Eastern Michigan Real Estate Investment Association

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8 rules for preventing fair housing complaints based on first impressions the Voice

April 2012

Rule #1: Maintain a Fair Housing-Friendly Office

Fair housing compliance starts with the way you run your office. It's up to you to set the tone-through your training, policies, and procedures-so that your staff and visitors alike understand that your community does not tolerate discrimination against anyone based on race, color, religion, sex, national origin, familial status, disability, or any other characteristic protected under state or local law.

Your office should reflect a professional atmosphere that is welcoming to all prospects, applicants, and residents. It requires an investment in staff training so that all employees-from your leasing consultants to your maintenance and housekeeping staff-understand that they are expected to act courteously and comply with fair housing requirements when interacting with all prospects, applicants, and residents-regardless of their outward appearances.

In addition, you should maintain written policies and procedures for your community operations, a roadmap of sorts to help your staff put fair housing rules into practice. Training your staff to follow the rules consistently and keeping detailed records about interactions with prospects, applicants, residents, and guests will help your community fend off accusations of unfair treatment or discrimination in violation of fair housing law.

Rule #2: Tell Employees to Leave Personal Biases at the Door

Employee training is the key to avoiding fair housing complaints that arise from actual or perceived discrimination by one of your staff members. The risk is inherent in the many ways your staff deals with prospects, applicants, residents, and their guests, so it's essential that employees are trained to keep their personal beliefs, opinions, and judgments at bay when interacting with anyone contacting, visiting, or living at your community.

The fact is that we all have prejudices, though we are loath to admit it, according to fair housing expert Doug Chasick. It's simply human nature to see someone and immediately start judging them, he says. Though everyone has opinions and makes judgments, Chasick says that getting people to acknowledge them is among the most challenging issues he faces while conducting fair housing training. But, he warns, our job as multifamily housing professionals is to overlook our personal opinions and judgments and to manage our reactions and behavior so that we treat everyone fairly. And that's a Herculean task if we don't acknowledge that we have such personal opinions and judgments, because, he says, what we don't acknowledge, we can't control.

Consequently, Chasick recommends tackling this issue as part of your fair housing training by encouraging employees to privately take stock of themselves so they can be prepared to interact fairly and professionally with everyone. During his full-day training sessions, Chasick conducts an exercise to jumpstart the process by asking for volunteers to share their own experiences as the object of (continued on page 4)

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FROM THE PRESIDENT - Dianna Maxwell

The Technology Gap

by Brian Copeland, CRS, GRI, ABR, EPOR

We've got some pretty major misconceptions in the technology world of real estate. In a class I recently taught during NAR, I asked a room of well over 200 to fill in this blank: *"If you do not have a tech strategy in your business, your business will _____."*

Answers ranged from "die," "suffer", and "dwindle" to "crash," "falter," and "go down." The right answer, in my opinion, is "be just fine." Technology is not the end-all/be-all to survival in real estate. While technology makes treading this market's deep water a lot easier, it cannot rescue your business from sinking into the poor market abyss. Your business can only be saved by strong pricing knowledge, imperative customer service and smart referral-building.

Technology is a vehicle that moves processes more efficiently and quickly. It is also a vehicle that allows connection on an additional level above face-to-face and voice-to-voice. Because of the misconception that technology is the savior of real estate-kind, a gap has appeared between agents. We have a wall that divides the two camps.

One camp says, if you don't have technology on your side, your business will die. The other camp says, "I don't have time for all these toys like iPhones, social media and laptops." Slowly over the past few years, that gap has started to fill in a bit. I call them the Hugh Jackmans of real estate. Not only can they act, they can sing, dance, speak and look good while doing it. These triple-threat agents are growing stronger by the year. They are the agents who understand (1) you must be involved in the REALTOR© ORGANIZATION, RPAC and leadership; (2) you must sell real estate on a profitable level within your market; and, (3) you must embrace the technology tools that streamline those worlds.

Daily, I see more and more REALTORS© who are serving their organizations in a whole new way because they understand the gap must close. I consider these to be agents who breathe their technology. I'm not saying that everything they do surrounds technology so they shove it down people's throats. I mean they have become so "at one" with their tools, systems and tech arsenal that it's now as natural, seamless and smooth as breathing. Honestly, most of us forget we even use technology. We mirror Generation Y and Generation Z's tech comfort and understanding of the importance of traditional communication and relationship building.

