

Fair Housing Protects Immigrants from Rental Discrimination **by Jason Karpman**

California State Legislature passes Assembly Bill 976, prohibiting landlords from requesting information from tenants or prospective tenants about citizenship or immigration status.

Under existing federal fair housing laws, it is illegal to discriminate on the basis of an individual's national origin, race, color, religion, disability, sex, and familial status. More specifically, the laws that prohibit national origin discrimination make it illegal to discriminate because of a person's birthplace, ancestry, culture or language. An individual's citizenship or immigration status, however, are not included as protections from discrimination under federal fair housing laws. As a result, a landlord could potentially screen applicants based on their citizenship or immigration status as a way to discriminate against them in response to other reasons as their race, color, religion, or national origin.

The lack of federal legislation to protect individuals from screening questions about the status of their citizenship certainly has a disparate impact among recent immigrants unfamiliar with Fair Housing law. Requiring all applicants to present proof of U.S. citizenship, for example, would exclude many immigrant populations from housing and would continue segregated housing patterns.

In addition to being denied access to housing, recent immigrants are often provided with substandard housing conditions. In November 2007, Sentinel Fair Housing recently settled a case in Oakland in which twelve Latino immigrant families were living in dilapidated, unheated, and mold and cockroach-infested units, but never had any of their habitability complaints answered by their landlord, who believed that that they would be too afraid to go to court. After one of the tenants was forced to take his daughter to the hospital to have a cockroach removed from her ear, the tenants organized and sued the landlord, receiving a \$1.3 million settlement, the highest per household settlement ever in a California tenant habitability case.

With the recent passing of Assembly Bill 976, California has become the first state to prohibit landlords from asking tenants about their citizenship or immigration status. Carried by State Assemblyman Charles Calderon, D-Downey, the bill came in response to laws passed recently in several California cities threatening to revoke the business licenses of landlords who refused to check or report on illegal immigrants. The city of Escondido in San Diego County, for example, passed an ordinance in 2006 that punished landlords for renting to illegal immigrants. Landlords were forced to assume the role of federal immigration agents to discriminate against individuals seeking housing based on their immigration status.

AB 976 went into effect on January 1, 2008 and was added to California Civil Code Section 1940.3. The law prohibits a landlord to "make any inquiry regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant or

prospective occupant," nor may they require that any of those persons to, "make any statement, representation, or certification concerning his or her immigration or citizenship status." The law does not prohibit a landlord from requesting information necessary to determine or verify identity or financial qualifications. This means that a landlord has the right to ask for a photo ID, obtain a credit report, ask for references, and verify current or previous employment and residence.

The bill also does not prevent a landlord from asking applicants to provide a Social Security number (SSN) or an individual taxpayer identification number (ITIN). An ITIN is issued by the Internal Revenue Service to anyone who is required to file a U.S. income tax return, but who is not otherwise eligible for an SSN. ***However, according to Fair Housing Coach, "the lack of a SSN or an ITIN does not have to be reason to reject an applicant, because a credit or background check may still be performed without those numbers.*** Screening will reveal data—including criminal history, credit, and eviction records—about even those in the country unlawfully.”

In addition to protecting immigrants from discrimination in the rental application process, AB 976 also protects landlords from the threat of violating any city ordinances and facing unreasonable penalties if they choose to rent to an illegal immigrant. Now a landlord no longer must use his or her fear of getting involved with federal immigration agents as a means to discriminate against presumed illegal immigrants. After all, it is the duty of the government to carry out immigration policy. It is the duty of a landlord, on the other hand, to provide fair and adequate housing to all of his or her tenants.

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