

A landlord owns a building that contains six living units. The landlord lives in one of the units and rents out the other five. When a tenant with a two-year-old child moved out of one of the units, the landlord decided that he would not rent to a tenant with a child under the age of 10. However, when he advertised that the unit was available for rent, he did not include this limitation in the ad and instead indicated that all families were welcome. A couple with a six-year-old child contacted the landlord about renting the unit, and he informed them of his policy regarding children. The couple claimed that the landlord's policy violated the federal Fair Housing Act. Rather than dispute this with the couple, the landlord decided to take the unit off the market and allow it to remain empty for the foreseeable future.

Has the landlord violated the federal Fair Housing Act?

- A. No, because he lived in one of the units in the building.
- B. No, because he took the unit off the market and has not rented it to anyone.
- C. Yes, because he discriminated against the couple based on familial status.
- D. Yes, because his advertisement falsely represented his policy regarding children.

Explanation:

Fair Housing Act

Applicability Prohibits discriminatory actions in sale/renting of dwelling based on race, color, religion, sex, handicap, national origin, or familial status—including:

- refusing bona fide offer
- discriminating in terms, conditions, privileges, or services of purchase/rental
- advertising preference for or discrimination against buyer/renter
- falsely representing dwelling's availability for inspection, sale, or rental
- inducing sale/renting with discriminatory representations about neighborhood
- denying reasonable modifications to accommodate handicap at occupant's expense

Exceptions Act does not apply to:

- religious organizations
- private clubs that incidentally provide lodging to members
- familial status for senior housing
- owner of ≤ 3 single-family dwellings*
- owner-occupied dwellings with ≤ 4 units*
- sale/rental of single-family home by private owner

*These exceptions do not apply to discriminatory advertisements or when owner is assisted by a real estate agent, broker, or salesman.

The **Fair Housing Act (FHA)** prohibits discrimination in the **sale or rental of housing** on the basis of race, color, religion, national origin, sex, disability, or **familial status**. Protected familial status includes having **children under the age of 18** and being pregnant. Prohibited discrimination can take various forms (see above table), such as refusing to rent or sell housing or making housing unavailable.

Here, the landlord attempted to circumvent the FHA by taking the unit off the market and not renting it to anyone. But since the landlord made the unit unavailable to avoid renting to the couple with the six-year-old child, he discriminated against the couple on the basis of familial status in violation of the FHA **(Choice B)**.

(Choice A) Owner-occupied buildings with no more than *four* living units (including the owner's unit) are generally exempted from the FHA. Since the landlord's building contains *six* living units, his occupation of one of the units does not qualify him for this exemption.

(Choice D) *Advertising* a preference or limitation based on protected characteristics is a violation of the FHA. However, the landlord's *failure* to advertise that he would not rent to a tenant with a child under the age of 10 is not a violation.

Educational objective:

The Fair Housing Act prohibits discrimination in the sale or rental of housing (eg, making housing unavailable) on the basis of race, color, religion, national origin, sex, disability, or familial status. Protected familial status includes having children under the age of 18 and being pregnant.

References

Fair Housing Act, 42 U.S.C. §§ 3601 et seq.

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