally able to move to adequate housing under a different landlord, Ms. Amir refused to return the security deposit of \$900. She then demanded an additional \$1,300 for alleged damages and other fees, such as \$100 to clean a bathroom.

HOME learned that Ms. Amir has a history of taking advantage of refugees and immigrants with significant language barriers and who might not fully understand their housing rights. As described by our client, her rental history shows a high turnover of tenants who discovered too late that her housing is substandard. She also allegedly has a track record of unjustified security deposit withholding and a pattern of only renting to immigrants of limited means. For a landlord like Ms. Amir, there is no better opportunity to exploit than when a language barrier exists and the tenants are unfamiliar with our legal processes.

In addition to landlord troubles and losing Section 8, the Safars have struggled to stay afloat financially. In April 2015, Mr. Safar became a U.S. citizen. That same day, he brought his proof of citizenship to the Social Security Administration, which then terminated his benefits. In addition, he lost support from the Supplemental Nutrition Assistance Program (SNAP). This began a year of Mr. Safar shuttling back and forth to each agency, each time fulfilling a different request — bringing a year's worth of his wife's pay stubs, submitting proof of citizenship four times over, and filling out form after form. Despite all of this legwork, SSA and SNAP did not follow up.

Associate Director DeAnna Eason and HOME's attorney Dan Corbitt have started working with the family to navigate the complexities of SNAP and SSA. While this is not standard work for HOME, the Safars have struggled for nearly a year without being heard, and it isn't for lack of persistence.

After a long and frustrating phone call with SSA, DeAnna and Dan decided to drive to their offices to resolve the matter in person. It turned out that the agency had failed to update Mr. Safar's citizenship information and transfer him from temporary relief status. In late September, HOME will also accompany the family in Small Claims Court against the landlord in order to provide counsel and clarify any misunderstandings.

"This family fled the unimaginable and came to the land of the free," DeAnna explains, "yet here they have found a different kind of oppression."

In July, the family was finally notified that their assistance would resume. With a resolution on the horizon, Mr. Safar says he went home and slept for two days. He slept so long that his family thought he was playing a trick on them. His daughter whispered ideas in his ear as he slept (she had heard that if you give someone an idea while they are sleeping, they will wake up and do it). When he woke, the family held a celebratory feast, thankful that for now, they might have some relief. ♦
Article assist by DeAnna Eason

Saying Goodbye

As the summer closes, HOME will say goodbye to two people. Our intern, Joana Perkins, left at the end of August to return to Canisius College, with plans to continue on to Howard School of Law. After accepting work at the Justice Policy Institute, Education Specialist Katherine Sponaule is moving to Washington, D.C. in early September with her husband. In their wake, Joana and Katherine leave several accomplishments contributing to HOME's work.

Katherine is proud to leave behind a new edition of A Guide to Landlords' Rights, a redesigned website, and revised "Housing Discrimination: Know Your Rights!" brochures. She also designed and implemented HOME's first monthly landlord trainings and tailored trainings for National Alliance on Mental Illness, local police departments, the LGBTQ community, and the Buffalo Prenatal-Perinatal Network.

"I will remember so much about HOME," Katherine says. "Every single employee here is passionate about civil rights and fair housing, and nearly every client we speak with only reinforces our reasons for the work that we do. Housing is a fundamental need, yet still we see egregious cases where landlords deny housing for discriminatory reasons, refuse reasonable modifications and accommodations, and ignore basic habitability repairs. The experience I gained at HOME will inform my decisions and my work for the rest of my life."

While here, HOME's intern Joana answered calls, assisted clients at the front desk, and updated HOME's outreach lists. Joana also conducted research on mental illness and disabilities and contributed to updates of the Community Housing Center Mobility Library.

"The research I did opened my eyes to where, in the future, I can apply my law degree," she remarks. "The needs of people with mental illness and physical disabilities are too often ignored in society beyond the medical realm. These men and women suffer the consequences of discrimination every day, and my research helped me understand where the problem areas lie."

