

INVESTIGATING HOUSING DISCRIMINATION COMPLAINTS

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Overview

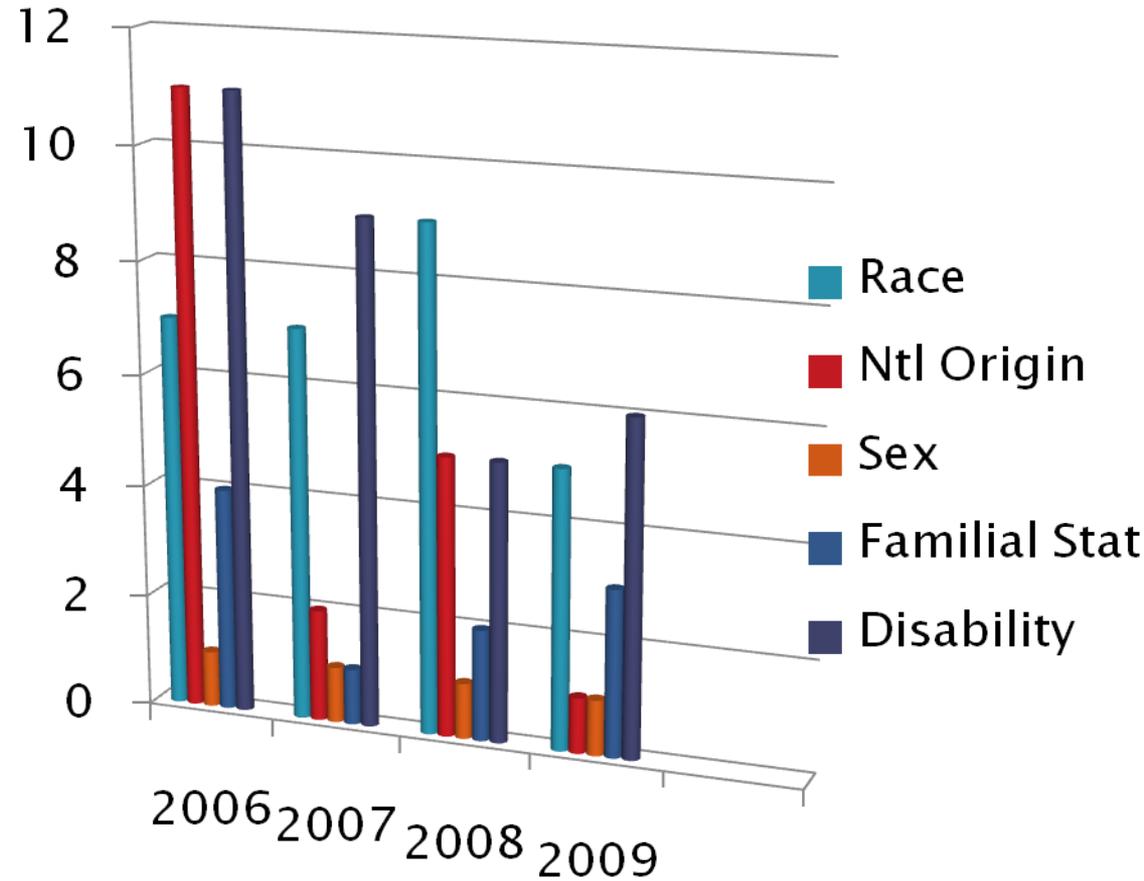
- ▶ The Fair Housing Act's General Provisions
 - ▶ Who May be Liable
 - ▶ Housing Providers' Legal Obligations
 - ▶ Tools for an Effective Investigation
 - ▶ Avoiding Liability
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Provisions of the Fair Housing Act as Amended

- ▶ Refuse to sell or rent or otherwise make unavailable
 - ▶ Different terms and conditions
 - ▶ Discriminatory advertising
 - ▶ Failure to provide reasonable accommodation
 - ▶ Failure to provide reasonable modification
 - ▶ Design & construction
 - ▶ Discrimination in residential real estate
 - ▶ Discrimination in brokerage services
 - ▶ Interference, coercion or intimidation
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Protected Classes

- Race
- Color
- Sex
- Religion
- Familial Status
- National Origin
- Disability



Who May Be Liable?

- ▶ Owners
 - Can be vicariously liable for the acts of its agents
 - ▶ Managers
 - ▶ Real Estate Agents
 - ▶ Maintenance Staff
 - ▶ Brokers
 - ▶ Insurance Agents
 - ▶ Appraisers
 - ▶ Loan Officers
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Housing Provider's Legal Obligation

- ▶ Not engage in harassment or discriminatory housing practices.
 - ▶ Ensure that employees/agents do not engage in harassment or discrimination.
 - ▶ If knew or should have known – take action to stop the behavior.
 - ▶ Address tenant on tenant harassment as well.
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“Knew or Should Have Known”

- ▶ If someone complains about it.
- ▶ If you witness it.
- ▶ If you engage in it.
- ▶ Any other notification.



Investigatory Tools

- ▶ Failure to rent; otherwise make unavailable.
 - Testing.
 - Compare qualifications.
 - Consistency in rental criteria?
 - Is unit still available?
 - Demographics of tenants.

Investigatory Tools

- ▶ Different Terms & Conditions of Rental
 - Evictions
 - Look at all documentation for similar issues (i.e. nonpayment of rent; noise disturbances etc.)
 - Past evictions for similar issues.
 - Review rent rolls.
 - Police calls/reports.
 - Talk to other tenants.
 - Lincoln Housing Authority files.

