

Eastern Michigan Real Estate Investment Association

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10 tips for being a low-risk landlord by Ruth Calkins

March 2012

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1. Obtain adequate insurance

Obtaining the right type of insurance on a rental property will ensure coverage for accidents and physical damage to the property. There are three types of insurance for rentals:

- Personal liability insurance: Covers violations of fair housing laws and injuries caused by conditions on the property, such as slip-and-fall accidents, criminal activity and hazardous material.
- Property Insurance. Pays for structural and physical damage to the property.
- Rent Insurance. Reimburses the landlord for lost rent when the property becomes uninhabitable because of a natural disaster or a tenant's actions.

2. Avoid Fair Housing Violations

Federal and state laws prevent the use of discriminatory practices in housing when selecting a tenant. State laws vary and many prohibit other types of discrimination, but the federal Fair Housing Act and the Fair Housing Amendments Acts prohibit discrimination based on race or color, national origin, sex, religion, familial status, and disability. When selecting a tenant, it is important to treat every prospective tenant equally. A landlord should not:

- Deny the availability of an available rental dwelling.
- Include preferences or limitations in an advertisement
- Create different terms or standards for certain tenants.
- Terminate a tenancy for a discrimina-

tory reason.

Anti-discrimination laws apply to anyone dealing with prospective tenants. This includes owners, landlords and managers. A prospective tenant may be able to sue the property owner for civil rights violations of its employees.

3. Use a consistent tenant screening process

To avoid fair housing complaints, a landlord should create a fair application procedure by:

- Creating a screening process
- Only rejecting tenants based on legitimate reasons, such as insufficient income, bad credit history, or a negative reference from a previous landlord.
- Requiring all prospective tenants to undergo the same application process

4. Put a landlord/tenant agreement in writing.

Typical residential lease agreement specify important rental terms that will guide the landlord/tenant relations. The most important provisions include the following:

- Name of the tenants
- Length of the tenancy
- Amount of the security deposit
- Party responsible for specific repairs
- When pets are allowed
- The amount of the rent
- When rent is due
- What form of payment is acceptable
- Whether a grace period applies
- Whether late fees and return check

FROM THE PRESIDENT - Dianna Maxwell

Mortgage Defaults:

Signs of Recovery

The UFA Default Risk Index for the fourth quarter of 2011 edged lower to 131 from last quarter's revised 133, which suggests that residential mortgages default and prepayment risks are continuing their return to normalcy.

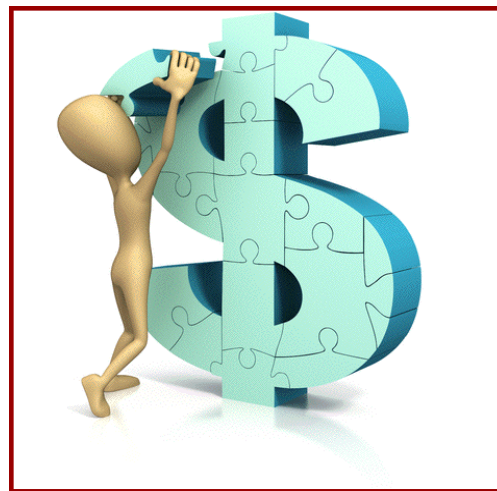
According to the latest UFA Mortgage Report by University Financial Associates of Ann Arbor, Mich., the stage is set for a recovery in the housing market. Under current economic conditions, investors and lenders should expect defaults on loans currently being originated to be only 31 percent higher than the average of loans originated in the 1990s, due solely to the local and national economic environment.

"Despite continuing high unemployment and the threat of contagion from Europe, our Default Risk Index has improved," says Dennis Capozza, who is the Dale Dykema professor of business administration in the Ross School of Business at the University of Michigan, and a founding principal of UFA. "With consumer balance sheets improving and mortgage rates at record lows, the stage is set for a recovery in the housing market. We await the catalyst."

The UFA Default Risk Index measures the risk of default on newly originated, nonprime mortgages. UFA's analysis is based on a "constant-quality" loan, that is, a loan with the same borrower, loan and collateral characteristics. The index reflects only the changes in current and expected future economic conditions, which are less favorable currently than in prior

With consumer balance sheets improving and mortgage rates at record lows, the stage is set for a recovery in the housing market. We await the catalyst.

