



Complex Violates Housing Act

Jury rules potential tenants were victims of discrimination

By DAVID COLE, Staff Writer

Coeur D'Alene – A federal jury awarded \$21,000 in damages to a Boise-based non-profit that sued the owner of a Post Falls apartment complex where prospective tenants were informed a damage deposit was required for service animals.

The Intermountain Fair Housing Council sued CVE Falls Park LLC, owner of Falls Park Apartments at 304 W Fourth Ave., in U.S. District Court, filing a complaint in July 2010.

In count one, it cited discrimination on the basis of "handicap" in violation of the federal Fair Housing act and its implementing regulations. In count two, Intermountain cited negligence by Falls Park for failing to adequately train and supervise its property managers on the requirements of the Fair Housing Act.

The case went to trial on Monday of last week, and the eight-person jury began deliberating on Wednesday. The jury returned with a decision Thursday, finding in Intermountain's favor on both counts.

Ken Nagy, an attorney representing Intermountain, said the decision "strengthens protections for disabled tenants. It's a very important case nationwide." He said the jury awarded roughly \$14,000 for the Fair Housing Act claim and \$7,250 for negligence. Intermountain was awarded the money for "frustration of its mission," and "diversion of its resources in handling" the lawsuit, Nagy said.

The owner of Falls Park, Charles V. Eckert III, an attorney in Goleta, Calif., said Intermountain wasn't "trying to put an end to a practice that was wrong. They wanted the money, because I'd already put an end to it a year before they filed the lawsuit."

He said he didn't understand the "vague elements" used to calculate the damages.

"It seems to me the numbers were just made up by the plaintiff," Eckert said.

He said no person with a disability has ever paid a deposit for a service animal at Falls Park, the only apartment complex he owns in Idaho. He said nobody suffered any real injury in this case.

Intermountain alleged in its complaint that property managers at falls park had told a disabled woman in November 2008 that she would need to pay a deposit for her service animal, a dog. A couple days later one of the managers contacted the woman and told her that her application to rent an apartment there had been denied, according to court documents. (Eckert said the woman was denied because of a "horrible rental history.")

The woman filed a complaint of housing discrimination with Intermountain, which followed with an investigation. Part of that investigation included two telephone calls from "testers," people who contacted the property managers and pretended to be interested in renting an apartment. The testers, who also pretended to have service animals prescribed by a doctor, wanted to confirm Falls Park was requiring tenants to pay deposits for them.

They were told they would have to pay damaged deposits of \$1,000, which included \$100 that would be non-refundable. Eckert said Intermountain tried to trip his property managers up with the testers. He called it a "gotcha" scheme. He said the testers pretended to have service animals, but, "They don't go to the next step and say, "will you wave the deposit, because it's a service animal?" They didn't do that." Following the tests and the investigation, Intermountain files a complaint with the U.S. Department of Housing and Urban Development. So did the woman who was denied an apartment. The complaints with HUD were withdrawn when settlements couldn't be reached. The lawsuit followed.

Nagy said the money awarded by the jury would be spent on public education efforts. HUD recently granted hundreds of thousands of dollars to Fair Housing Agencies in the Northwest to try and "find" landlords who make Fair Housing mistakes.



Tenant Retention

By Rich Bieker, RAB Property Management, RHA Associate Member, NARPM Past President, King County NARPM

Retention is a matter of philosophy. Treat your tenants as you want to be treated. Do you want and deserve respect and fair treatment? Keep your relationship on a business level and the tenant will know what to expect from you.

Respect is key. Tenants want to be treated fairly and they are not looking to build a personal relationship with you. Be pleasant and helpful, explain any process and when they can expect results on a complaint or repair. Tenants are happier when they know what is happening.

Be reasonable with tenant requests within your clarified policies. Open communication goes a long way in this business. If a repair is taking a long time, keep the tenant informed of the process; an explanation just costs you a little time. If the tenant inadvertently damages the property, help them correct the situation. When speaking with tenants on a regular basis, ask how things are and if any repairs need to be addressed. Always follow through on your commitments and deal with problems as they arise. Be proactive in providing a safe and healthy living environment.