Investigatory Tools

- ▶ Different Terms and Conditions
 - Failure to make repairs
 - Housing code office or LHA Inspections.
 - Talk to tenants and/or past tenants.
 - Ask for receipts and work orders.
 - View property and units.
 - Harassment
 - Talk to other tenants (current and past) and neighbors.
 - Similar complaints from others?
 - Police reports.
 - Talk to employees.
 - View personnel/tenant file.

Investigatory Tools

- ▶ Failure to provide reasonable accommodation/modification.
 - Does the person meet the definition of an individual with disability?
 - Low standard.
 - Housing Providers – Caution on investigating the disability.
 - Was an accommodation/modification requested or apparent?
 - Nexus between accommodation and disability?
 - Interactive process?

Investigatory Tools

- ▶ Investigative Plan.
 - ▶ Clarify the issues.
 - ▶ Identify witnesses.
 - ▶ Write down the questions you want answered.
 - ▶ Interview the decision makers and witnesses.
 - ▶ Does it make sense?
 - ▶ Assess credibility.
 - ▶ Keep an open mind.
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Investigatory Tools Cont...

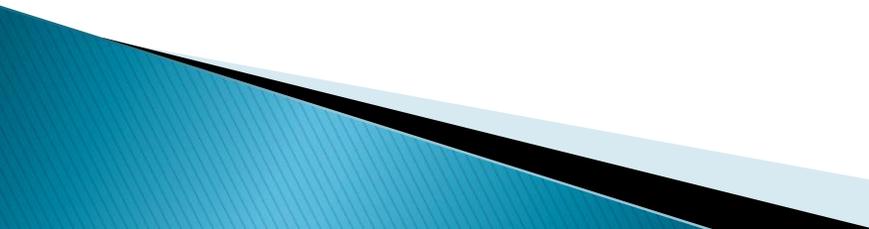
- ▶ Is there a pattern?
 - ▶ Testing.
 - ▶ Police records.
 - ▶ Use utility services to locate witnesses.
 - ▶ Lincoln Housing Authority documents.
 - ▶ Interview witnesses.
 - ▶ Document, document, document.
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Make A Decision

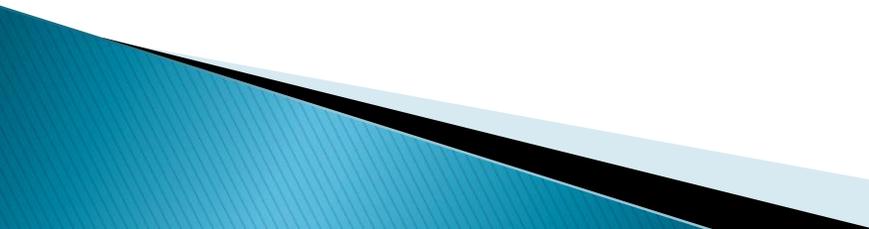
- ▶ At times can be the most difficult.
- ▶ Weigh the evidence.
- ▶ Similar complaints received?
- ▶ Credibility?
- ▶ Make sure prejudices do not get in the way.
- ▶ More likely than not.



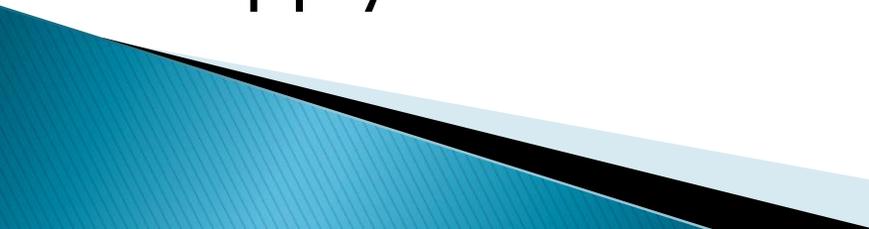
If Allegations are Substantiated

- ▶ Prompt remedial action.
 - Memo to all tenants reiterating policy.
 - Verbal warning to offending tenant
 - Warning letter to offending tenant
 - 14/30 Day Notice
 - 30 Day Notice (if in month to month lease).
 - ▶ Must be reasonably calculated to end the harassment.
 - ▶ Consider how similar conduct has been treated in the past.
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If Allegations Are Not Substantiated

- ▶ Explain to the complaining party that the allegations could not be substantiated.
 - ▶ Reiterate that no retaliation will take place.
 - ▶ Encourage the tenant to bring other issues forward.
 - ▶ Periodically check with tenant.
 - ▶ Reiterate anti-harassment policy with the accused and the complaining party.
 - ▶ Document, document, document.
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Avoiding Liability

- ▶ Establish anti-harassment and anti-discrimination policy and complaint procedure.
 - ▶ Periodically distribute this policy to tenants and employees.
 - ▶ Convey your commitment to equal opportunity to tenants and employees.
 - ▶ Inform employees/agents there is zero tolerance for discrimination.
 - ▶ Keep accurate and thorough documentation.
 - ▶ Apply rules consistently.
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Conclusion

- ▶ Take all complaints seriously.
 - ▶ Thoroughly investigate all complaints.
 - ▶ Document your investigation.
 - ▶ Be prepared to address discrimination.
 - ▶ Apply rules consistently.
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Questions?

- ▶ Lincoln Commission on Human Rights
 - ▶ 440 S. 8th Street, Suite 101
 - ▶ Lincoln NE, 68508
 - ▶ (402) 441-7624
 - ▶ <http://lincoln.ne.gov>
 - ▶ Keyword “rights”
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Resources

▶ Websites:

- www.fairhousing.com
 - HUD Resources
- www.nationalfairhousing.org
 - Fair Housing Resources
- www.kingcounty.gov
 - Key word: Fair Housing Resources

▶ Books:

- Robert Schwemm – Housing Discrimination
- John Relman – Housing Discrimination Practice Manual