INDUSTRY NEWS



years.

Each quarter, UFA evaluates economic conditions in the United States and assesses how these conditions will impact expected future defaults, prepayments, loss recoveries and loan values for prime and nonprime loans. A number of factors affect the expected defaults on a constant-quality loan. Most important are worsening economic conditions. A recession causes an erosion of both borrower and collateral performance. Borrowers are more likely to be subjected to a financial shock, such as unemployment, and, if shocked, will be less able to withstand the shock. Fed easing of interest rates has the opposite effect. **RE**

For more information, visit www.realestateconomywatch.com

FROM THE PRESIDENT - Dianna Maxwell

Credit Issues

BUSINESS DEVELOPMENT

Strategic Default and Foreclosure

by Jeff Mandel and Marlin Brandt

Matt and Rachel Kent are about to apply for a loan on a new home being built in Tucson, Ariz. It's been three years since they lost their Las Vegas, Nev., home to foreclosure. The Kent's, who could afford to keep their home in Las Vegas, simply decided to "walk away" and let their lender foreclose. They join a growing population in the United States referred to as "strategic defaulters."

Foreclosure and its expanding negative economic impact continue to plague the nation. The situation in the Las Vegas area, a booming home market only a few years ago, now boasts some of the highest foreclosure rates in the country. Nationally, 34 percent of foreclosures are the "strategic" variety, according to a September 2011 survey conducted by the University of Chicago. According to CoreLogic, 10.9 million, or 22.5 percent of all residential properties with a mortgage had negative equity at the end of the second quarter of 2011. Nevada had the highest negative equity with 60 percent of all of its mortgaged properties underwater, followed by Arizona (49 percent), Florida (45 percent), Michigan (36 percent) and California (30 percent). In addition, 75 percent of homes with negative equity have above market interest rates.

While walking away from your home may seem like a simple solution, the process of recovering from a strategic default takes time. The wait to be considered for a home loan can be anywhere from three to seven years after a foreclosure has been completed. While there are a number of factors that lenders consider when evaluating a request for a home loan, this has to go hand in hand with the applicant proving they have been able to manage their debt since the foreclosure. For most people, their credit score is severely impacted once a foreclosure shows up on their credit report. On average, a foreclosure will stay on a credit report for up to seven years after the initial reporting date. In general, as the foreclosure ratings get older, it



has less and less impact on the person's credit score. However, the time it takes for a credit score to rebound can be enhanced substantially if a person follows some credit best practices in managing his or her debt and simply pays his or her bills on time. According to the Federal Housing Administration, if a person with a past foreclosure has waited three years, has at least a 620 credit score and meets other lending requirements for debt and income, they can qualify for an FHA home loan. Conventional loans, which often have more desirable interest rates, have a waiting period of seven years, and BA loans, two years. In other cases, lenders may not be willing to consider a loan for some time if the reason for the foreclosure was simply because the homeowner chose not to make a payment or because they had too much other debt.

According to Doug Duncan, chief economist for Fannie Mae, 90 percent of people surveyed nationally by Fannie Mae said that walking away from a mortgage is wrong for moral, legal and financial reasons. If strategic default continues in popularity, it will continue to limit the amount of capital banks are willing and able to lend as a result of their expanding loan losses. This creates a compounding negative impact that eventually trickles back and impacts each of us by way of empty homes, higher crime rates and lower home values.

10 tips for being a low-risk landlord by Ruth Calkins

fees apply

5. Get rid of Environmental Hazards

A landlord should inspect property for dangerous environmental risks. Hazardous materials include lead-based paint, asbestos, mold, carbon monoxide, and radon. Because many environmental hazards remain undetected, physical injury or property damage may occur before the discovery of the danger.

6. Make the property habitable

Regardless of the terms in a lease or rental agreement, a landlord must provide the tenant with a rental unit that is fit and habitable to live in. During the renter's tenancy, the landlord must comply with state and local building and safety codes.

7. Fix dangerous conditions

A landlord must also regularly inspect the property for hazards. If there is a dangerous condition and the landlord is unable to fix it immediately, the landlord has a duty to warn tenants and visitors to the danger.

