

What Fair Housing Testers Look For at Rental Communities

By Scott Clark, Attorney

A number of property managers have recently indicated to my firm that they believe that they have been tested for fair housing violations.

Fair Housing testing usually occurs in three different types of situations, according to Judy Drickey-Prohow, a Tucson attorney I associate with on fair housing matters.

1. The first is “paired testing,” which usually is focused on an attempt to identify race, sex, national origin, familial status and disability discrimination. The agency will send one individual to the property with a certain type of background---rental history, family size, size of apartment, employment/salary---who then keeps track closely of the entire experience at the property.

Items evaluated include: greeting when arrived; rental information provided, whether he or she was told of the availability of the unit; invitation to put name on waiting list; relative interest in renting to applicant; and any follow-up after the tour. *The agency will then send to the property a tester from a different group, possibly a non-protected class member who will be less qualified.*

Both testers will then compile all the information about their visit to the property, and the Fair Housing agency will review and evaluate it to see if there is a basis to allege discriminatory conduct took place. It is estimated that only 3 percent to 5 percent of these paired tests result in discrimination complaints.

2. The second category of testers looks for accessibility violations. They will look for: an accessible entrance to the office and the unit; properly marked accessible parking; correctly-placed light switches; sufficient turnaround space in the kitchen and bathroom; doors and hallways wide enough to accommodate disabled residents; and sidewalks and other community facilities accessible to disabled persons.

3. The third type of tester specifically focuses on whether the property provides reasonable accommodations to disabled residents. The individual typically will ask about renting a unit, and then inquire about management’s willingness to install a ramp, allow an animal, or permit the late payment of rent to coincide with the receipt of a disability check.

Owners and property management firms should regularly review the on-site leasing activities to ensure sufficient oversight is in place, which can help them avoid violations. This involves regular training of all on-site employees who have interaction with prospective and current residents. Owners and management should also evaluate accessibility at the property, since some of these requirements can be somewhat technical and difficult to interpret.

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