

Screening Immigration Status of Residents

Immigration is a subject that has generated significant debate at the federal level. As efforts to regulate immigration in Congress continue to stall, state and local policymakers are weighing in on the issue on a more frequent basis. While the issue is being used as a political football at all levels of government, there is one consistent outcome—property owners and operators are required to comply with a patchwork of onerous requirements and face possible legal liability under fair housing laws when it comes to screening the immigration status of residents.

In many cases, the measures instituted by state and local lawmakers pertain to verification—similar to the E-Verify requirements that apply to employers that are engaged in federal contracts. Some jurisdictions enacted ordinances that require property owners and managers to verify the immigration status of residents or face violations and possible suspension of the owner’s business license for noncompliance.¹ In the end, verification measures were invalidated by the courts as unconstitutional.²

Apartment owners and operators are in the business of housing individuals in the community and are not equipped to police or determine the validity of residents’ immigration paperwork. Policies that penalize owners with suspension or possible revocation of an apartment firm’s business license have severe consequences for a local community and its renters. Such policies would effectively reduce the supply of available housing in a community.

Regardless of whether legislation seeks to mandate or prohibit housing providers from inquiring about the legal residency of immigrants, both create potential challenges for the apartment owners and operators. Such laws can interfere with owners’ overall resident screening process and are not limited to verification of immigration documents.³

NAA supports comprehensive federal legislation that would help create predictability and consistency for apartment owners and operators.⁴ As they consider immigration legislation, state and local policymakers should recognize the importance of resident screening in rental housing. Screening is essential to help owners manage risk and protect the safety and security of residents, employees and their assets. In particular, lawmakers should avoid

¹ Hazleton, PA Ordinance No. 2006-18

² Lozano v. Hazleton

³ Amy Dobson, Washington Post, California lawmakers approve bill protecting undocumented immigrant tenants from landlord harassment: https://www.washingtonpost.com/news/where-we-live/wp/2017/09/19/calif-lawmakers-approve-bill-protecting-undocumented-immigrant-tenants-from-landlord-harassment/?utm_term=.8eeef66b9cdf

⁴ See NAA/NMHC’s Federal Immigration Reform Fact Sheet.

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implementing measures that would restrict the use of social security numbers or credit history or require housing providers to authenticate the immigration status of prospective or current residents. Enforcement of such laws can create administrative burdens for apartment providers, reduce the supply of available rental housing and further exacerbate housing affordability issues.

NAA Viewpoint NAA opposes efforts to implement laws that would limit an apartment owner or operator's ability to properly screen residents, or measures that would require them to enforce federal immigration laws.