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BNI Insights



January 2012 ...

Happy 2012 from BNI!

On Capitol Hill



Richard Cordray Named Consumer Financial Protection Bureau's First Director

According to new research from the Center Responsible

Lending, the number of families having lost their homes to foreclosure is daunting: 635,000 Latino families, 397,000 African American families and 1.5 million White families have suffered the humiliation of being displaced and have been blamed for their own financial undoing.

With all the talk on Capitol Hill addressing the country's scandalous foreclosure debacle, little has been done to assist families in recovering their losses. Primarily because dubious banking practices went unchecked by the government, millions of homeowners were forced into unwarranted foreclosure. While there is enough blame to go around, to add insult to injury, until now it hasn't been a priority to hold anyone in particular accountable.

Earlier this month, in a bold move that chafed his detractors, President Obama named Richard Cordray as the Consumer Financial Protection Bureau's (CFPB's) first director. The bureau, created by the 2010 Dodd-Frank financial oversight law, is charged with providing oversight in consumer markets for products such as credit cards and home loans like the type that birthed the country's current financial crisis.

Cordray is the first director to be appointed to the recently established bureau. Under the Dodd-Frank law, without a director in place, the CFPB could supervise banks, but it could not regulate the "shadow banking" industry such as payday lenders, mortgage servicers and private student lenders, all of which have been under close scrutiny for questionable lending practices. Opponents to the appointment charge that the bureau is a virtually unchecked government body that will hurt lending and put small banks out of business.



Richard Cordray

In his remarks at the Brookings Institution, Cordray stated that, "The consumer bureau will make clear that there are real consequences to breaking the law." He also stated that, "Some entities under scrutiny may see issues resolved through cooperative efforts to correct problems; others may require enforcement actions to stop illegal behavior. We must establish clear standards of conduct so that all financial providers play by the rules."

Believe it or Not... Ohio Landlord Fights 'White Only' Pool Sign Ruling

By: LISA CORNWELL, AP

BNI staff members are often asked if our mission is still relevant. It's recurring incidents captured in this article that remind us of why BNI and other civil rights organizations are as relevant as ever.

CINCINNATI — A landlord found to have discriminated against a black girl by posting a "White Only" sign at a swimming pool wants a state civil rights commission to reconsider its decision.

The Ohio Civil Rights Commission found on Sept. 29 that Jamie Hein, who's white, violated the Ohio Civil Rights Act by posting the sign at a pool at the duplex where the teenage girl was visiting her parents. The parents filed a discrimination charge with the commission and moved out of the duplex in the racially diverse city to "avoid subjecting their family to further humiliating treatment," the commission said in a release announcing its finding.

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Landlords take City to the Supreme Court

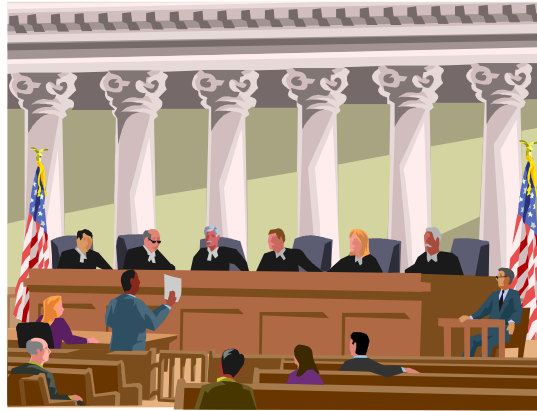
Magner v. Gallagher and Fair Housing in the 21st Century

Posted by Alan Jenkins on Dec. 15, 2011 Shelter Force Blog

Last month, the U.S. Supreme Court decided to hear a little known case with profound implications for our nation's progress toward equal opportunity for all. At issue in the case, Magner v. Gallagher, is whether the Fair Housing Act prohibits the full range of discrimination in housing that many Americans still face in the 21st Century.

The case comes out of St. Paul, Minnesota, where a group of landlords who rent affordable homes to racially diverse tenants say the city is driving them and their tenants out of town in favor of less affordable and less diverse owner-occupied housing. The Supreme Court took the case to decide, not whether these facts are true but, rather, assuming they are true, whether the city's alleged conduct violates the Fair Housing Act absent proof that the city purposefully intended to exclude people of color from its borders.