8. Provide a safe environment

In recent years, courts have held landlords responsible for criminal activity that occurs on their rental property. Consequently, landlords should take precautions to protect the neighborhood from the illegal activity of tenants and should protect tenants from criminal behavior of other tenants and from criminals that enter the property. Landlords have a duty of "due care" to take reasonable steps to protect tenants from foreseeable danger. Reasonable precautions a landlord may include.

- Inspecting exterior security lighting systems
- Reporting suspicious activity to police
- Not making promises about the security system that are unattainable
- Responding to a tenant's security requests as soon as possible
- Regularly inspecting the property for safety

9. Take precautions when hiring help

Hiring employees or contractors to help manage rental property may create a more profitable and efficient business. Depending on whether the worker is an employee or a contractor will determine a landlord's level of risk. When hiring employees, it is important to consider liability issues for sexual harassment or discrimination since under certain circumstances a landlord may be held liable for the acts of its em-

ployees. When hiring contractors, creating a written contract that clearly specifies the duties of each party should govern the relationship. Contractors should also acquire their own liability insurance.

10. Understand tax implications

Maintaining organized and accurate records is an important part of managing rental property. You may want to consult a certified public accountant or a tax attorney for advice.

One of the biggest problems that landlords in the market today have is how to advertise to get great tenants. When advertising your property it is important to include the information about the square footage, the number of bedrooms and bathrooms, the location, and the rent. You should avoid advertisements that contain discriminatory requirements about race, gender, religion, disability and familial status.

Here is a variety of ways to advertise your rental properties:

◦ Use a "For Rent" sign

Using a for rent sign in the window or yard of a property is not only cost efficient, but one of the best ways to advertise a rental unit in areas where foot and car traffic is heavy.

◦ Advertise rental property online

Advertising vacancies online is a good way to publicize the availability of a rental unit to a wide array of potential tenants. Check local real estate sites and national sites like Craigslist.

◦ Place an ad in the newspaper

Placing an ad in the classified section of a newspaper is a time-tested and traditional way to find tenants. You may also consider advertising in college presses.

◦ Make Neighborhood Flyers

A flyer can notify local residents already living in the area of the vacancy. A simple flyer with the landlord's phone number included on detachable tabs can be put in Laundromats, on college campuses, grocery store bulletin boards, etc.

◦ Publicize through word of mouth

Sometimes the word of mouth is all the advertising that you need. Friends, neighbors, family members and colleagues can spread the word of the vacancy. You can also tell current tenants and encourage them to tell friends, relatives, and co-workers.

Considerations for tenant background checks By Lonnie Smrkovski

Background checks of tenant applications are, of course, very important in the selection of prospective residents and normally include the standard checks regarding credit, evictions, employment, income, and landlord references. While these factors are related to the anticipation of prompt payment of rent, there seems to be little said about criminal background checks.

Why may criminal background checks be desirable? For the same reason we may not want convicts who have committed certain crimes living in our own neighborhood. Tenants deserve to live in a clean, safe environment which is free of potential criminal threats or other problems.

No doubt, there are many who have committed crimes, paid their debt to society, learned their lesson, and go on trying to lead good lives. Depending on the offense and circumstances, a landlord may well give consideration to such an applicant. Many convictions are for non-violent or other crimes that may not present a threat to your business or your tenants.

Is this discrimination? Conviction for crimes does not seem to be a protected class. Under the Fair Housing Act, the following are protected: Race, color, religion, sex, national origin, those with disabilities, marital status, age, social orientation, and source of income.

Michigan has very large prison population (more than surrounding states). Our prison system has been costing Michigan taxpayers 1.6 billion dollars per year for the last several years. In an attempt to reduce costs, thousands of prisoners have been released or otherwise paroled and a number of prisons have been closed. On release and/or parole, they are looking for housing. Obviously, many convicts released from prison have low paying jobs or none at all. Clearly, they cannot qualify as housing applicants based on their lack of income. They may, however, be financially supported by family members. I think it safe to say that criminals convicted for drug offenses, violent crimes (including sex offenders), and others who have committed serious offenses pose a possible threat to landlords and tenants are of the most concern.

