

WA Attorney General: Racist for landlords not to rent to felons

by: BY ERIC MANDEL, Digital Content Producer Updated: Oct 17, 2016 - 10:36 AM



The Washington Attorney General's Office says it's racially discriminatory to use a felony conviction against a potential tenant. (AP) © 2016 Cox Media Group.

0



A recent court filing indicates that the Washington State Attorney General's Office believes that denying a prospective tenant with a felony conviction is racially discriminatory.

A member of the Attorney General's Civil Rights Unit served a Consent Decree on [Dobler Management Company](#), a property management firm in Tacoma, after conducting a simulated test on whether [the landlord](#) was illegally discriminating against potential tenants.

According to the briefing sent to [KTTH's Todd Herman](#), in May, the state asked a tester to follow up on a rental property advertisement on Craigslist, which said the apartment complex would automatically deny renters with a felony record. The state's tester confirmed that the unit was still available and asked if he could apply for the unit despite having a felony conviction. The leasing [consultant](#) responded via email that a "felony would be an automatic denial."

"In denying the tester, the leasing consultant did not consider when the conviction occurred, what the underlying conduct entailed or what the tester had done since the conviction," the state wrote in a consent decree filed in Pierce County Superior Court.

The state explains that there is a discriminatory link between [criminal history](#) and restriction of housing:

“In Washington, racial disparities exist in [the criminal justice system](#). African Americans are arrested, convicted, and incarcerated at higher rates than non-African Americans. As a [result](#), criminal history restrictions on housing justified by a legitimate nondiscriminatory interest and is tailored ... a housing provider’s blanket policy prohibiting tenants based on criminal history discriminates based on race or color.”

Herman says that this explanation is based on a new theory called Disparate Impact, which was recently enshrined into law by the Supreme Court. He says that this leads to the assumption that if there are unequal outcomes between races, that tacit racism exists, even without any intent.

The AG’s decree comes on the heels of the Seattle City Council’s [renter protection ordinance](#) in August that made it so landlords can no longer choose which tenants they believe will be best. Seattle landlords instead have to choose the first applicant who qualifies. The goal is to prohibit discrimination against people with different forms of payment, such as vouchers and subsidies.

In the case of the State of Washington’s vs. the Pierce County property owner, the AG’s office seeks financial penalties and wants to force property owners into sensitivity training on the issue.

The attorney’s office representing the management company told Herman that there was “absolutely no engagement or outreach” by the AG or any housing regulator on this “novel” theory of liability, adding that the AG Ferguson’s office “began actively and aggressively ‘shopping’ for apartments under the guise that they had felony convictions.”

The defense says that the amended Washington RCW directs that a background check, including a prospective tenant’s “criminal history” is authorized.

Herman likened Ferguson’s standard as a form of blackmail. He says the logic is backward: “You can’t ban felons because there are more African-Americans who are felons. Therefore, if you don’t want felons living in your building, you are a stone-cold racist.”

Herman says the AG is using a “web of dictates” rather than looking to change the standards and deal with the real issues: Getting families back together, increasing graduation rates, etc.

“Is there any concern here in this state at all about why — Why more African-Americans are arrested and charged?” Herman asked. “Or is this the way we’re going to solve the problem, by not letting landlords screen out felons? Which one will solve the problem?”