If the city prevails, fair housing enforcement would become dependent on proof of a defendant's internal mental state, even where a discriminatory outcome was



known and predictable, and where less discriminatory alternatives were readily available. That would be a setback for fairness and for the nation.

Imagine the challenge of proving what was on the mind of multiple elected, appointed, and other state workers when they pursued a particular discriminatory practice. More importantly, consider the purpose of the Fair Housing Act, which is "to provide, within constitutional limitations, for fair housing throughout the United States"; to "remove the walls of discrimination which

enclose minority groups"; and to foster "truly integrated and balanced living patterns." Fulfilling that goal means examining the result of a housing decision in practice, whether the decision was justified, and whether viable, less discriminatory alternatives exist. What the decision makers intended is relevant, but should not be determinative.

While the outcome of the case will be fought out in briefs, arguments, and deliberations at the high court, the dispute presents an important opportunity for all of us to tell the story of why fair housing matters in 21st century America.

It's a story about the shared values of equal opportunity and the American Dream that have powered our national progress and prosperity. It's a story of why investing in communities that live, work, and play together across lines of difference strengthens our country and prepares us for an increasingly diverse nation and interconnected world.

As the Supreme Court considers this monumental question, we have a chance to educate all Americans about why fair housing matters and why our laws must confront modern challenges as well as traditional ones.



Hotline Highlights

Notice to Terminate the Tenancy or Proper Notice to Vacate

In November of this past year, we received a phone call from a concerned tenant residing in Baltimore County, Maryland regarding possible eviction. The tenant had been renting from the same landlord for 12 years. As a result of their long term relationship the lease was now month to month. However, recently and without notification the landlord began threatening to evict the tenant. According to the tenant, the landlord appeared to be experiencing a decline in his mental health, which was described by the tenant as "disturbances." For example, the tenant reported that the landlord started a fire on his porch. The tenant also reported that the police were called to the home, but did not address the matter. Additionally, the tenant detailed that there was little intervention from the landlord's family or neighbors regarding his mental health condition. While the tenant ex-

pressed concern for her own situation, she also noted that she was deeply saddened by his mental health decline. The tenant added that she believed that the landlord had been tampering with the locks to her home. Consequently, the tenant supposed the tampering damaged her locks and made it difficult for her to enter her home and eventually resulted in her inability to open the doors to her home.

We informed the tenant that according to laws governing tenant-landlord relationships in Baltimore County, Maryland, the behavior she described was an illegal lock out and this is a misdemeanor criminal offense. In Baltimore County it is illegal to lock out a tenant. We reviewed aspects of tenant rights such as her right to sue and what is considered proper notice from the tenant to the landlord to terminate the tenancy. In the state of Maryland proper notice is defined in this situation as equal to the base period of the tenancy, which for this tenant is one month.

Small Claims Dispute

This past November a tenant called from Baltimore City. She had signed a one-year lease in 2006. She never renewed the lease and thus under Maryland law had become a month to month tenant. There was a stipulation on the lease that the tenant pay half of the monthly utility cost and the co-tenant pay the other half. The Landlord's son lived in the property as a co-tenant. The nature of the tenant's complaint focused on her right to evict the co-tenant for refusing to pay his portion of the water and electric bill every month. The caller was adamant that the bills had to be paid to protect her credit, as all the utilities were in her name. The caller wanted to know if she could evict her co-tenant. The Tenant/Landlord Counselor explained that only the landlord could file for eviction against a tenant. The Counselor did inform the caller about her legal right to sue her co-tenant for his portion of the bill. In suing for an amount not

more than \$5,000.00, a Small Claims Suit can be filed at the District Court. However, the Counselor informed the caller that she would have to state on what grounds she is suing her co-tenant.

Condemned Building

In December, a property manager called for his landlord. The landlord had acquired 14 properties in Baltimore City. All the properties were purchased out of foreclosure. In one of the buildings there were two tenants. The manager believed the old owner took the tenants' money for rent and skipped town based on the tenants' stories. To make matters worse, the building had been condemned and the permits for use and occupancy had not been updated since 2009. One tenant was deemed qualified as a legal resident based on the landlord's application standards. The manager planned to move this tenant into another property and then back to the property in question once it was re-modeled. They wanted the other tenant to leave. It was unclear if there was an oral or written lease agreement.

