

Familial Status Issues in Housing

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Familial Status Topics

- Familial Status Basics
- Occupancy Standards
- Overly Restrictive Rules for Children
- Housing for Older Persons Act (HOPA)

Familial Status Basics

- What is familial status?
 - Do's and Don'ts
 - Occupancy
 - HOPA

Defining Familial Status

- The presence of one or more children under the age of 18 in the household
- Parent, step-parent, adoptive parent, guardian, foster parent or custodian of a minor child
- Pregnant woman or someone in the process of acquiring legal custody of a child

Do:

- Allow families with children to choose from available units throughout the complex
- Provide a safe environment for all tenants
- Establish rules that do not target children
- Follow existing health and safety laws when setting age limits for pool use
- Follow existing industry standards when setting age limits for use of spa equipment

Don't:

- Refuse to rent to families with children unless you are Housing for Older Persons
- Set rules that target children
- Limit families with children to certain floors of buildings or to certain areas within housing complexes
- Refuse to rent to families because of safety hazards

Other Familial Status Issues / Overly-Restrictive Rules for Children

- Swim hours/pool access
- Playing in common areas /
playgrounds
- Supervision
- Curfews

Occupancy Standards

Disparate Impact:

- ◆ Facially neutral
- ◆ Larger impact on a protected class
- ◆ Typically familial status issue
- ◆ Could impact national origin

Occupancy – The Keating Memo

Keating Memo discusses reasonable occupancy policies

- ◆ Two persons per bedroom, as a general rule, is reasonable
- ◆ HOWEVER, reasonableness is not solely determined by the number of people permitted in each bedroom

The Keating Memo - Continued

- Reasonableness of an occupancy policy is also determined by:
 - ◆ Size of bedrooms and unit
 - ◆ Age of children
 - ◆ Configuration of unit
 - ◆ Other physical limitations of housing
 - ◆ State and local law

Housing for Older Persons Act (HOPA)

- The Fair Housing Act prohibits discrimination in housing based on family status (presence of children)
- There are three exceptions to this rule found in the Housing for Older Persons Act:
 - ◆ State or Federal housing programs designated by HUD Secretary to be specifically for the elderly
 - ◆ 62+ Housing
 - ◆ 55+ Housing

HOPA - Continued

62+ Housing

- ◆ Housing facility or community intended for and solely occupied by persons 62 years and older

HOPA-Continued

55+ Housing-criteria to qualify:

- ◆ Housing facility or community where at least 80% of its occupied units is occupied by at least one person aged 55 or older
- ◆ Intent to operate as housing designed for persons 55 and older
- ◆ Process to verify age of occupants

Scenarios for Discussion

Owner Weston charges an additional \$20.00 per month for each occupant over three at his apartment community. Is this discriminatory?

Scenarios for Discussion (2)

Is it okay for manager Joe Thomas to advertise his rental apartment this way?

“One bedroom unit. Ideal for mature person. Quiet neighborhood, many amenities.”

Scenarios for Discussion (3)

Manager Markham wants to establish a policy that parents are responsible for supervising their children at all times. Does this policy comply with fair housing laws?

Scenarios for Discussion (4)

Apartment manager Terry Simpson advises the Garcias that their family will be most comfortable in Building C, where there are many other families with children. Is this discriminatory?

Scenarios for Discussion (5)

The posted pool rules for the Rainbow Apartments give separate swim hours for children and for adults. Is this in compliance with fair housing laws?

Scenarios for Discussion (6)

An available unit at the Silver Springs Apartments has a balcony that might be unsafe for a family with young children.

This complex also has no place for children to play. Can management alert prospective tenants with families about these hazards?

Scenarios for Discussion (7)

The Santos family of five would like to rent a large two-bedroom unit. The manager at the complex says they cannot move in because the occupancy limit is two per bedroom. Does this violate fair housing laws?

What can a person do if they have a question about Fair Housing or if they feel they've been discriminated against in housing?

- Contact one of the enforcement agencies- HUD, WSHRC
- Contact one of the local non-profit agencies-FHCW, NWFHA
- Contact an attorney

QUESTIONS????