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E&O RISK MANAGER

HELPING REAL ESTATE PROFESSIONALS REDUCE THEIR CLAIM EXPOSURES

WAYS TO AVOID FAIR HOUSING DISCRIMINATION

When a client with a physical disability is ready to rent or buy a property, helping coordinate the accommodations they need is of critical importance. It's not just the law—it's the right thing to do.

Here's a real-world scenario where an agent sided with a discriminatory landlord and ended up in court.

SITUATION

A real estate agent was hired by a landlord to lease a two-story townhouse that had one bedroom on the first floor and two bedrooms on the second floor—which was also where the only full bathroom was located. The first applicant viewing the property informed the agent that his wife was physically disabled and would require accommodations so she could access the second-floor bathroom. He informed the agent he was willing to make arrangements to have a chairlift installed. He also provided the required security together with the credit check fee.

PROBLEM

Despite the background check revealing the applicant had an excellent credit rating, the landlord refused to rent the apartment because he didn't want the applicant to install the chairlift or make other physical changes to the property. He instructed the agent to inform the applicants that he decided to lease the townhouse to someone else, even though there were no other applicants.

MISTAKE

When the agent conveyed the intentions of the landlord, he violated Title VII of the Civil Rights Act of 1968, as amended by the Fair Housing Act of 1988.

RESULT

The applicant sued the landlord and agent, alleging discrimination against him and his wife when they were denied the opportunity to lease the property because of her physical disability. Their allegations were bolstered by the fact that the rental remained vacant nearly four months after being informed that it was leased to someone else. Moreover, the eventual tenant testified that she became interested in the property at a date later than the complainants. After incurring thousands of dollars in legal fees, the case settled on behalf of the agent without the agent admitting liability.

PREVENTION

Practices that lead to Fair Housing Act claims include the refusal to rent, lease, or negotiate; offering different terms or affording different treatment; keeping records describing clients/customers; and failing to make reasonable accommodations. Providing equal service to all and not making assumptions of your client's preferences will reduce the possibility of discrimination claims. And, as evidenced in this case, working with a discriminatory landlord can lead to claims alleging civil rights violations. **P**



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