According to the National Center for Missing and Exploited Children, there are an estimated 739,853 registered sex offenders in the USA (2010 statistical data). That is 236 per 100,000 populations. Michigan has 47,329 (per 100,000 population, 477)! To access the Michigan Public Sex Registry go to www.mipsor.state.mi.us and do your research. You will

be required to know their names and age (approximate). Information on the offender includes a photo, name, date of birth, address, and the specific crime for which they were convicted. There is no charge for the search.

One should keep in mind that Michigan's Criminal History Records include arrest information provided by law enforcement when a person is charged with a crime punishable by over 93 days, which includes all felonies and serious misdemeanors. Other misdemeanor offenses are reported with fingerprints after conviction IF the sentence includes incarceration with fines and costs totaling more than \$100 (source: Michigan State Police).

For inquiries on applicants outside the area where your rentals are, you may wish to contact the appropriate courts in the jurisdiction where the applicant lives.

Criminal background checks have been made easier with the advancement of record keeping and computer technology. There are numerous internet sites on which one can obtain (for a fee) all kinds of public record information including criminal convictions. Some are state specific, and others will do a nationwide search of public records. Again, these sites do charge a fee.

The Michigan State Police provides the Internet Criminal History Access Tool (ICHAT) allowing the search of public records contained in the Michigan Criminal History Record maintained by the department. Warrant information and suppressed records are not available, nor are federal, tribal, and criminal records from other states. Inquiries in other states would have to be done directly with the state of interest.

To perform a search through ICHAT, the minimal information required is a person's full name and date of birth. A fee of \$10 per search is charged. The search site is www.michigan.gov/ichat. You will be asked to register if you are a new customer, or simply log in if you are already registered. You may wish to confirm the information with an applicant (source: Michigan State Police).

EMREIA is registered with ICHAT and can do the background check for you.

You MUST have the applicant sign a criminal background release before a background search can be done.

A \$10 fee is charged.

TRICKS AND CONS THAT TENANTS USE LJC

Most of the sneaky little tricks listed below can easily be thwarted with proper tenant screening and a little landlord/tenant knowledge:

“Fake Credit Report” Trick:

With today’s computer technology, it is quite easy for a tenant to fake a credit report. Anyone can get a free copy of their own credit report online and make a few modifications on it before printing it out and presenting it to an innocent, unsuspecting, unfairly impressed landlord.



“Totally Fake Identity” Trick

with Great Credit Report: Fake ID’s are sold to underage kids who want to get into bars all over the country. It is easy enough for a conman/woman tenant to get a fake ID to match his friend’s or relative’s credit report and present him/herself as that person. It is a good idea to check ID’s carefully and verify as much information in that person’s name as possible.

“I’m a Victim of Identity Theft” Trick: A popular excuse for a bad credit report. Blame it on identity theft!

“My Spouse Ruined My Credit” Trick: A popular excuse for divorced deadbeats. Blame it on the Ex!

“Fake Social Security Number” Trick: Many fraudster rental applicants present fake social security numbers on their rental application. Often it is their child’s or a made up number that brings incorrect or no results. When asked for an explanation, they may pretend they don’t understand why this happened.

“Self Employed With Fake Income Records” Trick: Self employed tenants are among the most difficult references to verify. Why? It’s because as their own boss, the tenant prospect is giving you his own references on himself. Is it possible he might exaggerate his success and income and create corresponding exaggerated reference material? You bet it is, possible AND probable!

“Threaten the Landlord With a Discrimination Suit” Trick: A common tactic of a disgruntled rental reject. This trick works on many scared and inexperienced landlords.

“Move in FREE” Trick: The tenant shops rentals with desperate landlords who offer a free first month and no

security deposit. They live free until they get tired of stringing the poor sucker along.

“This Place Needs Work”

Trick: One of the oldest negotiating tactics in the book is to insult the product (or rental property in this case) with depreciating comments and requests for repairs and/or improvements to be done. An eager landlord is often sidetracked from the screening process by these decoy tactics.

“Fake Injury Threatening Lawsuit” Trick:

Some tenants, usually when they hit hard times, will pretend to get hurt on the property and blame it on the landlord’s negligence. They first call and ask about the landlord’s insurance coverage. Then, while cleverly hinting they might sue you, they may ask for free or reduced rent for a while because they have medical expenses. Then, they find an opportunistic attorney to help them commit insurance fraud by suing you for a settlement.

