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Manufactured Housing Communities of Oregon

2024 Fair Housing Litigation - Cases of Significance

Single Incident Must Be Egregious to Constitute Hostile Environment Harassment

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(First in a series of Six Articles)

Why do landlords need a briefing on fair housing cases? The answer to that question is based on four facts:

Fact 1: The federal Fair Housing Act (FHA) bans landlords and their agents from discriminating against rental applicants and tenants based on race, color, religion, sex, national origin, family status, or disability.

Fact 2: The FHA and its regulations also spell out things landlords must do to ensure fair and equal housing, such as make reasonable accommodations for persons with disabilities and refrain from discriminatory advertising.

Fact 3: Like most landlords in Oregon and America, you already know of all of this, and you train your leasing agents and staff to know it, too.

Fact 4: Despite all of this, individuals, organizations, and government agencies file thousands of fair housing lawsuits against landlords every year.

That housing discrimination remains a problem in America is a fact that few would deny. But the other disturbing takeaway from these facts is that even landlords who embrace and try diligently to comply with the principles of fair housing law end up as targets for litigation. Of course, many of these discrimination claims are simply unfounded. But there's more to it than that.

The problem is that well-meaning landlords may commit discrimination without intending to. Inadvertent discrimination is typically the product of ambiguity and uncertainty in the law. Thus, for example, the FHA requires "reasonable accommodations" for persons with disabilities but doesn't specifically define what constitutes "reasonable." While guidelines from the Department of Housing and Urban Development (HUD) help fill in the details, every situation is different. That leaves it for courts and tribunals to decide the issue case-by-case. Result: The only way to know for sure whether a particular requested accommodation is reasonable is to go to court and let the judge or jury decide the issue.

**Lesson #1: Single Incident Must Be Egregious to Constitute Hostile Environment
Harassment**

In recent years, failure to make reasonable accommodations and family status discrimination have been the most commonly asserted FHA claims against landlords. This year, though, the most common allegation was landlord harassment and retaliation, figuring in over 10 percent of the Scorecard cases. In addition, six of the DOJ's 10 biggest reported FHA settlements of 2024 involved allegations of harassment.

The complete article is posted in "Community Updates" at MHC.ORG.

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