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Landlords Have Green Light to Reject Tenants Who Might Be Inclined to 'Sin'

By Thomas F. Coleman

Just when millions of unmarried adults in California thought their privacy rights were safe from overly inquisitive landlords, out pops a religious bogeyman. What's surprising is that the bogeyman is cloaked in judicial robes.

Early this year, in *Thomas v. Anchorage Equal Rights Commission*, 99 Daily Journal D.A.R. 506 (Jan. 14, 1999), the 9th U.S. Circuit Court of Appeals ruled that landlords who hold strong religious beliefs do not have to rent to tenants whose conduct offends

those views. Although the case arose in Alaska, it affects California and eight other Western states over which the 9th Circuit presides.

In 1994, the Alaska Supreme Court decided that landlords who advertise to the general public must obey antidiscrimination laws like everyone else. The court refused to give religious conservatives an exemption from fair housing laws protecting unmarried couples from discrimination.

In a similar case decided by the California Supreme Court in 1996, the court ruled that business owners may not require tenants to pass a religious test as a prerequisite to renting an apartment. The landlords appealed to the U.S. Supreme Court, but the court declined to hear the appeal.

As a result, many landlords in California grudgingly accepted the fact that they could not attempt to force their personal beliefs on others in a commercial marketplace. That

was considered settled law in the Golden State.

But religious landlords in Alaska, with the support of fundamentalist Christian groups, refused to give up. They filed a lawsuit in federal court asking for a "religious" exemption from civil rights laws.

And two 9th Circuit judges granted their request. A third judge dissented, however, and predicted dire consequences if the ruling is not overturned by an en banc panel.

Judge Michael Hawkins warned that the case's "potential for harm will be seen when a landlord in this circuit refuses, on the basis on religious beliefs ... to rent or sell housing to divorced individuals, interracial couples, victims of domestic abuse seeking shelter, or single men and women living together simply because they cannot afford to do otherwise."

Judge Hawkins was only pointing to the tip of the iceberg. The principles underlying the majori-

ty's opinion are so broad that landlords have been given a green light to reject tenants who might commit *any* type of sin on the rental property.

This is not Iran, where judges routinely use the power of government to enforce religious doctrines on objecting citizens. The *Thomas* majority ignored the part of the Constitution requiring separation of church and state.

California Attorney General Bill Lockyer has requested that his counterparts in the eight other 9th Circuit states join him in fighting *Thomas*. Millions of renters in California will be watching and waiting, wondering if soon they will begin to see rental signs posted with the warning: "Sinners need not apply."

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