Small business tax credit for health insurance

Small businesses may be eligible for a tax credit if they pay for at least half of their employees health insurance coverage under a qualifying arrangement. The credit is specifically targeted to help small businesses and tax-exempt organizations that primarily employ 25 or fewer workers with an average income of \$50,000 or less.

For tax years 2010 to 2013, the maximum credit for eligible small business employers is 35 percent of premiums paid. Beginning 2014, the maximum tax credit will go up to 50 percent.

Additional information about the eligibility requirements and calculating the credit can be found on the Small Business Health Care Tax Credit for Small Employers page of www.IRS.gov. You may also want to contact your accounting or tax preparer for more information.

Alternatives to Charging “Late Fees”

Landlords in the St. Clair area have often complained about judges throwing out late fees charged to tenants. These judges see the fees as penalties. Landlords should consider charging a fee for late payment, but calling it “liquidated damages”. In the lease, incorporate the following terminology: **LIQUIDATED DAMAGES:** Tenant acknowledges rent or other lease related payments made after their due date results in the Landlord suffering administrative, financing and other similar costs and expenses. Because of the difficulty in determining the exact amount of these expenses on month-to-month basis, the Tenant and Landlord expressly acknowledge and agree that should tenant make any payment (s) more than (X) days after the date payment was due, Tenant shall pay Landlord the sum of (\$X.XX) * as liquidated damages. Such payments are expressly intended to compensate Landlord for Landlord’s losses and the parties agree that such sums are not intended to penalize Tenant for making late payments. (*This amount needs to be reasonable. If unreasonable, the court may strike it as a penalty regardless of the foregoing paragraph, “Reasonable” would probably be okay somewhere between 5% and 10% of the payment due.)

Another approach is to offer the tenant a “discount” if the rent is paid on time. For example, the rent you want is \$500.00. You put in the lease that the rent is \$525.00 per month, but if it is paid on or before the day that it is due, then the rent will be discounted to \$500.00. Tenant is encouraged to pay on time, and if so, landlord collects the amount of rent he is seeking. If tenant is late, then landlord may collect the higher amount of rent. Tenant must be informed of this in writing, with very clear phrasing and adequate advance notice.

Smoke Free Housing is Legal

Michigan has become a national leader in the adoption of “smoke-free” multi-tenant housing policies. Landlord experience, legal documents, assistance and free promotion are all available to you by visiting the following website:

<http://www.mismokefreeapartment.org/>

7 Rules for Avoiding Discrimination Claims Related to Residents & their Guests the Voice

Rule #1: Apply Fair Housing Policies to Residents and their Guests

Abide by your fair housing policies and procedures banning discrimination against residents as well as anyone associated with them, such as family members, friends, and guests based on race, color, national origin, sex, religion, disability, and familial status-along with any other characteristics protected under applicable state or local law.

Just as it’s unlawful to discriminate against residents based on their race or other protected characteristic, it’s a violation of fair housing law to discriminate against their friends or guests for the same reason.

Example: A Pennsylvania court refused to dismiss a fair housing claim filed by a white resident and her African-American guests for discrimination and harassment. According to the complaint, the incidents occurred shortly after the resident moved into the building, where all the other residents were white. The resident alleged that, during the next two weeks, her friend, an African-American woman with two young children, visited her several times, sometimes staying overnight. When neighbors complained, according to the complaint, the owners told her to “look for somewhere else to live” and tried to evict her without good cause. Allegedly, one of the owners physically confronted the women, in the presence of the children, threatening to harm them unless the resident and the guest’s “kind” left. As she moved out a few days later, the resident said that the owner again threatened her-and the family who was waiting in her car.

The court ruled that both the resident and the guests had the right to pursue fair housing claims. The court reasoned: “If it is a discriminatory housing practice to condition rental rights on the exclusion of black guests, it reasonably follows that a black invitee [guest] who is excluded or coerced into leaving because of race has been ‘aggrieved’ or ‘injured by a discriminatory housing practice’ [Lane v. Cole, March 2000].

Though most reported cases involve discrimination against guests based on race, the same rules apply to other protected characteristics, according to Atlanta-based fair housing attorney Robin Hem. For example, he says, it’s unlawful to ban families with young children from visiting to avoid potential safety risks from community features, such as a lake or steep cliff.

