

Steering and the Fair Housing Act in 2010

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Steering, the practice of segregating protected classes to specific neighborhoods or areas within a housing community, is one of the most insidious discrimination techniques available. It frustrates housing choice and perpetuates segregated housing patterns. Although it has been illegal since the Fair Housing Act was originally passed in 1968, a number of studies show that it is still very prevalent today. In fact, a 2006 study conducted by The National Fair Housing Alliance found racial steering to be the most prevalent form of housing discrimination in the country. Steering may occur in the initial process of identifying locations for a home, in commentary provided about the location, in response to requests or questions from the home seeker or from subtle choices by the realtor or housing provider.

In our practice at the John Marshall Law School Fair Housing Legal Clinic in Chicago, we find steering occurs most frequently on the basis of familial status, source of income, disability and race.¹ Our experience is that housing providers seek to limit protected classes to certain areas of the City, particular communities or even specific floors of a housing complex. Those areas are often less well maintained and located in the least desirable areas of the community.

Despite extensive education in fair housing, real estate agents continue to play a key role by showing minority home seekers properties only in minority areas. In addition to perpetuating

¹ This is consistent with the HUD data for Region V with the exception of source of income complaints. Interestingly, HUD data for 2009 and 2010 for the Chicago region shows national origin complaints in addition to the other categories.

discrimination, it lowers the demand for housing in the minority area. Last year, a prominent real estate firm in Elmhurst, Illinois paid \$120,000 to settle a steering claim based on race and national origin. The case was particularly disturbingly because the agent allegedly told the tester, "I don't care if you are a bigot, if we go to an area and you don't like it, just let know. I can't be a bigot, but you can be one". This is indicative of the kind of crafty tactics used by agents to prey upon prejudices to make a sale. The NFHA study referenced above found realtors often used comments about schools deter home seekers. Whites are told the schools are bad and African Americans and Latinos are told the opposite.

In our practice, we see a lot steering by property managers rather than realtors. The steering may be motivated by intentional prejudice or a paternalistic belief as to what is the best area for the person to live. For example, a manager may believe it unsafe for families with children to live near the property's lake or that persons with disabilities should live on the ground floor. This type of steering is just as illegal as that which is motivated by blatant bigotry.

Finally, it should be noted that discriminatory internet housing advertisements have exacerbated the problem. Home seekers may be discouraged from particular areas based on the description of the community or the property. There is even some evidence that search engines may be directing people to certain communities based on an electronic profile developed over time. This underscores the importance of improving enforcement and education strategies directed at steering if we are ever to achieve the goal of integrated communities.