



INDUSTRY NEWS

Labor Shortage: The tight labor market of 2018 has resulted in a shortage of employees in several industries including real estate management. This has consequently led to many positions being unfilled, and frequent transition amongst existing employees. In light of this, it is even more imperative to continue to focus on training your property level personnel, as their actions can potentially bind the property and/or the organization as a whole to liability.

Corporate Veil: For owners with multiple properties in their portfolio, it is customary for the corporate operator to be a different entity than the properties themselves. From a legal standpoint, this helps to insulate the corporate entity from potential liability. In furtherance of that, we advise acting consistently when corresponding by mail or email by using the individual property's letterhead/signature block. Likewise, when undertaking monetary transactions by diligently maintaining separate accounts and also by making sure social media profiles accurately reflect the proper entity your employees are affiliated with.

Social Media: Last year we talked about the shift in traditional media towards even more sensationalism. With social media, individuals are now seeking their 15 seconds of fame, as opposed to 15 minutes. Because of this, it is important to be involved in establishing the narrative so that the media does not create its story based solely on the resident's interpretation. Likewise, with online reviews, investing in your cyber reputation cannot be understated.

Compliance: Legal Aid, Fair Housing, other tenant advocacy groups and individual attorneys have been increasing their scrutiny of lease agreements, policies and other documents in an attempt to manufacture potential claims against a landlord. With Michigan in particular having more regulations than many other states as it relates to the landlord-tenant relationship, continued review of key operational documents is recommended in this current climate. Despite the specious nature of many of the allegations, the volume has become comparable to the flood of personal injury related claims that continue to fill the courts. This really is starting to become the 21st century version of "ambulance chasing."



FAIR HOUSING

Emphasis on "Two Heartbeats": Since fair housing enforcers are zealously pursuing landlords who are still strictly applying the now-outdated "two heartbeats per bedroom" standard, we recommend revising any language that you may have in your lease, rules, or application documents that reference a prohibition on more than two occupants per bedroom. Failure to do so may result in fair housing scrutiny, since testing on this issue is now being aggressively done.

Unit Transfers: Sometimes tenants seek to transfer units under the guise of a reasonable accommodation such as looking for a lower level unit because of one's alleged physical disability. On occasion the new unit is leased for more than the tenant was currently paying and so they demand the landlord forbear from passing on this new rental rate. Fair Housing is silent on this specific issue. However, it is our position that if a resident is seeking a transfer to another unit, that if there is a fee associated, it should be waived as part of any accommodation granted. Yet if the new unit has a higher base rent, the resident should not be absolved of paying that, as the accommodation sought is the transfer itself. Plus, financial inability to pay is not a protection under fair housing guidelines.



LEGISLATION

Michigan Proposal 1: This Proposal, which permits the recreational use of marijuana in Michigan (with certain guidelines), passed in the November election. The impact of this is still being assessed amongst several industries, including as it relates to property management. Therefore, how it will specifically affect landlords is not yet known. However, it is our position that a private property owner still has the right to restrict or prohibit its use, much like smoking of cigarettes or other devices, provided that it is outlined within the lease agreement.

Assistance Animal Legislation: There is legislation proposed in Michigan that would prohibit an individual from falsely representing a need for an assistance animal* and put more requirements upon an underlying medical provider. Other states have even made it a crime to falsely certify that an animal is an assistance animal. However, HUD ultimately controls fair housing, so regardless of any state laws that may be enacted, it will ultimately depend on how aggressive HUD wants to be in pursuing potential claims. At this time though, nothing has stopped tenants from continuing to make these requests, no doubt due in part to the proliferation of information available to them online. If your organization still does not have a fair housing policy, you should contact Paletz Law.

**Under HUD guidelines for housing, service animals and emotional support animals are both generally considered to be "Assistance Animals."*

Dodd-Frank Act: The 2018 changes to the Dodd-Frank Act had implications in the manufactured housing industry, as manufactured home retailers and sellers are now excluded from the definition of a "mortgage originator" under the Truth in Lending Act. Prior to this recent amendment, merely selling a manufactured home would likely have required a loan originator, but now it does not. However, a manufactured home community still needs to employ a licensed loan originator in order to offer financing for the sale of a home.

LOOKING AHEAD

Paletz Law: This year, we moved into an expanded facility that allows our Firm to work more efficiently and therefore better serve our clients. We are very appreciative of the great relationships that we have continued to grow this past year, as well as the many new relationships that we have formed.

We relish the role of serving as a leader in the industry by vigorously defending the rights of property owners. Many of our clients have utilized our unique skill set to supplement their standard fair housing training, which often is geared more to residents than landlords. We have answered the call when needed for various project management issues such as multi-state lease integration and combatting municipal overreach.

In 2019, we will not stop our tireless advocacy for our clients and the industry as a whole, as landlords are deserving of a voice. We will also be starting an exciting update to our internal software infrastructure and mobile app with the unwavering focus of enhancing the rental delinquency recovery process for our clients.

At Paletz Law, we pride ourselves on being Innovative Landlord Advocates. We wish you all a prosperous 2019.

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