

A Recent HUD Decision On Occupancy Limitations

This case demonstrates that the court is beginning to display an increased respect for the business decisions of property managers.

The court's recent decisions in HUD v. Mountain Side Mobile Estates directly affect both the legality and underlying factors that influence occupancy limitations in housing.

Mountain Side Mobile Estates was a mobile home community situated in Golden, Colorado. Because the park was built in the 1960's, prior to the boom in the mobile home industry that occurred in the 1970's and 1980's, the lots were significantly smaller than those created in latter years. Mountain Side could not, and did not accommodate large homes; the average mobile home in the park had only one or two bedrooms. From the time of its inception the community imposed age restrictions upon its residents - all had to be over the age of 21. In March of 1989, the park abolished its age restriction and opened its residency to families with minor children. This was done because research indicated a decline in the demand for adult communities. The park also needed to comply with the Fair Housing Amendments Act of 1988 that purported to protect families from discrimination in housing and also disallowed a vast majority of all adult-only parks.

The decision to allow families to move into Mountain Side was met with great hesitancy. Because of the limited space of the park, it was feared by both management and residents that an increase in the park population would strain the park's plumbing fixtures and negatively affect the quality of overall life in the park. To combat such problems, Management decided to implement a three-person occupancy limit for each mobile home. Although consultation with field experts showed that a four-person occupancy limit was feasible, it would put park's plumbing and sewer system at its maximum capacity. The Management decided against this proposal after factoring the results of the influx of seasonal guests who usually visited park residents during the summer months. Because the sewer system and plumbing system would not be able to accommodate these additional people, it would likely shut down. Therefore, the three-person limit was upheld.

This lawsuit challenged the park's institution of the three-person limit. The action was initiated by a couple who purchased a home in the park and were subsequently told to vacate the premises after it was discovered that their three minor children placed them over the occupancy limit.

The court had to decide if the three-person occupancy limit perpetuated discrimination. The court first employed the disparate treatment analysis. This test evaluates the treatment of an individual and examines whether such treatment is less favorable than others because of race, color, religion, sex, or national origin. For an entity to fail the disparate treatment test, there must be some proof of a discriminatory motive. In this case, it was found that there was no direct evidence of discrimination because the decision to limit occupancy was facially neutral and was created for the sole purpose of maintaining the quality of life at the park.

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The court also examined whether Management indirectly discriminated against the family. In the analysis, it was determined that the family had a valid claim against Mountain Side. Because the family had adequate resources to purchase the mobile home and would have resided in the community but for the occupancy limitations, there was proof of indirect discrimination. The burden was shifted to the Management to prove that there was a legitimate and nondiscriminatory reason for the policy. Because Mountain Side had proof of legitimate concerns that necessitated the imposition of these limitations, that being the sewage system and overall quality of park life, it was held that no indirect discrimination occurred. The park was also accused of implementing the limitation without considering alternative options such as sewer reconstruction. However, the court dismissed any alternate options as being unreasonable and found legitimate reasons to not compel management to undertake them.

The court next looked to the standard of disparate impact. Although this standard is not universally embraced in the housing discrimination areas because it deals primarily with employment discrimination cases, the court departed from tradition and found it to be applicable. This disparate impact test examines those practices that are facially neutral in the treatment of different groups but fall more harshly on one group than another.

Disparate impact violations requires no discriminatory motive, and usually cannot be justified by business practices. However, the court again departed from tradition and allowed Management the opportunity to rebut the claim of discrimination by justifying their occupancy limitations through business necessity.

Although it has yet to be determined if business necessity predicated the imposition of occupancy limitations by Mountainside Mobile Estates, several conclusions can be drawn from the litigation. The most important is that there must be legitimate and non-discriminatory reasons for the implementation of an occupancy limitation that is based upon a strict scrutiny and in-depth analysis of the situation. Managers cannot arbitrarily impose occupancy limitations without exposing themselves to the potential of future litigation. Furthermore, the feasibility of all possible alternatives aside from such limitations must be evaluated.

This case demonstrates that the court is beginning to display an increased respect for the business decisions of property managers. The results are indicative of a possible trend of the courts in the future with respect to occupancy limitations.

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