If a tenant has a special circumstance and comes forth with a request, be accommodating whenever possible and within reason. Employment situations can create a need for things such as a grace period on a rent payment and this is an opportunity for the landlord to show respect and goodwill.

You can't keep all your tenants and you may have one that you wish you would leave. Tenants have lives that may include employment relocation, changes in the household composition, etc. Rent increases are part of doing business. Explain that the market sets the rent, not the landlord and highlight the extra, often hidden, costs of moving. Vacancies are not all bad. Your rents may be too low.

Tenant retention only requires you to do business as usual, which is a reflection of your ethical business philosophy. Tenant retention problems usually occur when a tenant is unhappy with you or their living unit.

So, be respectful, fair, communicate honestly and your retention rates will remain strong.

RAB Property Management Offers professional property management for owners of residential and commercial properties with less than 20 units. Rich is a mechanical engineer, plumber, energy consultant, and 40 year veteran of property management. 206-633-6060 www.RabPropertymanagement.com



Criminal Record Databases: How Good Are They?

The value of a statewide criminal record search varies by state. Online researchers need to be aware of the many possible nuances and variations. For example; 1) there is no instant online statewide search in AZ since the 2nd largest county is not online, but many firms tout an “instant” service; 2) In MN, there are cases not on the statewide online system but will appear on the courthouse terminal system. Here are five factors to consider when evaluating the online statewide sources.

1. Is the site considered to have **onsite equivalency**? In other words, does the public access terminal (PAT) at the courthouse provide the exact same results and content as when searching online?
2. What is the **date range** of the records online – meaning how far back for the records for online? Not all online sources go back 7 years.
3. How reliable is the database in terms of **completeness and accuracy**? Are all incidents recorded? Are all dispositions records? Are records updated? Are all courts reporting?
4. What **identifiers** are provided – do you get the full DOB in order to Match the subject to the record?
5. Is the online site termed to be an **Official Site** or is it a Public Information site with a very distinct and strong Disclaimer?

Laws Regarding Employers’ Use of Credit Reports

Recently California joined Hawaii, Washington, Oregon, Illinois, Maryland and Connecticut in limiting the use of credit reports by employers. The statues regarding the use of credit reports have grown in sophistication as time has gone by. The list of exempted employers, who can use credit reports, has grown and lists of exempted positions with all employers have become a part of the more recent statues. The following list is for general information only. Each state has specific language that may further define/limit the use of credit reports. These are set forth-in detail in the State Rules Registered found at www.CRAHelpDesk.com.

Employers Exempted

- Substantially job related (Oregon, Washington and Connecticut).
- Employer required by law to obtain credit report (Hawaii, Illinois, Maryland, Oregon, Washington, Connecticut and California).
- Federally insured financial institutions (Hawaii, Illinois, Oregon, Maryland, Connecticut and California).
- State Chartered Financial Institutions (Illinois and Maryland).
- Insurance/Surety Business (Illinois).
- Various State Agencies (Illinois, Oregon and California).
- Debt Collector (Illinois).
- Investment Advisors regulated by the SEC (Maryland).

Positions Exempted

- Access to personal financial information beyond retail sale (Oregon, Maryland, Connecticut and California).
- Position requires bond/surety (Illinois and Oregon).
- Unsupervised access to cash or assets (not fixtures, furnishings or equipment of employer) (Illinois).
- Signatory power on behalf of employer (Illinois, Maryland, Connecticut and California).
- Management position (Illinois, Maryland, Connecticut and California).
- Access to trade secrets (Hawaii, Illinois, Maryland, Connecticut and California).
- Access to expense account/debit card (Maryland and Connecticut).
- Employer believes employee has violated the law (Connecticut).
- Employee has authority to transfer funds of employer (California).
- Employee has regular access to cash of more than \$10,000 of employer or customer (California).

Happy 4th of July!!
Our offices will be closed
Wednesday, July 4th

