

Landlords Pay Over \$5 Million in Discrimination Lawsuits!!

by Frances Espinoza, Liam Garland and Sanjay Paul

The Housing Rights Center (HRC) is one of the largest and most consistent fair housing enforcers in the country. Out of 22,042 calls in their Program Year 05/06, 1,672, (8%) concerned fair housing issues. Here are some important highlights from cases that were litigated in the past year:

- A federal judge ordered a local real estate magnate to pay **\$4.5 million** in attorney's fees and costs to HRC and other parties in a ground-breaking race and national origin discrimination lawsuit.
- The association of a large Los Angeles condominium complex paid **\$215,000** in damages and fees to a homeowner with a disability who was denied an accessible parking space.
- A large West Los Angeles apartment complex with overly restrictive occupancy limits paid **\$100,000** to HRC and a family rejected on the basis of occupancy limit.
- A couple obtained **\$25,000** in damages from a West Los Angeles landlord after they were refused a third-floor unit because of the landlord's desire not to have children on that floor
- A large Los Angeles-area landlord paid **\$500,000** to HRC and a family nearly evicted from one of his buildings because they are Latino.

It will surprise no one that housing discrimination litigation will continue next year. Litigation remains a necessary tool to eradicate housing discrimination in Southern California. In a current case, HRC confirmed through testing that African-American prospective tenants were denied an opportunity to rent available units in a 90+ unit complex in South Pasadena. Other current cases involve discrimination in Redondo Beach, Monrovia, Hawthorne, Alhambra and Los Angeles, proving again that housing discrimination in Southern California knows no geographic bounds.

Discrimination Complaints

Of the 1,672 allegations of discrimination HRC received last year, 667 (40%) cases were opened. This is the largest number of discrimination cases that HRC has ever investigated since its inception in 1968.

The most common complaint was discrimination based on physical disability (40%) which involved the need for a reasonable accommodation or modification. Allegations of discrimination against families with children, which were typically complaints of overly restrictive rules or harassment because of the presence of children in the household, were the second most common (15%). This was followed by complaints of race discrimination (12%) and discrimination based on mental disability (8%) and national origin (7%). In HRC's investigation of the 667 cases, they found sufficient evidence of discrimination to warrant enforcement activity in 63% of the cases.

Have You “Accent-Discriminated”

Denying a prospective tenant housing based on his or her accent is illegal housing discrimination. This is commonly known as “accent discrimination” or “linguistic profiling” and is an emerging field.

A landlord might ask why turning down a prospective tenant based on his or her accent would be considered discrimination. According to Mari Matsuda, Professor of Law at the University of Hawaii, a person’s accent carries the story of who the person is, her ethnicity, her class position, traces of her life and identity. When someone does not like a person’s accent, they quite likely don’t like the person either.

Accent discrimination can play out in a number of ways in interactions between housing providers and home seekers. The most common situation is when a landlord falsely tells a prospective tenant over the phone that there are no vacancies or grants appointments to view apartments based solely on the caller’s accent.

Landlords accused of this type of discrimination often assert that they could not tell the person’s nationality over the phone and therefore did not discriminate against the caller. Yet a recent study of accent discrimination revealed that most people could reliably identify the race, ethnicity and heritage of a caller over the phone in a few sentences and often, in as little as “hello.”

If a caller’s race, ethnicity and heritage can be deciphered so quickly over the phone, what happens when a landlord uses that information in a rental decision? Any decision made on the basis of this information, **whether favorable or unfavorable** – is housing discrimination. Courts have found that, because accents are closely tied with a person’s race and ethnicity, discriminating against someone on the basis of their accent is tantamount to race and national origin discrimination, which is prohibited under both state and federal law.

Not only is it an outright rejection based on an accent illegal, but a housing provider must extend the same courtesies to tenants regardless of their particular accent. Of course, the law also prohibits a landlord from teasing a tenant or imitating a tenant’s accent because such actions single out the tenant and may cause the tenant to feel discriminated against.

What Can a Landlord Do?

Landlords may be liable for accent discrimination even if it’s subconscious and unintentional. So what can landlords do to ensure that they do not engage in accent discrimination? They must use non-discriminatory factors that are applied equally to all potential tenants, regardless of the tenant’s accent. Landlords have valid business reasons to reject a potential tenant based on the tenant’s credit history, references, drug history, prior evictions and criminal history, so long as these factors are applied equally to all applicants. Such neutral policies are an important first-step in preventing a discrimination complaint.

Reprinted with permission of the Housing Rights Center. For more information, call 800-447-5977 or visit www.hrc-la.org.