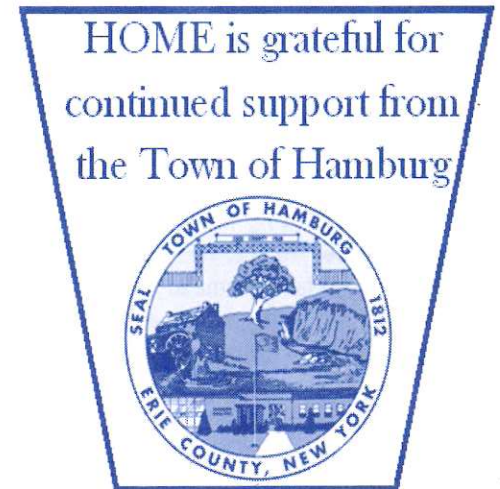
Joana also learned that discrimination goes beyond color. "Now I realize the housing industry is plagued by inequalities that apply to minorities, people with mental and physical disabilities, and the underprivileged."

On segregation, she was informed by personal experience. "As an African American woman from the East Side of Buffalo, I grew up believing North and South Buffalo belonged to Caucasians, East Buffalo was designated for African Americans, and the West Side divided people of Hispanic, Arab, and Asian descent." These are narratives many children grow up believing, but they are not an acceptable status quo. Joana remarks that "HOME allows for these borders to be slowly broken down, opening each community to the other and allowing for a diversified and equal society."

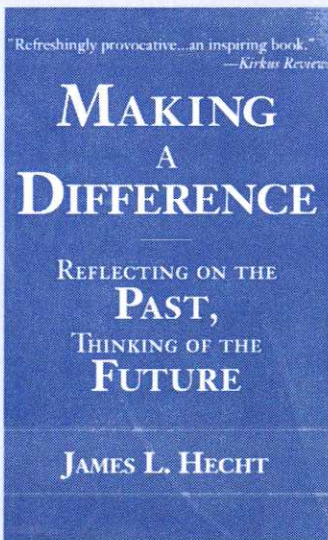
To sum up her time here, Joana explains, "All my life I have volunteered at

Saint Luke's Mission of Mercy on the East Side, but when I came to HOME, I was able to make a difference outside of my comfort zone and finally understand that service can go beyond a cup of soup or a slice of bread. HOME has taught me that the work is never done."

As for Katherine, what she will miss most is HOME staff. "We deal with heavy stuff every day – not just the challenge of changing mindsets, but also of seeing families on the brink of homelessness, people who struggle with mental illness and deplorable housing conditions, refugees who are taken advantage of, and cases where people are treated with a raw lack of humanity and kindness. The staff here is so committed and comes in every day ready to give their all, yet they are still able to buoy each other with a sense of humor, encouragement, and reassurance that sustain our optimism." ♦



Recommended Reading



James L. Hecht –author of *Because It Is Right* (1970) and one of the founders of HOME – will soon release his memoir, *Making a Difference: Reflecting on the Past, Thinking of the Future*. This book details Hecht's volunteerism, lifelong commitments, personal tragedies and growth, policy recommendations, and dedication to improving our world.

Hecht is a graduate of Cornell University and earned a PhD in chemical engineering from Yale. He served as president of HOME in its early years and is credited for giving Housing Opportunities Made Equal its name in Buffalo. Hecht details his early civil rights work in depth, dedicating an entire chapter to his work at HOME. He writes:

Thinking about my various accomplishments, the one of which I am proudest is what I did to decrease racial discrimination in housing by being president of Housing Opportunities Made Equal (HOME) in Buffalo from 1965 to 1970.

Through his stories of accomplishment and work ethic, Hecht hopes to inspire others in their actions to improve the world.

Beginning September 20, 2016, Dr. Hecht's book will be available on Amazon.com.

