

Dealing with Racial Tensions

A case in Texas, *Miller v. Towne Oaks East Apartments*, illustrates some of the potential fair housing problems that can occur when tensions develop among residents in an apartment community.

In this case, the Millers who are Caucasian, lived in an apartment community for more than a year. Then, an African-American family with three teenage sons moved in next door. The teenage boys made racially oriented obscene comments towards the Millers' daughter for nearly two years. They also threatened her father and other family members and called them names.

Miller, the father and husband, reported this to the on-site manager. She informed him that he should try to get along with the other family and not judge them by race. The manager later acknowledged that she presumed Miller was a racist even though there was no evidence that he ever made any racially oriented comments.

The manager also reported that she received numerous complaints from Miller and she attempted to investigate them. She spoke with the other family who indicated that Miller simply did not like her or her sons. The manager concluded that this was essentially a "swearing match" between the two families, and there was little she could do.

Evidence existed that the three sons engaged in activity that could have warranted eviction proceedings being brought against them. They broke a glass door, and a police officer came to the property on several occasions to question them. The manager even saw a court record concerning the arrest of one of the young men, but her position was that there was no record of a conviction so she lacked sufficient grounds to take action against them.

Approximately two years later, the manager concluded that the families could not live together, so she asked her supervisor for the authority to begin eviction proceedings. She indicated that she had reports that the Millers' cat was allowed outside of the apartment without a leash. She also indicated that she had a report of Miller engaging in lewd behavior on the property, but the reports came from non-credible sources.

The manager's supervisor believed there was insufficient evidence to warrant an eviction and suggested that the manager send Miller a letter telling him to keep the cat on a leash.

Shortly thereafter, Miller reported that one of the teenage sons threatened him and approached with a piece of broken glass saying he was going to "get him." The investigating police office turned the matter over to the local district attorney to investigate.

Manager Attempts To Evict Families

The manager decided to initiate eviction proceeding against both families. The Millers refused to vacate the property, and eventually their case was in litigation while the other family chose to move from the apartment community.

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On appeal, the court decided Miller and his family were victims of racially oriented obscene comments. The court found that the manager did not have sufficient basis to conclude that Miller was a racist, and she failed to properly investigate if the teenage boys were engaged in criminal activities.

The court believed the manager's decision to evict Miller and his family was based on the fact that he was white and complaining of racist treatment from his African American neighbors. The court also felt the manager wanted to avoid any liability in a discrimination suit by evicting both families at the same time.

The court concluded that fair housing law prohibits any consideration of race in a rental decision. The ruling also stated, "The court is not unsympathetic to the management problems of a modern day apartment complex. Not only must a manager guard against allegations of discrimination directed at the management, but also must ensure racial tolerance among tenants. [The manager's] mistake was that in trying to guard against one she allowed another to fester. In the final analysis, Mr. Miller was the victim of racial discrimination."

The court stopped the apartment community from evicting the Millers and awarded them attorney's fees but denied any request for punitive damages.

The message from this case is that the manager did not properly investigate Miller's claims because of a concern for the potential of a discrimination claim if she brought action against the African-American family. However, in the end, by failing to take action and investigate the claim, the manager violated the Fair Housing Act by discriminating against the Caucasian family.

The best plan is to investigate all complaints by residents to the best of management's ability and then take appropriate action against any offending parties without regard to race.

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