The Tenant/Landlord Counselor suggested to the caller that he contact a Housing Inspector to see if they could remove the remaining tenant since the building was already condemned. In the state of Maryland, a condemned property is ruled unsafe and therefore individuals are not permitted to live in the building. The manager informed the Counselor they had already contacted the Housing Inspector and were notified they were having a meeting about the situation. Because of the complexity of the issue, this situation had to be discussed with our in-house attorney at BNI.

"It's the Law" – A Fair Housing Tutorial

What is Fair Housing?

The U.S. Department of Housing and Urban Development (HUD) oversees Federal Fair Housing Law. These rules are set by the federal, state, and local government, and are derived from the Fair Housing Act. This act forbids discrimination in the housing industry. But what does discrimination mean? Basically, it means that you must treat all people the same; fairly and equally without regard to their race, gender, color, disability, nationality, family status, or religion.

But these factors aren't the only ones that should be kept in mind because each state also has its own set of laws. Maryland law also prohibits housing discrimination based on sexual orientation and marital status. There are many factors to consider when handling any housing related situations, but how do we know what's "fair" and "equal?"

Fair and Equal: Race or Color Scenario

Here is a good example from The Complete Guide to Fair Housing Training:

"One African American woman, inquired about leasing a two-bedroom apartment at an apartment complex. She was told that none would be available for four to six weeks, and was shown a townhome in a different more expensive complex operated by the same management company. And she was given a lease application for the more expensive complex and told the security deposit was \$400.

Later that day, a white female, also inquired

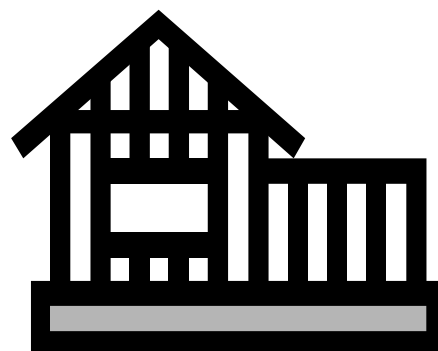
about leasing a two-bedroom apartment in the same apartment complex. She was told that nothing was presently available, but that a unit would be available the next week and another in a month. She was given a floor plan and lease application, and told that there was a special on the security deposit; \$99 as oppose to the usual \$250." (Vendome Group 603)

"The fair housing advocates filed a discrimination claim against the management company. The court ruled that these facts supported a claim of fair housing discrimination based on race.

The National Fair Housing Alliance (NFHA) reports on housing trends, indicates that claims of discrimination based on race or color are the second most common claims today." (Vendome Group 603).

Works Cited

Vendome Group. "Chapter 7: Staff & Outside Contractors, Lesson #15 Avoiding Discrimination Based on Race or Color." Complete Guide to Fair Housing Training. Vendome Group, 2008. 603. Print.



An investigation revealed that Hein in May posted on the gated entrance to the pool an iron sign that stated "Public Swimming Pool, White Only," the commission statement said.



Several witnesses confirmed that the sign was posted, and the landlord indicated that she posted it because the girl used in her hair chemicals that would make the pool "cloudy," according to the commission.

Hein, of Cincinnati, hung up when The Associated Press called her for comment Tuesday. A message was left at her lawyer's office.

The commission's statement said that its investigation concluded that the posting of such a sign "restricts the social interaction between Caucasians and African-Americans and reinforces discriminatory actions aimed at oppressing people of color."

Commissioners were scheduled to hear Hein's request for reconsideration at a meeting Thursday in Columbus, commission spokeswoman Brandi Martin said.

If the commissioners uphold their original finding, the case would be referred to the Ohio attorney general's office, which would represent the commission's findings before an administrative law judge, Martin said.

Penalties in the case could include a cease-and-desist order and even punitive damages, but the administrative law judge would determine any penalties, Martin said.

It still would be possible for the parties to reach a settlement before resorting to legal action, she said.

Maryland High Court Strikes Down Part of Landlord Lead Paint Liability Shield

Posted by Matt Dunning on October 27, 2011 Businessinsurance.com

ANNAPOLIS, Md.— Maryland's highest court has struck down a crucial piece of a 17-year-old state law that immunized landlords from childhood injury claims stemming from lead paint exposure.

The state's Reduction of Lead Risk in Housing Act, enacted in 1994 chiefly to combat childhood brain injuries caused by lead poisoning in older rental apartments, shielded landlords from litigation if they could prove that they had taken certain statutory measures to mitigate the risk of exposure, court documents show.

