



What is Proper Discrimination?

by Zachary Lawrence JD

"Room for Rent in Owner-Occupied Single Family Home. No Jews, Blacks or Muslims."

One glance at this fictitious ad may cause you to accuse the landlord of overt discrimination. It may also cause you to throw up. But is this ad discriminatory or simply a homeowner exercising his or her property rights?

According to Merriam-Webster's dictionary, discrimination, (a verb) is "...to make a difference in treatment on a basis other than individual merit".

Perhaps some familiar synonyms to discrimination are "Apartheid" or Jim Crow". Discrimination is one of those

words that have not only a definition, but also a foul stench.

Discrimination happens when a realtor tells a young

In this case, this landlord may reject a man, a Muslim, a Jew, or any other person that the homeowner may not feel comfortable living with. As shocking as this may seem, it is called proper discrimination.

black couple, shopping for their first home, that they should look in Inglewood, rather than Santa Monica. In the real estate busi-

ness, this is called "steering".

Discrimination happens when Kim Davis, the Kentucky County Clerk, denies marriage licenses to gay couples.

Discrimination happens when Donald Trump calls for a ban of all Muslims entering our country.

If you are a landlord, or other service provider, you may not discriminate on the basis of marriage, race, sex, religion on age or disability. These are called the "protected classes". A landlord may not refuse a prospective applicant only because they fall into one of these categories. Memorize them. They are inviolable. Or are they?



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There are situations in which a landlord may indeed reject an applicant, based on race, religion, etc., notwithstanding these protected classes. I discussed this matter on "Landlord-Tenant Radio", with attorney Dennis P. Block.

Zac: What is "proper discrimination"?

Block: There are situations when a landlord may discriminate based on economic reasons. For example, I may refuse to rent to anyone with a FICA credit score lower than 650. This is economic discrimination, a criteria does not violate those protected classes and is therefore perfectly legal.

Zac: What if your appli-

cant has a FICA score of 650, but you learn that she is unemployed and her only source of income is child support? Can you reject her based on your theory of "economic discrimination"?

Block: You may not discriminate on the basis that her income is derived solely from child or spousal support. If she has a reliable stream of income, AND an acceptable FICA, then you may not turn her away. However, if her only income is child support, and her FICA score is below your requirements, then you may reject her application."

Zac: Here's a question that was posed to you from one of

our podcast listeners: "I am a senior citizen and have a room for rent in my single family home, which I occupy. I advertised and a young man applied. I told him that, as a woman, I did not feel comfortable living with a man. He immediately threaded me, claiming that I was discriminating and that he would be suing me. What are my rights?"

Block: It's a really interesting question. Obviously, and as discussed earlier, one may not discriminate on the basis of sex or gender. However, there is an exception to the law. If the applicant is going to be living in your personal resi-

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dence and with you under the same roof, then the sky is the limit. You may discriminate on any basis, including those protected classes mentioned earlier. In this case, this landlord may reject a man, a Muslim, a Jew, or any other person that the homeowner may not feel comfortable living with. It's one thing to say that you may not discriminate for goods and services, such as refusing to sell a magazine to a Muslim. But since the landlord in this case has to live with the person, it's very personal and the law allows the landlord to accept or reject any applicant, notwithstanding those in a protected class.

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Zac: Are you telling me that this landlord may place an ad which reads: "Room for rent in owner occupied home. No Jews, Blacks or Muslims?"

Block: That Is correct.

Zac: I can understand a woman wanting to share her home with another woman. However, what possible infringement on the landlord could it have by allowing a Muslim, Jew, or a woman of any other religion, to share her home?

Block: As a boarder, the homeowner and the tenant will be sharing a kitchen. That, in and of itself, would be a reason because of the dietary restrictions of certain religions. But

this is really incidental in the big picture. In this case, the law allows the landlord to discriminate for any reason in order to protect her right to privacy and property rights.

Zac: If I understand you, this landlord's ad may read: "' Room for Rent, Single family home - No Handicapped persons, no Jews, Hispanics, African Americans, Gays or veterans. Correct?

Block: Correct Zac. As shocking as this may seem, it is called proper discrimination.

Closing Comments

If you are a homeowner and have a room for rent in the home that you occupy, you may

discriminate based on ethnicity and economic factors. If you are a landlord and own a multi-unit property that you do not occupy, you may discriminate, however only for economic reasons. **ABA**

Zachary Lawrence JD is the owner of Parkside Property Management and Affordable Landlord Consulting. He is also the co-host and producer of "Landlord-Tenant Radio" (KTYM 1460am Monday's @1pm) with Attorney Dennis P. Block. For management or consultation services, Zachary Lawrence can be reached at (310) 636- 1200 or park806@aol.com.



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