Tell everybody and their landlord We have a new guide!

by Katherine Sponaugle



This July, after a concerted and collaborative effort by HOME staff, partners, and former staff, HOME released its fifth edition of *A Guide to Landlords' Rights*.

One word I would use to describe this book is *palimpsest*. A palimpsest is an ancient tablet or piece of parchment that was reused, where the writing was erased, written over, and changed over time through new authors – yet the initial authors' work remained visible underneath, still peeking through the layers.

The first edition of the *Guide* was written in 1982 by Denis Woods and George Hezel, who aimed to bring clarity to the convoluted world of landlord-tenant law. By no means am I implying

that 1982 is “ancient,” but their work set a base from which the Guide would evolve, and we have stayed true to its purpose: to provide a valuable resource to encourage positive landlord-tenant relationships. The late Dr. Vern Bullough edited the second edition. The third and fourth editions were edited by Scott Gehl, who expanded the work through collaborative efforts of various partner agencies, from Catholic Charities to Neighborhood Legal Services to Belmont

Housing Resources. Now our 124-page fifth edition has materialized through the efforts of Scott Gehl (who also contributed the striking cover photo), Grace Andriette (of Neighborhood Legal Services), Kathy O'Brien (of Belmont Housing Resources), Alyssa Bergsten, Daniel Corbitt, DeAnna Eason, Jennifer Kimura, me – and all who laid the groundwork before us.

The most gratifying takeaway from this “palimpsest” is that it has grown richer (and thicker) by each edition – which, in its own way, indicates progress. When the first Guide was written, it was not illegal to discriminate against recipients of government support or based on age and sexual orientation. Gender identity and expression were not even part

of the conversation yet. In our new edition, we were able to add information from fairly recent legislation that protects lawful source of income, gender expression, and victims of domestic violence. Also new to this edition are a chapter on the Buffalo Rental Registry (which aims to identify absentee landlords) and an in-depth look at housing rights of persons with disabilities.

“As laws have been amended or enacted and needs have evolved, HOME has changed each successive edition of the Guide,” Scott Gehl, Executive Director at HOME, writes in the introduction. “In our experience the overwhelming majority of landlords will do the right thing – if only they know what the right thing to do is.”

Other expanded topics include DSS Security Agreements, smoke alarm requirements, occupancy standards, and lead abatement. On top of it, we have updated the resource list as well as the sample legal forms, with assistance from the David F. Williamson Company. We have also revised the inspection checklist, rental application, and lease.

A Guide to Landlords' Rights: Fifth Edition is priced at \$13.00 plus \$3.00 shipping for online orders. It is available for pickup during walk-in hours (9am-1pm weekdays) at HOME's offices at 1542 Main Street in Buffalo or by ordering online at www.homeny.org/resources/publications ♦

Save the Date!



ALEX AND ANI | CHARITY BY DESIGN

Save The Date...
FOR A CHARMED BY CHARITY™ EVENT
Wednesday, November 16, 2016. 6-8pm

15% of all sales will be donated to
the designated charity
Housing Opportunities Made Equal

Refreshments
ENJOY LITE BITES
AND (+) ENERGY PUNCH

Invitation to Follow

5429 Main Street in Williamsville

HOME OFFICERS

Diana C. Cooke
Chair of the Board
Nancy Blaschak
Senior Vice Chair
Janet E. Barnes
Vice Chair
Kathleen Haggerty
Vice Chair
Leslie A. Vishwanath
Secretary
Philippe P. Deterville
Treasurer

HOME STAFF

Scott W. Gehl
Executive Director
M. DeAnna Eason
Associate Director
Katherine Sponaugle
Education Specialist
Nichelle E. Brown
Senior Counselor
Daniel Corbitt
Fair Housing Attorney
James L. Dahlberg
Bookkeeper

Craig Douglass
Mobility Counselor
Miata Wright
Administrative Assistant

INSIGHT CONTRIBUTORS
Daniel Corbitt, Esq. · Scott W. Gehl ·
Katherine Sponaugle, Editor

HOME's Mission

Housing Opportunities Made Equal is a civil rights organization whose mission is to promote the value of diversity and to ensure all people an equal opportunity to live in the housing and communities of their choice – through education, advocacy, the enforcement of fair housing laws and the creation of housing opportunities.