So, that may leave several of us asking the question, "what do I do to bridge the gap?" I'd like to share with you the five actions/ideas I think you need to implement/keep in mind as you go through your nest few years of real estate.

"while technology makes treading this market's deep water a lot easier, it cannot rescue your business from sinking into the poor market abyss."

1. **The television remote is no longer new technology.** This is one of my most common challenges to agents when they say they don't understand technology. Do you pick up the remote control on your TV and say, "Wow, this is an amazing technology, how do I use it?" Absolutely not. This once-new technology is widely adopted and used in almost every household. I'm certain that in 1960 it was amazing and foreign to some. Some of us act the same way with social media. Social media has moved into many people's minds as just another way to communicate. So many agents complain, "I don't have time to do that." That's like saying you don't have time to go to church and meet people or to the park to let your dogs play. Social media to those who are actualized with it is just an additional way of life. If you're not on it now, chances are you shouldn't be on it. It's simply not for you.

2. **Hunger to learn.** In 1996, I took my very first Adobe Photoshop course. It was only eight hours, far too short to really grasp that software. Now, 15 years later, I still find myself on a scale of 1 to 10 on Photoshop knowledge, a six. After searching through numerous courses, I could find nothing that gave me what I wanted and needed to know about this cumbersome software. I had to enter the classroom of

FROM THE PRESIDENT - Dianna Maxwell

myself. This classroom was lonely, filled with errors and required many late nights, but I had the hunger to learn. Many of us today expect to walk into a three-hour course, especially in technology, and to learn it all. It's just like a weight-loss program. You can spend three hours with the personal trainer and dietitian, gut the hours, days and months you spend alone in the gym and at the refrigerator door is the time that really matters. Find something in the tech world that feeds your passion, then go chase it.

3. Remember tradition. Just as we have learned in Real Estate 101 throughout history you must (1) list homes, (2) sell homes, (3) garner referrals and (4) have top market knowledge. The same holds true for the tech world. Each of these four basics has a way to be fortified via technology. If you want to list more homes, learn how a blog can function as free farming. If you want to sell homes and attract more buyers, learn how to create robust neighborhood videos to syndicate everywhere a buyer may be looking. If you need more client or agent-to-agent referrals, dive into Facebook and get in the flow of life with friends. Finally, if you want top market knowledge, a ton of resources exist in Altos Research, Trulia and even RETech South's web page. Remember, technology doesn't trump tradition. It only provides an additional framework to continue to do the things you've always done.

4. Beware of the next greatest thing. If you're anything like me, you get at least two sales calls a day.

"I can make you number one on Google!" "We have a new listing program that's guaranteed to bring you scores of relos!" "We have buyers in your market place that need agents. For only $x/month you can get these leads!"

The list goes on and on of the great things people want to sell us. Each year, I look at trade floors and see 10% of amazing opportunities and 90% waste. If you are going to understand more applications for technology, you must learn that less is indeed best. In my opinion, the arsenal necessities are (1) a good laptop, (2) an Internet air card, (3) an iPhone or Android phone, (4) an easy database, (5) an organized transaction management program and (6) a scanner or fax. In addition to those foundational items, adding a few other applications can make life a lot easier. Those include Facebook, Twitter, an iPhone compass, a good camera, word processing software, spreadsheet software, design software, cloud computing storage and some video editing software. While I'm sure I've left out several must-haves, these are the things I've brought together over the past five years to create a top 1% producing team.

5. You can't do it all at once. If technology overwhelms you, add one simple thing a year. In 2006, my addition was video cameras and software. In 2007, Facebook and blogging were my concentrations. In 2008, I added IDX and IVR to my website and listings. In 2009, Twitter became my new challenge. In 2010, dominating WordPress knowledge came top of mind. In 2011, I expanded my Facebook fan page and created filter and funnel systems with a new lead generation system. These are all things that had I walked into Real Estate Super Electronic and Application Store (which doesn't exist) and bought everything I would have been overwhelmed and let everything sit in a drawer somewhere. You must start somewhere or know where you are in your evolution. Yes, I had my core database and transaction management in place immediately, but that was the only exception.

