

## Discrimination Case Law

This case is about a Florida real estate agent that was dragged into a fair housing lawsuit over the description of a property he did not represent. It is intended to raise awareness among real estate professionals that they can be sued for the content of listings that appear on their websites, regardless of whether they are the author.

Tampa-area agent Jeff Launiere and the brokerage he works for, Charles Rutenberg Realty, were sued in federal court by Cristin Forrest, a self-described "independent fair housing tester."

In her complaint, Forrest claimed she was looking for fair housing violations online when she saw a listing advertising the sale of a condominium at Broadmoor Villa. She found her violation in a listing that was advertised as adults only community, no children under 16.

Broadmoor Villa Inc. was also named in the suit, which alleged that all three parties had violated the federal Fair Housing Act. The Act prohibits discrimination on the basis of familial status, among other things.

Broadmoor Villa was dismissed from the case and Charles Rutenberg Realty agreed to settle the case. This left Launiere on the hook for the \$5,000 deductible on his brokerage's errors and omissions insurance policy.

Many, if not most, real estate agent and broker websites display IDX listings, which are pools of listings contributed by brokers who are members of a particular MLS and fed by that MLS to members' websites. IDX allows real estate professionals to display virtually all of the for-sale home listings in their given market, which helps attract consumers to their websites.

In the complaint, Forrest said she first found the listing for the Broadmoor Villa condo on Realtor.com, where Charles Rutenberg Realty was named as the listing broker but no listing agent was identified, and later found the same listing on tampahomespecialist.com, a site that belongs to Launiere.

## 919 Osceola Rd # 205

Belleair, FL 33756

Listings Refreshed:  
6 Minutes Ago

**\$92,000** ↓

Status: Active with Contract

Beds: 2 Bed

Baths: 2 Bath

House Size: 1,240 Sq Ft

Year Built: 1968

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### Property Details

Active with contract This is a must see condo in the heart of Belleair. Light, bright and spacious. Second floor overlooking the Belleair Biltmore Golf Course and across the street from the Dimmitt Community Center, park, playground, tennis courts and Police Station. Many updates enhance this great property, New AC, Hot water heater, roof, remodeled kitchen. There is porcelain tile in the living areas, and carpet in the bedrooms. The master bedroom features a vanity dressing area separate from the bath area, sweeping golf course views and access to the lanay. You can also access the lanay from the living room. Conveniently located close to Shopping, Recreation, Fine Dining, and the Beaches. Adunt only community no children under 16. This is Florida Living at it's very best, and at this price it is also affordable. Not a short sale or bank owned just priced like one. **(Collapse)**

*Screen shot of disputed Broadmoor Villa condo listing as it appeared on Realtor.com.*

Launiere said his brokerage's attorney notified him the case was being settled for \$5,000 and he would have to pay that same amount to his errors and omissions insurance company as a deductible.

The settlement would mean he would not be cleared of responsibility and the attorney could not tell him whether or not his name and the alleged violation would be reported to the state's real estate commission or any other agency, or whether he could have his license suspended or receive any other penalty.

"I have been also told that this or any other independent fair housing tester may visit my website again, especially since I have already been accused of federal fair housing violations, and file another lawsuit if they can find another listing that is in violation," he wrote. "They also said all real estate agents can face the same lawsuits.

## Industry takes note

Launiere said it was important for other agents to learn about his predicament, "as most agents are not aware that they can be sued for any listing that appears in an MLS IDX feed, whether that listing is yours or not."

Laurie Janik, general counsel for the National Association of Realtors, said fair housing law makes no distinction based on who wrote the alleged discriminatory content.

"Liability attaches by virtue of the act of publishing the discriminatory content," she said.

Janik said she had not heard of a similar lawsuit being filed against someone who was not the listing agent before and Launiere's case could have set a precedent for the industry had it not been resolved. Before he was dismissed from the case, she would not say whether she would have recommended he fight the case or pay the settlement, however.

"Litigation is extremely stressful. Parties often settle cases even when the claim is baseless due to the time, effort and expense of litigation," she said.

One simple remedy for real estate pros to avoid getting sued for content posted by other MLS members is to have the "remarks" field, where agents typically type in a listing description, deleted from the IDX feed, Janik said.

"That would be the field where any potentially discriminatory remarks would be included. By omitting that field, no such remarks would be disseminated and could not be published by any of the brokers or agents on their IDX sites."

Broadmoor Villa was dismissed from the suit after filing a motion that, among other things, pointed out that Broadmoor's policy prohibiting the rental or sale of units to families with children under 16 had been repealed in 1994, nearly 20 years ago.

Later, Forrest filed a separate fair housing against F & D Holdings LLC, doing business as Keller Williams Elite Properties in Aventura, Fla.; Keller Williams Realty Inc.; and agent Myra Wolf for a rental listing that read, "No smokers, no children or pets please!"

Wolf, 78, told Inman News she was the listing agent in that case and included those prohibitions at *the request of her client*. "It is not an over-55 building, so I should not have put 'no children.' I am abjectly sorry and I can't say more than that," she said.

A recent study of ads on Craigslist concluded that "the overwhelming majority of problematic ads discriminate on the basis of familial status. There are very few that discriminate based on race, ethnicity, or religion.