CAC Corner: April is Fair Housing Month

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Discrimination in housing has become much more subtle, the author says, often happening with "a smile and a handshake."

The Fair Housing Act (FHA) prohibits discrimination in the sale or rental of housing against people because of their race, color, sex, religion, national origin, family status and disability. Utah law also prohibits discrimination based on source of income. Simply put, discrimination is treating people differently based on their protected class status. A landlord cannot do things like charge more money or refuse to rent to someone because they belong to a protected class. People with disabilities can also ask for a reasonable modification and/or a reasonable accommodation if it will help them use and enjoy their dwelling.

Since the passage of the FHA, discrimination has become much more subtle. It usually happens with "a smile and a handshake." Most of the time in housing transactions, a person experiencing discrimination has no idea that he or she is being discriminated against. One of the only ways to uncover housing discrimination is through testing.

In 2012, the DLC and the Utah Antidiscrimination and Labor Division collaborated on a pilot enforcement project to investigate and test for claims of housing discrimination. The project investigated and tested for claims of housing discrimination against each protected class; however, due to limited resources only complaints related to disabilities were pursued.

Fair housing testing is much like “secret shopper,” but with apartments and landlords. For example, a test for discrimination based on disability would involve sending both a person with a disability and a person without a disability to the same apartment building to ask about an apartment. The profiles of the two testers are the identical except for disability status, so that if there is a difference in how they are treated, it can be traced back to that protected class. Test reports are compared to determine if discrimination has occurred. Testing can also be performed over the telephone, with testers calling apartment managers to inquire about available units.

The pilot program found that approximately half of testers posing with a disability experienced housing discrimination. Over the past year and a half, the DLC conducted a total of 137 tests on apartment buildings or complexes. Of the sites which were monitored for disability status, 35% showed no signs of discrimination, 14% were inconclusive, and about 51% showed some signs of discrimination. The most common types of discrimination seen in disability related testing were testers who requested an accommodation for a disability were denied the request or else told they had to pay additional fees.

In the Fall of 2013, the Disability Law Center (DLC) was awarded a three-year grant from the United States Department of Housing and Urban Development (HUD) to fight housing discrimination in Utah. This new three-year $700,000 award will enable the DLC to fully represent all protected classes. The DLC will recruit more testers, increase the number of tests performed, file complaints or litigation when necessary, and take the program statewide. The DLC will also expand its education, outreach, and self-advocacy training efforts. The DLC will continue to work with its community partners to address systemic issues, such as programs or policies which discriminate against select groups. This will mark the first time the state of Utah will have a private program dedicated to the enforcement of fair housing laws.