Rule #2: Don’t Discriminate Against Residents Because of Their Friends or Guests

Fair housing law bans discrimination against residents- whatever their personal characteristics-because of their association with members of a protected group. It’s unlawful to take any adverse action against a resident-such as threatening, evicting, or otherwise interfering with his right to enjoy the cont pg 8

premises-because of biases against his friends or guests.

Communities have been held liable for violating fair housing law by discriminating against white applicants and residents because they associate with African Americans. Early court cases established that discrimination in the provision of housing to white residents because of their association with African Americans violates fair housing law. Allegations of fair housing violations have been made by interracial couples, the parents of biracial children, and white residents who hosted African-American friends in their units.

Example: Last year HUD charged the owner and property manager of a Mississippi rental property with violating fair housing law by refusing to renew the lease of a white resident because she associated with African Americans and had a biracial daughter. The HUD charge also accused the property manager of making discriminatory statements about renting to African Americans and residents associating with African Americans.

Specifically, HUD's charge alleged that after the manager discovered that an African-American man had visited the resident's unit, the manager informed the resident that she wasn't permitted to have visitors who were not listed on her lease. Two months later, after a neighbor called police when he saw an African-American man knocking on the resident's door, the manager notified her that her lease would not be renewed.

"No one should be denied a place to live because of the race of their family members or friends," John Trasvifla, HUD's Assistant Secretary for Fair Housing and Equal Opportunity, said in a statement. "HUD is committed to ending housing discrimination in all forms and in all places" [Secretary v. Kelly, October 2010].

By analogy, fair housing experts say that the rules banning discrimination based on race apply equally to other protected groups. For example, fair housing expert F. Willis Caruso, Esq., warns that a community may not discriminate against residents or their guests because they are Muslim.

In its guidelines on post-9/11 security concerns, HUD offers an example about complaints from a neighbor about a Muslim resident who hosts weekly meetings with other Muslim men. If the guests are not disturbing the neighbors, HUD said, the community could be accused of religious discrimination for asking the resident to refrain from having Muslim guests when there is no evidence of any violation of established property management rules.

Rule #3: Don't Discriminate Against Anyone Associated with an Individual with a Disability

Take care to avoid disability-related problems with respect to residents and their family, friends, and guests. The FHA specifically bars housing providers from discriminating against applicants or residents because of their disability or the disability of anyone associated with them.

According to HUD/DOJ guidelines on reasonable accommoda-

tions, the FHA's protections against disability discrimination cover home seekers with disabilities as well as renters without disabilities. Citing the law's legislative history, HUD notes that the disability provisions were intended to prohibit not only discrimination against the named lessee, "but also to prohibit denial of housing opportunities to applicants because they have children, parents, friends, spouses, roommates, patients, subtenants, or other associates with disabilities."

What that means is that a community may not exclude or otherwise discriminate against an applicant or resident because a family member, friend, or guest has a disability. For example, it would be unlawful to deny housing to a resident who has a household member with a physical or mental impairment that qualifies as a disability under the FHA. Furthermore, Hem warns that communities may not discriminate against a resident's guest because the guest has a disability. If, for example, you allow residents to bring guests to your pool, then it would be unlawful to unreasonably ban a guest with a disability from using the pool, he warns.

Furthermore, communities should be prepared to handle requests for reasonable accommodations for residents or household members who have a qualifying disability under FHA. The request need not come from the resident himself-it may be made by a family member or someone else who's acting on his behalf, according to HUD/DOJ guidelines.

It can be particularly challenging to resolve accommodation requests from a resident with a disability for waivers to community rules with respect to caregivers. There has been litigation over requests to waive rules governing guest fees, parking privileges, and other restrictions for family members or home health aides providing care to residents with a disability. And Caruso predicts an increasing number of such cases in coming years as the population ages.

There are no cut-and-dried rules governing when communities must grant such requests, because each case depends on the particular facts involved. Hem posits an example of a resident with a disability who asks a community with unassigned parking to reserve a handicapped parking spot for his caregiver. On one hand, the community may have to grant the request if the resident has a severe mobility impairment, receives daily assistance from a caregiver, and needs the caregiver to drive him to medical appointments. The bottom line is that the requested accommodation must be both reasonable and necessary to allow the individual with a disability to fully enjoy the property based on the particular facts of the situation, so it's best to get legal advice when faced with such difficult circumstances.