Remember, you control your technology gap. You can fill it in as fast or as slowly as you like, however, keep in mind that if you keep an "I-just-don't-get-it " attitude, technology may simply not be for you. No one's going to dismiss you. Your business can survive in this market place without technology, but it can certainly thrive and help you get your life back when you have technology in your business arsenal. Now, go fill in that gap! MAR

discrimination, followed by an open discussion. At the end of the day, he gives attendees some homework: to sit down and take a personal inventory of their own personal beliefs and judgments. It's not about what they are, he says; it's about acknowledging them to enable employees to manage their own behavior-instead of the other way around.

Attorney Robin Hem agrees that it's mandatory for employees to overcome personal biases in the business setting; otherwise, they may make mistakes that could lead to a fair housing complaint. He's handled cases where that has happened-particularly in initial encounters between leasing consultants and prospects who know very little about each other at that point. When personal biases lead consultants to make quick, subjective judgments, it could affect their tone of voice or demeanor, triggering the perception of discrimination. Even worse, Hem warns that it could lead to conduct such as discouraging a prospect from filling out an application or suggesting that your community is not right for him-that could be viewed as a discriminatory housing denial or steering in violation of fair housing law.

Rule #3: Don't Judge Prospects Based on How They Look or Speak

Appearances can be deceiving, as the saying goes, because snap judgments based on how a prospect looks, dresses, speaks, or acts could turn out to be wrong. For example, you must warn employees not to assume a prospect has financial limitations simply because of how he's dressed or what car he drives. The prospect who has a hole in his jeans or drives an old car could have a six-figure salary, but a consultant may not offer to show him the penthouse or other high-end units based on his mistaken beliefs about the prospect's financial circumstances.

Though economic status isn't a protected characteristic under fair housing law, Chasick warns that allowing employees to rely on their own subjective judgments in how they treat prospects lays the foundation for potential problems. They could get the idea that it's okay to skip the fitness center when taking a prospect in a wheelchair on a tour based on assumptions about the prospect's physical capabilities, or keep families with children away from units near the lake or upper floors based on personal judgments about the parents' ability to safeguard their children. In both cases, such conduct could lead to a fair housing complaint.

Instead, it's critical to emphasize that it's mandatory for all employees to treat all prospects with courtesy and respect, regardless of how they look, what they wear, how they talk, or what car they drive. Unless they do, sooner or later, they are likely to trigger a fair housing complaint by a prospect who believes he was treated differently because he is a member of a particular protected class.

Rule #4: Warn Against Making Stray Comments

Remind employees about the dangers of making random comments or sharing their personal opinions and beliefs while on the job.

Let's face it, employees-like everyone else-sometimes say things they shouldn't. Unconsciously discriminatory remarks could be, as Chasick puts in, random utterances of stupidity, such as making a seemingly harmless comment about how a prospect looks or what she is wearing.

A potentially discriminatory remark could also happen when an employee is caught off-guard by answering a prospect's inappropriate question-say, about the types of people who live in the community-while conducting a tour. It's easy to fall into the trap of answering questions like these if the prospect is asking about people who, like themselves, are members of a particular ethnic group. But, as Chasick warns, it's illegal to answer questions about the ethnic makeup of the community-even if it comes from a person from that group.

Or worse, a leasing agent may assume that a prospect shares his personal beliefs and tells an offensive joke or gives a biased opinion about a particular ethnic group or other protected class. But the prospect could be a tester, who is recording the comments as part of a fair housing investigation.

Although they range from the innocuous to downright discriminatory, any of these comments could cause fair housing problems. At the very least, the leasing agent is acting in a way that may be perceived to be discriminatory. And even if the comments themselves do not amount to a fair housing violation, they could be used as evidence of discriminatory intent if a fair housing complaint is filed against your community.

Rule #5: Maintain Written Policies and Procedures

To prevent first impressions from leading to discriminatory conduct, your community should have written policies and procedures that put all prospects and residents on the same footing and help protect against liability if your community is accused of violating fair housing law.

In your leasing office, written policies and procedures will help ensure that every prospect visiting your leasing office is treated the same way. Fair housing experts say it's a good idea to create a script and require leasing consultants to follow it so that the process becomes automatic.

For example, the leasing consultant should offer every prospect-no matter how she looks or sounds-a rental application and invite her to fill it out. Then, the leasing consultant should explain that the application will be evaluated based on your community's screening criteria-such as credit history, rental history, criminal background, and employment or the ability to pay the rent-and if she qualifies, the applicant may live in the community as long as she follows the lease and the community rules.

