

Familial Status—it’s about more than you may think

Title VIII of the Civil Rights Act of 1968 makes it illegal to discriminate in any type of housing based upon race, color, religion, sex, national origin, disability or **familial status**.

The use of the term “familial status” prohibits denying rights to people younger than age 18 who live in a community with a parent or legal guardian. Thus, it is illegal to discriminate against families with minor children in housing.

Most often, this prohibition is thought of in terms of occupancy of a given housing unit. A community’s occupancy policy normally should mirror the city’s code and will usually equate to two persons per bedroom.

This too is a bit tricky, as discrimination cases have arisen involving

the refusal to rent a one bedroom unit to a couple expecting a child. In fact, the sample Fair Housing policies available from MHI considers such a circumstance for “variable” language to cover expecting parents.

But the concept of “familial status” is more than just how many sleep in a home.

It is also a violation of the Fair Housing Act to have policies which treat children that reside in a community different than adults. Great care should be taken to adapt policies and procedures accord-



ingly.

For instance, an “adult only” time at the community pool may best be replaced by having a lap lane. Or, restrictions on “children using skateboards” may best be replaced by an outright ban.

Secret Shoppers Latest Calls

MHI has been alerted to fair housing enforcement agencies calling lifestyle communities (55 and over) and asking detailed questions regarding the availability of accommodations for young relatives in their care due to handicaps. These calls are being made based upon a 2002

Arizona court case entitled Canady v. Prescott Canyon Estates Homeowners Assoc.

As always, if you feel you are being “secretly shopped,” MHI advises you to contact your attorney before responding.

While not an MH case, this lawsuit is a good example of how local agencies investigate discrimination claims.

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HUD CHARGES PITTSBURGH-AREA LANDLORDS WITH HOUSING DISCRIMINATION BASED ON DISABILITY

WASHINGTON – The U.S. Department of Housing and Urban Development (HUD) announced today that it is charging a group of landlords in the Pittsburgh area with discriminating against prospective residents who have disabilities. HUD claims the owners and property managers of Beechwood Gardens in Pittsburgh and Southpointe Towers in West Mifflin denied housing to testers posing as prospective renters by refusing to grant them reasonable accommodations.

The Fair Housing Act prohibits discrimination in the terms and conditions of housing because of disability. This includes refusing to permit persons with disabilities to have needed assistance animals or other reasonable accommodations.

“Fair housing laws are clear—a disability should never prevent you from living in a safe, accessible home,” said Gustavo Velasquez, HUD Assistant Secretary for Fair Housing and Equal Opportunity. “This charge reflects HUD’s commitment to ensuring that housing providers everywhere meet their fair housing obligations and offer equal access to every person looking to rent or buy a home.”

The case came to HUD’s attention when the Fair Housing Partnership of Pittsburgh, Inc., filed a complaint alleging that A.Z. Zytneck, LLC, S & J Ventures, LP and the Allan Zytneck Trust Fund discriminated against prospective renters with disabilities. The parties own and/or manage the 144-unit Beechwood Gardens apartments in Pittsburgh and the 157-unit Southpointe Towers apartments in West Mifflin.

HUD’s charge alleges that the owners and managers at Southpointe Towers sent residents a notice stating that there would “no longer be any assigned [parking] spaces, no exceptions, even for people with disabilities.” The Fair Housing Partnership of Pittsburgh conducted a series of tests using testers posing as rental applicants who required designated parking spaces due to mobility disabilities. HUD alleges that respondents denied these testers requests for assigned parking at both Southpointe and Beechwood Gardens.

HUD’s charge will be heard by a United States Administrative Law Judge unless any party to the charge elects to have the case heard in federal district court. If an administrative law judge finds after a hearing that discrimination has occurred, he or she may award damages to the complainant for its loss as a result of the discrimination. The judge may also order injunctive relief and other equitable relief, as well as payment of attorney fees. In addition, the judge may impose civil penalties in order to vindicate the public interest. If the case is heard in federal court, the judge may also award punitive damages to the complainant.



For more information, questions, or to get copies of past Updates, contact MHI’s General Counsel, Rick Robinson, at rrobinson@mfghome.org.

