

Maintenance and Discrimination: Are YOU At Risk?

By Nadeen Green

So much of what you hear about, read about, or are taught about fair housing and unlawful discrimination focuses on the leasing side of the multi-family housing industry. Certainly, many problems do arise during the leasing process...denying apartments based on race, steering families with children, or failing to make reasonable accommodations to people with disabilities are examples. But unlawful discrimination is not just the bailiwick of leasing agents and resident managers. Maintenance personnel at all levels have the opportunity to make your residents feel valued, or make some of them believe that they are being discriminated against. And if, in fact, members of your maintenance staff make workplace decisions based on your residents' race, color, sex, national origin, religion, familial status or disability, the potential liability for such prejudice can be significant. Fair housing laws provide that people not only have equal opportunity to live at your property [or in your building] but that they have equality in receiving the services that you provide as well.

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Now is the time to work with maintenance personnel to develop fair housing policies as to the protocols and scheduling of services. Written policies which are followed by everyone will help protect against unlawful discrimination, or even the illusion that maintenance decisions are made for unlawful reasons. Let's explore this further...

Consider this scenario: One of the residents who has AIDS placed a request for work to be done on the faulty toilet in his apartment. Your maintenance personnel promptly went to the apartment to do the work after he put on gloves, goggles and mouth mask, and the problem was efficiently, neatly and quickly corrected. Was there any unlawful discrimination? Could you be liable? The answer is yes, perhaps there was unlawful discrimination. If your maintenance personnel would have responded as quickly for another resident who doesn't have AIDS, but without the full regalia of gloves, goggles and mouth mask, then there was discrimination based on disability, and you could be responsible, along with your maintenance personnel, for the damages related to the embarrassment, humiliation and indignity suffered by your resident.

The solution is to have a standardized response to the type of service made, rather than a response based on the resident. Your maintenance personnel should list all of the multitude types of services requests that are made and develop a logical protocol for each of them. The protocol for working on a faulty toilet should be the same for all residents, and should be based on health and safety considerations. The list, with its corresponding protocols, should be in writing as your policy.

Now look at another possible situation: Your lead service technician is a black woman. Your company has a policy of doing service in the order that requests are received. First thing in the morning, the Whites [a white family] call in with a request, and that it be taken care of 'first thing'. However, the Whites notice that your lead service technician goes, tool box in hand, to the apartment of the Blacks [a black family] and spends some time in the apartment, apparently [and actually] responding to a request for service made by the Blacks after the Whites had made theirs. The Whites go to HUD and file a complaint of racial discrimination, based on the fact that they are white and that the lead service technician placed their service request behind that of the Blacks. Do the Whites have a valid claim? Not necessarily. While your policy is to respond to service requests in the order in which they are received, logic would dictate that certain requests take priority over others, nonetheless. In this scenario, assume that the Whites had a dripping faucet and the Blacks had a broken pipe. If your policy further states that response is for a higher priority situation, you should be able to diffuse the claim. Remember the list your maintenance staff compiled to establish appropriate protocols? Now take that list and classify those many types of requests into priorities, again making this the basis of a written policy that is reviewed with all staff and followed.

Think it out...write it down...teach it...follow it...document it...and spot-check periodically.
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