Rule #6: Avoid Pitfalls When Showing Apartments

It's particularly important to have written policies and procedures about when and under what conditions leasing agents will show units to potential residents.

Sometimes, first impressions may lead a leasing consultant to believe a prospect is dangerous. Safety experts emphasize the importance of relying on gut instincts to avoid dangerous situations, so the leasing consultant may be fearful about being alone with the prospect during a showing. Nevertheless, fair housing law generally requires communities to apply policies consistently, so the prospect could file a fair housing complaint, claiming that he was denied a showing based on a protected characteristic.

Each community is free to formulate its own policies on showing units, so balancing safety concerns with fair housing compliance is a matter of risk tolerance, says fair housing expert Nadeen Green. Some communities alleviate any fair housing concerns by requiring leasing consultants to show units to everyone, regardless of their safety concerns. Others stress the importance of protecting employee safety over potential fair housing problems-for example, by not having leasing consultants be in empty units with prospects or by allowing leasing consultants to exercise discretion-as long as they don't abuse the privilege.

If your community is willing to risk a fair housing complaint by denying a showing to "scary" prospects, then your policy should include reporting and documentation requirements, says Green. Leasing consultants should be required to report any time a showing doesn't happen and to write up a summary with a detailed explanation of the reasons for the decision and how it was handled. For example, the leasing consultant should explain that she was concerned about her safety because the prospect showed up just before the office was closing and repeatedly asked whether they would be alone during the showing. Consequently, the leasing consultant told the prospect that she forgot about a prior engagement and asked the prospect to come back tomorrow.

In theory, denying a prospect a showing under these circumstances should be a rare event, says Green, so the reporting and documentation could alert you to a problem involving a particular leasing agent. If she becomes frightened too easily, it could indicate that she is in the wrong profession. Or, if all the incidents involved the same type of people, it could show that the leasing consultant's personal biases are interfering with her work and raising the risk of a fair housing claim if they are members of a protected class.

Furthermore, the documentation requirement will help your community defend itself if the prospect files a fair housing complaint. Attorney Hem acknowledges that first impressions do count for leasing consultants, who may be in a vulnerable position when showing units. Nevertheless, he observes that first impressions are based on a quick subjective evaluation, and fair housing law requires owners to articulate objective, legitimate business reasons for their actions. The documentation will help you defend against a fair housing complaint by providing evidence that the leasing consultant had a legitimate, nondiscriminatory reason for not conducting the tour at that time and that her actions didn't amount to an outright denial, because she offered the prospect an opportunity to see the unit at another time.

Rule #7: Guard Against Linguistic, Email Profiling

First impressions could also lead to a new concern: accusations of email profiling-that is, discriminating based on the presumed race or national origin of prospects gleaned from their names or affiliations as contained in email addresses.

To put things into prospective, consider the history of fair housing testing. Green explains that initial testing involved physical visits to leasing offices by individuals who posed as prospects to determine whether (conclusion Pg. 6)

African Americans and other protected groups were treated differently than white prospects.

The process was both labor intensive and expensive, says Green, so some testing initiatives moved to a less time-consuming and costly approach: telephone inquiries to determine whether testers who sounded like they were African American were treated differently than those who sounded like they were white. Green points to research suggesting that people are able to correctly identify with about an 80 percent accuracy the race of a person from hearing them count from one to 20. Eventually, telephone tests were expanded to check for discrimination based on linguistic profiling against Hispanics and other protected groups.

With expanded use of social networks and Web sites by the rental housing industry, Green predicts that testing initiatives will target these new forms of communication. In various ways, communities now allow prospects to contact them via the Internet, either by email or by filling out guest cards online.

Green says that the information gleaned from those sources may give clues as to the race or national origin of the prospects, making it ripe for fair housing testing initiatives to check for housing discrimination. She points to studies on employment discrimination that show that the response rates to resumes of applicants with similar credentials were much lower when their names suggested that they were African American when compared to those with names that suggested they were white.