Example: In March 2011, a court refused to dismiss a disability discrimination case filed by a disabled resident who asked for a waiver to various rules to allow her daughter to provide assistance as her caregiver. According to the complaint, the mobile home community had a policy requiring caregivers who wished to live at the community to submit to a background check and be approved by the association. The community allegedly objected to the daughter's

Temporary SER (State Emergency Relief) Housing Assistance Facts

Households that have reached their federal (60 month) or state (48 month) time limits maximums for housing assistance, whichever is met first, may qualify for housing assistance up to three months following the month of their FIP closure. (These three months will occur immediately following the month of FIP closure due to time limits). If your tenant is nearing the end of his/her grant period, then this temporary assistance may benefit them:

- The tenant must not have been sanctioned or disqualified at the time of the FIP closure.
- If your tenant has become employed since the FIP closure date, then he simply needs to submit a written statement from the employer to verify employment with a State Emergency Relief application.
- If your tenant is not employed, then he/she must attend a general orientation and use the local Michigan Works! at least once a week.
- Landlord, make sure that your tenant has a copy of the current rental or lease agreement, and related Section 8 or other housing verification. This is necessary to determine the cost of your legal housing obligation.
- Payments will be made directly to the Landlord for the actual housing obligation amount.
- The tenant may be eligible for childcare benefits while attending the orientation and utilizing Michigan Works! services.
- Bus passes/tokens may be available for tenants attending Michigan Works! sessions.

Landlords, take note. When a tenant applies for State Emergency Relief Services (first month's rent plus security deposit), the Department of Human Services will check the prospective landlord on SONAR. If the landlord is behind on tax payments, then DHS will not pay for emergency housing.

7 Rules for Avoiding Discrimination Claims Related to Residents & their Guests...cont the Voice

presence on the premises because of her criminal history and got a court order prohibiting the daughter from living there.

The resident filed a fair housing complaint, alleging that the community unreasonably denied her request to allow her daughter to visit her periodically to provide care. The court allowed the claim to proceed because the community's actions could qualify as the denial of a reasonable accommodation under fair housing law [Marton v Lazy Day Property Owens Assn., Inc., March 2011].

7 Rules for Avoiding Discrimination Claims Related to Residents & their Guests...cont the Voice

Rule #4: Comply with State and Local Laws Protecting Residents and Guests

Check to ensure that your policies banning discrimination against residents and guests include any applicable state and local fair housing requirements. Those laws extend the ban on discrimination beyond the seven federally protected characteristics to cover a wide range of other characteristics.

In general, state and local laws mirror federal provisions banning discrimination or harassment against residents' guests and against residents because of their guests. For example, 20 states and more than 200 local governments currently ban discrimination based on sexual orientation; many also ban discrimination based on gender identity or gender expression. Depending on the particulars of the laws affecting your community, you could face a fair housing complaint if residents or their guests are subjected to discrimination or harassment because of their sexual orientation or gender identity/expression.

TIP: Communities must also be careful in how they treat victims of domestic violence because of the abusive or criminal behavior of their abusers. In some cases, HUD says, victims of domestic violence may be covered under the FHA's ban on discrimination based on sex if, for example, a policy of evicting households for criminal activity is applied selectively against women who have been abused by their partners and not against the male perpetrators of domestic violence. Moreover, public housing and some federally assisted housing communities are subject to the federal Violence Against Women Act, which protects victims of domestic violence, dating violence, sexual assault, or stalking committed by household members or guests. Meanwhile, there are a myriad of laws on the state and local level aimed at protecting victims of domestic violence.

Rule #5: Set Reasonable Rules Governing Guests and Apply Them Consistently

Communities may establish guest policies that set reasonable restrictions for guests, as long as they are applied consistently, says Hem. It would be unlawful to adopt or apply rules that bar guests from your community or unfairly limit their right to enjoy the property based on their race, disability, or other characteristic protected under federal, state, or local fair housing law.

If your community doesn't place restrictions on the number of guests a resident may entertain, for example, you may not penalize a resident from hosting a party simply because most or all of her guests are African American.

