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Lawsuit Says Rental Complex in Queens Excludes Ex-Offenders

By MIREYA NAVARRO OCT. 30, 2014

A leading provider of social services for recently released prisoners is challenging a New York City landlord that, it says, has a policy of not renting to people with criminal records.

The social services group, the Fortune Society, filed a lawsuit on Thursday in federal court contending that such bans were illegal because they disproportionately affect black and Latino men, and that such disparate impact was in violation of the federal Fair Housing Act and New York State law.

The lawsuit was brought against the owners and manager of the Sand Castle, a rental complex in Far Rockaway, Queens, with more than 900 apartments. The suit is one of the latest efforts in a nationwide push to make it easier to integrate people emerging from prisons back into their communities.

Concern over legal restrictions that hinder former prisoners' efforts to find jobs and homes, long voiced by advocates of criminal justice reform, has taken on a broader urgency in recent years. Faced with stark fiscal pressures and rising criticism, many state governments have been rethinking practices that led to record levels of incarceration. Nationwide, about 700,000 people a year are currently being released from prison.

Some states and cities have passed laws prohibiting employers from asking about criminal histories during the initial round of a job application. In New York City, Mayor Michael R. Bloomberg signed an executive order in 2011 banning questions about criminal histories by city agencies until the second job interview, and limiting the use of any criminal record that was disclosed.

But housing is a newer front.

John P. Relman, a lawyer representing the Fortune Society and a specialist in housing discrimination cases, said on Thursday that fighting the automatic exclusions on civil rights grounds was unusual but on point because “folks coming out of prison are being denied basic rights.”

“You’re creating a racial caste system and driving this population back to prison,” he added.

The “disparate impact” legal theory is controversial in housing discrimination cases, and the Supreme Court is expected to rule on one challenge to it this term.

The owners named as defendants — Sandcastle Towers Housing Development Fund and Sarasota Gold — did not return calls for comment. A person who answered the telephone at the Sand Castle’s management company, Weissman Realty Group, declined to comment. The lawsuit, filed in United States District Court for the Eastern District in Brooklyn, says Sand Castle excluded applicants with criminal records from renting an apartment “regardless of the nature of the conviction, the amount of time that has lapsed since the conviction, evidence of rehabilitation, or any other factor related to whether a specific person poses any threat to safety.”

According to the suit, a representative of the owners told staff members of the Fortune Society that tenants with criminal histories “scare” management and that criminal records are a “red flag.” But the Sand Castle’s employees stated the policy only when they realized the nature of the Fortune Society, the suit said. In the past, it had rented apartments to four of the group’s clients through a broker without incident.

About 95 percent of the Fortune Society’s roughly 5,000 clients a year are black or Latino, and most are men.

JoAnne Page, the group’s president and chief executive, said the lawsuit was brought against Sand Castle because it was a large landlord that was “absolutely naked about the blanket ban.”

Bars against former offenders in housing are said to be common around the country, although some landlords apply them only partially — barring sex offenders or arsonists, for example, or allowing those convicted of misdemeanors but not felons. The ability of landlords to easily look up criminal backgrounds on the Internet is believed to have increased the practice.

Mitchell Posilkin, general counsel for the Rent Stabilization Association, a New York landlords' group, said owners had the right to exercise their own judgment. "If, God forbid, that person commits a crime, the other tenants would sue the owner for allowing a high-risk individual into their building," Mr. Posilkin said.

The suit argues that the rental policy should be replaced with one that allows for individualized reviews, to consider factors other than a criminal history to determine a person's security risk and fitness as a tenant.

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