Although the studies have not been replicated to check for housing discrimination, Green says that the industry should brace for similar testing initiatives since it's so much more efficient and inexpensive than other forms of testing. Many communities suffer from delays in their response time to online inquiries, but she warns that fair housing advocates may suspect discrimination based on race or national origin if responses to prospects whose names suggest that they are African American or Hispanic lag behind those whose names suggest that they are white.

Rule #8: Get to Know State and Local Laws

Although federal fair housing law does not ban discrimination based on personal appearance, there are a handful of jurisdictions-including the District of Columbia and a number of municipal and county governments-that specifically include "personal appearance" in their lists of protected characteristics.

And in California, there is a civil rights law applicable to all businesses, including those engaged in the rental of housing accommodations, that specifically bans discrimination on the basis of race, color, religion, sex, national origin, ancestry, or disability. In addition to those engaged in the rental of housing accommodations, that specified characteristics, the law has been interpreted by the courts to ban arbitrary discrimination based on personal traits similar to those listed-including physical appearance-that are not related to the responsibilities of a tenant.

Meanwhile, many communities are subject to state and local laws banning discrimination based on gender identity or expression as well as sexual orientation. The wording of the laws varies, but in New York, for example, gender expression refers to external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns, and social interactions, according to the New York City Human Rights Commission. In general, communities could be liable under laws protecting gender identity or expression if they discriminate against a man whose appearance, behavior, or expression seems feminine-and against a woman whose appearance, behavior, or expression appears to be masculine.

Do you have questions about evictions?

EMREIA has scheduled an Eviction Seminar on Thursday, May 10 at 6:30 p. m. at the law office of Matthew Wallace in the Learning Center at 709 Huron Avenue, Port Huron.

David Oppliger and Matthew Wallace will be speaking about the eviction process and the use of proper forms. An eviction packet will be available for purchase at the seminar for $5.00.

This Seminar is free to anyone that wishes to attend.

Landlords exempted from proposed lease accounting rules

Commercial property owners and landlords have been excluded from accounting standards changes that would require companies to capitalize real estate and equipment leases on their balance sheets.

The International Accounting Standards Board (IASB) and the U.S.-based Financial Accounting Standards Board (FASB) signaled at their meetings Oct. 19-20 that they will exclude lessors and owners of investment properties from the proposed rules. The panels expect to issue a revised exposure draft of the lease accounting standard in the first half of next year, with the adoption of a final standard targeted for the second half of 2012.

In response to the heavy volume of complaints from business groups about the controversial rule changes, the FASB and IASB decided in July to reissue a new exposure draft on the proposed new standard, first released in August 2010.

For more on the story, go to: http://www.costar.com/News/Article/Landlords-Exempt-from-Proposed-Lease-Accounting-Rules/133376

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.

Michigan Supreme Court reverses position on foreclosures

The Michigan Supreme Court has reversed an appeals court ruling that had sent shockwaves throughout the Michigan real estate industry for the last few months. The Michigan Supreme Court said Wednesday that it is legal for Mortgage Electronic Registration Systems to foreclose by advertisement when a loan is defaulted. In a 4-3 decision, the Supreme Court said MERS has a sufficient interest in the debt and, thus, acted properly under Michigan law.

Selling an Occupied Rental House?

When it comes to selling an occupied rental house first address any concerns your renters may have. Before considering this arrangement, inspect the home and make sure that the residents are keeping it in reasonable, showing condition. If the home passes the suitability test then it is critical to get the residents' cooperation in showing the property, otherwise, your effort to sell will be futile. The best method for accomplishing this is by establishing an addendum to the lease that specifically addresses the following:

- The amount of advance notice required prior to a showing. Governmental restrictions sometimes will determine what is permitted, but by mutual agreement with monetary or other consideration it may be possible to deviate from the norm. A four-hour notice is helpful for marketing a home for sale. Consult your attorney for guidance.
- The expectation for the property's condition at time of showing it.
- Monetary or other consideration to compensate the resident for their inconveniences. Lowering monthly rent during the sale period or agreeing to pay a moving allowance in the event of a sale are both effective methods for motivating residents to cooperate in opening their home to prospective buyers.
- Modification of lease term, if any, and possible change in notice requirements for vacating. Consult attorney for what may be permissible.

Selling an occupied rental house can be successfully accomplished if you meet the needs and desires of both the resident and the seller. Establishing an agreement (beforehand) for how it is to be handled is the key.