Seven justices of the Maryland Court of Appeals ruled unanimously on Monday that the property owners' protection provision violates Maryland's constitutional guarantee of judicial remedy in personal injury cases. The ruling overturned two lower state courts, both of which held that the protection was valid because the lead paint law requires landlords to offer rent subsidies and relocation compensation to tenants in affected properties.

Remedy 'drastically inadequate'

In the Maryland high court's written opinion, retired Justice John Eldridge—who was specially assigned to the case—wrote that landlords cannot claim immunity from liability because the lead paint law's remedy provisions for tenants and their injured children are “drastically inadequate.” The maximum payout under the law is \$17,000, he noted, with \$7,500 for medical treatments



and \$9,500 for relocation benefits, rent subsidy and incidental expenses, according to court documents.

“For a child who is found to be permanently brain damaged from ingesting lead paint, proximately caused by the landlord's negligence, the maximum amount of compensation under a qualified offer is minuscule,” Judge Eldridge wrote. “It is almost no compensation. Thus, the

remedy which the act substitutes for a traditional personal injury action results in either no compensation or drastically inadequate compensation.”

Additionally, Judge Eldridge said the landlords' indemnity is not protected under state law that supports “traditional and well-established” grants of immunity.

The court's decision marks the culmination of a nine-year legal battle between a Baltimore mother and her landlords.

Tameka Jackson filed suit in a Baltimore Circuit Court in 2002 after her daughter, then-5-year-old ZiTashia Jackson, developed “severe and permanent brain damage” from ingesting lead paint in two apartments owned by Dackman Co., Jacob Dackman & Sons L.L.C. and Elliot Dackman. The suit alleged negligence and deceptive practices in violation of the state's Consumer Protection Act, as Ms. Jackson argued that the landlords told her that the first of two apartments she rented from them was “lead free.”

The ruling remanded the case to a lower state court.

Mark these dates!

01/12/2012 - Workshop for Renters in Foreclosure 6:00P @ Public Justice Center 1 N. Charles St., Ste 200 Baltimore
01/21/2012 - Volunteer Tester Training @ BNI. Call Dr. Ose 410-243-4468 for more information.
02/04/2012 - Volunteer Tester Training @ BNI. Call Dr. Ose 410-243-4468 for more information.
02/08/2012 - Workshop for Renters in Foreclosure 6:00P @ Public Justice Center 1 N. Charles St., Ste 200 Baltimore
02/15/2012 - Volunteer Tester Training in Harford County. Call Dr. Ose 410-243-4468 for more information.
02/22/2012 - Justice for Breakfast: Worker Rights, Consumer Rights. 8:15A @ Brown, Goldstein and Levy, LLP, 120 E. Baltimore St, Suite 1700, Baltimore, MD. RSVP to brocke@publicjustice.org or (410) 400-6951

You Can Make A Difference!

Stand with BNI as we fight for Maryland families and their right to justice in housing. We are working every day to make sure that all Marylanders are treated fairly when purchasing or renting a home. But we can't do it alone! We need your help. Join BNI by purchasing a tax-deductible membership. For additional information, call Barbara Wilson at 410-243-4468.

Memberships levels are:

Individual \$35 Family \$50
Non-Profit \$75 Business \$100

Send your tax-deductible check to: 2530 N. Charles Street, Suite 200, Baltimore, MD 21218 or make your payment on our website at www.BNI-Maryland.org/index-16.html

BNI Needs Volunteers!

Our Tenant-Landlord Hotline is seeking Volunteer Hotline Operators. The Hotline serves the entire state of Maryland and receives more than 18,000 calls annually. For many of our callers, especially those facing eviction, the information our counselors provide makes a world of difference. Volunteer Tenant-Landlord Hotline Operators help our counselors respond to calls in a timely manner by taking calls and recording callers' questions. All volunteers will be oriented and trained prior to their first shift. In this economy, many individuals and families are struggling to stay in affordable housing. By volunteering at BNI, you can be part of a team that keeps families in their homes. For more information, please contact Kerry Ose at kose@bni-maryland.org or at 410-243-4468.

BNI

Baltimore Neighborhoods, Inc. (BNI) is a nonprofit organization incorporated in March 1959. BNI is committed to fighting housing discrimination, supporting integrated communities, improving relations between tenants and landlords, providing community education and advocating for persons with disabilities on housing accessibility issues.

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