Housing Opportunities Made Equal, Inc. would like to give special thanks to . . .

First Niagara Foundation • M&T Bank • Town of Hamburg • Belmont Management Company, Inc. • People, Inc. • Delta Development • Evans Bank • Glendale Realty Service Group • Oxford Consulting • Rich Products Corporation • Belmont Housing Resources of WNY • Buffalo Teachers Federation • Clover Management • Gibson, McAskill & Crosby • Jewish Federation Apartments • Realty Edge Inc. • Buffalo Niagara Association of REALTORS, Inc. • Lipsitz & Ponterio, LLC • Norstar Development USA, L.P. • Rental Assistance Corporation • Wegmans • Cazenovia Recovery Systems • Community Services for the Developmentally Disabled • Feroletto Law

INSIGHT is published through the generous support of contributors to HOME



Housing Opportunities Made Equal

1542 Main Street
Buffalo, NY 14209
716.854.1400
www.homeny.org



Membership is our strength – Join today!

NONPROFIT ORG.
U.S. POSTAGE PAID
BUFFALO, NY
PERMIT NO. 427

Continued from page 1 . . .

A Bittersweet Resolution

bring his scooter into the common dining room and insisted that he and other residents leave their mobility aids in the hallway outside of the dining area. Rev. Schwede expressed his concern that in the event of a “bathroom emergency,” residents with mobility impairments would be unable to reach the lavatories in time if their mobility aids were left outside. Management responded that residents could wear “Depends.” Subsequently, Rev. Schwede experienced such a bathroom emergency and, as he had feared, was unable to reach a restroom in time. Humiliated, Rev. Schwede stopped eating in the common dining room—where he once enjoyed the companionship of other residents—and instead took his meals alone in his room. Adding insult to injury, the complex charged Rev. Schwede \$21 per week for delivering his meals.

Rev. Schwede was stunned and distraught by this treatment, and he wanted to make sure that others would not have to endure a similar ordeal. Rev. Schwede contacted HOME, which investigated and confirmed Crestwood’s discriminatory policies and practices. HOME filed the case with the U.S. Department of Housing and Urban Development, which referred the case to the New York State Division of Human Rights.

Sadly, Rev. Schwede passed away in September 2013 at the age of 72—before he could see justice done. HOME continued the fight Rev. Schwede had started and was able to reach a conciliation agreement with Crestwood Commons. Under the terms of the agreement, Crestwood agreed to adopt affirmative policies to prevent future discrimination as well as pay \$5,000. To honor Rev. Schwede’s memory, HOME designated one-half of the settlement



Maura Kelley, Todd Vaarwerk of WNYIL,
DeAnna Eason, and Scott Gehl.
Photo by Ernest Churchwell

to support the advocacy program of Western New York Independent Living (WNYIL). On July 26, the 26th anniversary of the passage of the Americans with Disabilities Act, DeAnna Eason and Scott Gehl presented Rev. Schwede’s compelling story, and Todd Vaarwerk of WNYIL spoke on the needs of the disability community for which advocates continue to fight.

Crestwood is currently under new management and has revised its policies to comply with federal, state, and local fair housing laws. Future residents will be spared the pain and humiliation of discrimination due to the courage and

determination of Henry Schwede. A strong message was sent to senior living facility administrators and housing providers everywhere that discrimination will not be tolerated. HOME will never stop fighting to ensure that all people have an equal opportunity to live in the housing and communities of their choice, free from the cruelty and indignity of discrimination. ♦