Consideration for tenant background checks

by Lonnie Smrkovski

Background checks of tenant applicants are of course very important in the selection of prospective residents and normally included 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 and safe environment 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 tenants.

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, martial status, age, social orientation, and source of income.

Michigan has a very large prison population...more than surrounding states. Our prison system has been costing Michigan taxpayers 1.6 billion dollars a 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 the lack of income. They may, however, be financially supported by family members.

I think it safe to say criminals convicted for drug offenses, violent crimes [including sex offenders], and other who have committed serious offenses that 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 United States (2010 statistical date). That is 236 per 100,000 populations. Michigan has 47,329 (per 100,000 populations-477)!

To access the Michigan Public Sex Registry a search can be conducted at www.mipsor.state.mi.us. Name and age (or approximate age) of the person being checked is required. Information on the offender includes a photo, name, date of birth, address, and the specific crime for which convicted. There is no charge for the search.

One should keep in mind that Michigan's Criminal History Records includes 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 $100.00. (*Source: Michigan State Police)*

Criminal convictions are public record and are obtainable. Fees are usually charged for information searches and copying cost. For inquiries on applicants from outside the area landlords 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 sights on which one can obtain [for a fee] all kinds of public record information including criminal convictions. Some are state specific, others will do a nationwide search of public records. 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, otherwise simply log in. You may wish to confirm the information with an applicant.

If in doubt about renting to an applicant with unusual circumstances landlords may wish to check with the local housing authority and/or seek legal counsel.

10 Comments/Questions that should raise a red flag when screening applicants SLAN

1. "My wife can sign the lease. Her credit is OK."
2. "Why do you need our credit reports? That doesn't tell you what good people we are."
3. "Has the home been inspected for lead or mold?"
4. "We're moving because our landlord is a jerk."
5. "You won't need a security deposit with us. We'll take good care of your home."
6. "I'm an attorney and more than qualified to rent your house. By the way, I found three illegal questions on your rental application."
7. "Wait until you see the place when we're done with it. You won't recognize it."
8. "What is your policy concerning drugs?"
9. "Are utilities included? I had a dispute with the electric company."
10. "Would you mind giving me the key so we can just put a few boxes in there today? I'll have the money next week and we can sign the lease then."

Handy Hint:

To replace a damaged roof shingle, first slip a putty knife between the damaged shingle and the one below it and above it to break the seal. Use a flat pry bar to remove the nails from the damaged shingle and slide a new one in its place-aligning the edges with the shingles on each side. Nail the new shingle down and the old one above it. Apply dabs of roofing cement under each tab to reseal the shingles.

How to Fill A Vacancy Sooner-Be Accessible SLAN

If you are going to fill vacancies faster, you need to include a phone number in any ads (such as classified ads, Craigslist posting, "For Rent" signs, and Website ads) that will actually be answered, where prospects can actually reach you. Use your cell number or have calls forwarded to your cell. Most often prospective residents, when calling, are contacting several potential landlords in order to see a rental. Often in today's culture, if they get a voice mail, they will simply move on to the next number they have. If you can't be called during certain times of the day, have the call go to someone else (spouse, assistant, etc) who has and knows the exact script to say to any potential residents to get them excited about renting your property.

Even if applicants leave a message on your voice mail, by the time you get back to them, they may have already communicated with a landlord who is effective and knows how to get the applicants to the rental or to their website and close the deal quickly. The decision to go with another landlord or property may already have been made by the time you get back to your messages. With growing competition, and less qualified rental pool in many areas, you can't afford to miss out on many good prospects. If I do happen to miss a call, you can bet, I, or someone , will try to reach them back within minutes, not hours. Hey, I do not have to be available to answer the phone year round. I do this when I am running an ad or aggressively marketing a property and I need to fill a vacancy or two NOW, not a month from now. I know you can come up with many excuses on why you can't always answer the phone, but I'm just telling you, when an applicant calls, it's far better if they actually reach a live person who is ready to immediately start moving the caller from prospect to future resident (I'm not talking about someone who is there to just take a message.) If you are currently frustrated and having a hard time filling a vacancy, this is just one more tip to consider.