Example: In January 2011, the owner of a Mississippi mobile home park agreed to pay \$45,000 in damages (cont pg 10)

and a \$5,000 civil penalty to resolve allegations that its property managers discriminated against African-American residents and members of interracial households. Among other things, the managers allegedly interfered with an African-American family hosting a barbeque by accosting and hurling racial slurs at their guests, who were also African American. A few days later, according to the complaint, the managers attempted to evict the family, claiming that their guests had violated park rules [U.S. v. Indigo Investments, LLC, January 2011].

Moreover, communities may establish reasonable rules regarding whether and under what circumstances guests may use amenities, such as your fitness center or pool. You may impose age limits based on legitimate safety concerns, but you may not simply ban all children from using the facilities without risking a potential discrimination claim based on familial status.

Put your guest policy in writing and distribute it to all residents, so they understand what's expected of their guests. Among other things, the policy should specify the consequences for a guest's failure to abide by the rules. Although you may not target members of protected classes for selective enforcement of the rules, you need not overlook rules violations simply because either the resident or the guests are members of a protected class.

Rule #6: Ban Harassment of Residents or Guests Based on Protected Characteristics

Establish rules barring anyone-including your residents-from harassing their neighbors or their neighbor's guests-based on a protected characteristic.

Fair housing laws bans intimidating, threatening, or interfering with anyone exercising his fair housing rights. It's clear that the law prohibits communities and their employees from engaging in such behavior with harassing a resident for discriminatory reasons, but did nothing to stop it.

Example: In January 2011, the DOJ filed a complaint against a public housing authority in West Virginia on behalf of an African-American family for discrimination and retaliation. The complaint alleged that the housing authority allowed a white resident to racially harass the family without prompt and consistent enforcement of its policies and lease terms. According to the complaint, the family repeatedly reported the neighbor's misconduct-including verbal abuse, racial slurs, threats, and assaults-but didn't take action to stop the harassment [U.S. v. Wheeling Housing Auth., January 2011].

If racial disputes erupt between neighbors, Hem says that communities have an obligation to investigate and to intervene. And since fair housing law protects both residents and their guests, Hem reasons that a community could face a potential fair housing claim if it fails to take steps to address a neighbor's har-

assment of a resident's guests-or against the resident because of his guests-based on a protected characteristic.

Rule #7: Don't Retaliate Against Residents, Guests, or Employees for Reporting Fair Housing Problems

Take steps to avoid claims of retaliation against residents, guests, or employees who report fair housing problems. The FHA provisions against harassment or intimidation bar retaliation against anyone who complains of discrimination as well as employees and others who help or encourage alleged discrimination victims to pursue their rights under fair housing law.

Those provisions protect employees from adverse employment actions-such as being reprimanded or fired-for opposing discriminatory practices or advising aggrieved residents to contact HUD or other fair housing agencies. That means that, in addition to any liability to the victims or alleged discrimination, a community could be required to pay damages to any employee who was disciplined for helping the alleged victims in pursuing their rights.

Example: Last year, the owners of a Kansas City high-rise rental community agreed to pay more than \$2 million to resolve allegations of racial discrimination against applicants and residents as well as retaliation against a former employee. According to the complaint, the community's manager created a racially hostile environment by, among other things, displaying racially hostile materials, referring to African Americans with racial epithets, and treating white residents more favorably than African-American residents. Furthermore, the complaint alleged that, after learning that an employee participated in a HUD investigation and advised residents of their right to file fair housing complaints, the manager contrived a reason to fire her [U.S. v. Sturdevant, May 2010].

Resolutions

- 1) If the rent is due on the first, then it is late on the second. I will send out that 7-day immediately.
- 2) I will check out all "hard luck" stories to the best of my ability, then deal with the situation as both a good human being and a businessperson. I will not be ruled by misguided guilt.
- 3) If the tenant could not find his checkbook, a stamp, the mailbox, his car keys, or if he cannot pay because his kid, his dog, his garbage disposal, or his friend who eats anything for a bet, chewed up the check, I will send a 7-day.
- 4) I will pause briefly to be amused by the stories that my tenants think I will swallow. I will point out that doors do not just "fall off" the hinges, sinks do not clog themselves, and motorcycles belong outside.
- 5) I will see my rental units and the neighborhoods they are as a reflection of myself and strive to keep them safe and quiet.

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