

He Paid What? For What?

The latest fair housing case settled by the Department of Justice (DOJ) had a Bloomingdale, GA mobile home park owner agreeing to pay \$680,000.00 for refusing to rent to a mixed race couple. That is not a typo and no decimal points are missing. This is what happened.

In 2007 the couple decided to rent a trailer from the park owner, who appeared more than happy to rent when the (White) wife was applying, but considerably less so when the (African-American) husband showed up. The declined applicants were so angry about the refusal that they reported the conduct to the Savannah-Chatham Fair Housing Council, which sent testers out to verify the claim. Two African-American testers were also denied, while a White tester was encouraged to move in. As a result of the testing the Fair Housing Council filed suit, which the DOJ joined. The DOJ's complaint brought out eleven more African-American complainants who also had had negative dealings with the park owner over the last several years. At least one of those new complainants also reported that the owner had sexually harassed her when she had interacted with him.

All of this ended on June 23, 2010 when the owner entered into a consent decree in federal court agreeing to pay \$280,000 to the Fair Housing Council and its three plaintiffs (including the two testers), another \$300,000 to the eleven plaintiffs represented by the Justice Department, \$50,000 in penalties and \$50,000 in assorted other costs and attorneys fees. In addition, the owner is required to hire an independent manager to be in charge of the parks, must change its signage and advertisements to include the words "Fair Housing Opportunities" and must alter some of his other leasing practices.

While this settlement seems high, it is consistent with the latest trend to settle fair housing cases in monetary amounts ranging from six to seven figures. There is no central clearinghouse for these cases but over the last year news reports and Justice Department press releases have reported multiple cases involving these large settlements across the country:

- June 5, 2010 – Tennessee developer will pay \$425,000 and retrofit 21 apartment complexes to ensure accessibility features required by the FHA.
- November 23, 2009 – Elk Grove, CA settlement for \$298,833 in case alleging that management wrongfully initiated eviction proceedings against disabled tenant because of her assistive animal.
- November 3, 2009 – Los Angeles landlord (LA Clippers' owner) settled lawsuit alleging he refused to rent to Hispanics, Blacks and families with children. He will pay \$2.73 million to resolve the complaint.

- October 29, 2009 – Sioux Falls, South Dakota landlord to pay \$50,000 for familial status discrimination after he told parents that their children could not play outside of their apartments.
- October 26, 2009 – Los Angeles, CA landlord to pay \$100,000 for misrepresenting availability of units and discriminating based on race, color and familial status.
- October 23, 2009 – Tucson, AZ landlord settles national origin discrimination claim for \$150,000.
- October 9, 2009 – Ansonia, CT housing authority to pay \$134,000 for refusing to rent to families with children and charging extra person fees to existing residents with children.
- September 17, 2009 – Mobile, AL landlord to pay \$104,000 for charging residents extra person fees for children.
- August 26, 2009 – Davie, FL property to pay \$115,000 for telling managers not to rent to persons who appear to be Black.
- August 19, 2009 – Evansville, IN retirement community required to pay \$117,000 for prohibiting use of motorized wheelchairs.
- July 30, 2009 – Dayton, OH jury finds landlord guilty of sexual harassment and awards \$246,640 to former tenant and fair housing organization. Woman alleged that the harassment was so severe that she vacated her apartment after living there only one week.

No property can guarantee that it will never receive fair housing complaints because the law encourages complaints from anyone who believes he or she has been subjected to discrimination because of race, color, religion, sex, national origin, familial status and disability. Properties can, however, mitigate their risk under these laws by following several simple steps:

- Have legal counsel review your leases, screening mechanisms and policies annually to ensure that they are still in compliance with the law. Remember the law is not static and if your policies don't change as the law does, you risk liability.
- Ensure that all management and staff obtain fair housing training in-person at least annually. While on-line classes may save time, they do not necessarily teach the nuances of the law or deal with the cutting edge issues that are coming up daily or allow your staff to ask questions and clear up concerns and inconsistencies.

- Be aware that the law is changing. Only last month HUD announced new policies dealing with sexual orientation, sexual expression and sexual preference. Be sure that your staff stays on top of these new issues so that no violation inadvertently occurs.
- If you receive a complaint of discrimination bring it to counsel's attention immediately. *Complaints will not go away* and the earlier they are dealt with, the more likely you are to have a favorable outcome.