Landlord argues they cannot sue under federal Residential Lead-Based Paint Hazard Reduction Act because they are not lessees

Citation: *Brown v. Maple3, LLC, 928N.Y.S.2D 740 (App. Div. 2d Dep't 2011)*

This case addresses the issue of "whether a lessee's adult daughter and infant grandchild have standing to assert a cause of action under [federal] Residential Lead-Based Paint Hazard Reduction Act" (42 U.S.C. § 4851) ('RLPHRA")

The background and facts: Bonnie Annee St. Ann (the "Grandmother") began renting an apartment from Maple3, LLC ("Maple3") in 1993 or 1994. At that time, her daughter Alexandra Fildere-Brown ("Alexandra") was 12 years old. In 2003, Alexandra, who was still residing in the apartment with the Grandmother, gave birth to Amaiya A. Brown ("Amaiya").

In November 2005, Amaiya's blood-lead levels were found to be elevated at 20 micrograms per deciliter. In December 2005, the New York City Department of Health ("the Department of Health") inspected the apartment and found elevated levels of lead on several painted surfaces. Maple3 was ordered to abate the lead paint hazards within five days. Maple3 completed all abatement by March 2006.

Subsequently, in December 2006, the Grandmother renewed her lease. Alexandra, for the first time, cosigned the lease.

Then, in June 2007, Amaiya, by her mother Alexandra, and Alexandra sued Maple3 for injuries related to Amaiya's elevated blood lead levels. They alleged negligence and violations of RLPHRA.

Maple3 brought a motion for summary judgment. It asked the court to dismiss the cause of action alleging a violation of RLPHRA. Maple3 argued that the statute, which mandates disclosure of lead-based paint and lead-based paint hazards, limited recovery for a violation of its provisions only to a "purchaser or lessee." Maple3 noted that the Grandmother was the lessee, not Alexandra or Amaiya. Maple3 argued that since Amaiya was not the lessee of the apartment, she lacked standing (i.e., the legal right) to assert a cause of action under the RLPHRA. Accordingly, Maple3 argued that Amaiya's RLPHRA cause of action, as well as Alexandra's derivative claim, should be dismissed.

In response, Amaiya and Alexandra argued that they had standing to assert an RLPHRA cause of action because they were part of the family unit that leased the apartment from Maple3. They further asserted that, as a matter of public policy, their RLPHRA cause of action should not be dismissed because protecting children such as Amaiya was in accord with the class of persons the statute was intended to protect.

The Supreme Court denied Maple3's motion for summary judgment. The court concluded that a triable issue of fact existed as to whether Alexandra had standing to assert a claim under the RLPHRA.

Maple3 appealed. It argued there were no material issues of fact in dispute and that the cause of action under RLPHRA should be dismissed as a matter of law.

DECISION: Judgment of Supreme Court reversed.

The Supreme Court, Appellate Division, Second Department, New York, agreed with Maple3. It held that Amaiya and Alexandra, the lessee Grandmother's infant grand-daughter and adult daughter, could not bring a cause of action against their landlord, Maple3, under RLPHRA.

The court so held, finding recovery for a violation of RLPHRA was limited under the statute's plain language to a "purchaser or lessee" (42 U.S.C.A. § 4852D(B)(3)). The court said this was consistent with the purpose of the statute's required disclosure provision: to provide the lessee with notice that there could be lead-based paint hazard present on the subject premises and the opportunity to decline to enter into a lease. Moreover, the court determined that a reasonable reading of the statute was that a violation could only occur, and thus civil liability would only exist, at the time of transfer (i.e., if the landlord fails to disclose lead-paint hazards prior to the parties entering into the lease). Thus, concluded the court, the lessee is the only interest protected by the statute.

Addressing Amaiya and Alexandra's public policy argument, the court said that children were protected by the mandated disclosure to the lessee of any known lead-based paint hazards.

Case Note: Although Amaiya and Alexandra could not bring a cause of action under RLPHRA, the court made clear that they could still seek recovery for lead-based paint related injuries under their common-law negligence cause of action. Amaiya and Alexandra had also sought punitive damages from Maple3. The court said that punitive damages would be warranted only if Maple3's conduct: showed "a high degree of moral culpability"; was "so flagrant as to transcend mere carelessness"; or was "willful or wanton negligence or recklessness." Here, the court held that Maple3 was not liable for punitive damages because it had commenced abatement procedures within a reasonable time after receiving the order to abate; there was nothing unusual or extraordinary about Maple3's conduct to warrant punitive damages, concluded the court.

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