

Aimco vs Airbnb Lawsuit and Result

By: Zennie Abraham & Ben Lane

Apartment home provider Aimco filed a lawsuit against Airbnb in Florida's 11th Judicial Circuit Court in Miami, in an effort to stop the tech company from listing the company's apartment properties on the Airbnb website. Aimco's apartment leases specifically prohibit renters to sub-lease their apartments. In the lawsuit, Aimco said that it has asked Airbnb to stop listing its apartments on Airbnb.com, but that the short-term rental company has refused.

This is the first court case involving a property owner and Airbnb that will go to trial and be decided by a jury. If Aimco wins the case, it could embolden other large multi-family property owners to block their buildings from being subleased on Airbnb.com, which could remove a big chunk of potential business for Airbnb.

As much as 60 percent of short-term rental listings in so-called supply constrained markets on Airbnb.com are in multi-family apartment and condominium buildings, many of which prohibit short-term subleasing, according to a transcript from a October 25, 2018 court hearing that was part of the Florida lawsuit. Airbnb's revenue, profits and opportunities for growth depend on multifamily buildings in cities that typically prohibit and restrict short-term rentals. A ruling in favor of Aimco and its private property rights argument may have a substantial impact on Airbnb's business, potentially reducing the company's revenue by 50 percent or more.

Consider that, according to the study called "Hosts with Multiple Units — A Key Driver of Airbnb Growth" and commissioned by The American Hotel and Lodging Association (AHLA), Airbnb relies on rental units for the lion's share of its revenue. From the 13-city study:

- In the U.S., hosts renting out two or more entire-home units generated nearly \$2 billion in revenue in 2016. In the 13 markets highlighted, revenue reached \$700 million.
- 81 percent of Airbnb's U.S. Revenue, or \$4.6 billion, comes from whole-unit rentals (those rentals where the owner is not present during the time of the rental), rising from 78 percent in the prior year.
- Each of the 13 cities studied saw an increase in the total number of listings by multi-unit hosts. In Nashville, Seattle, Oahu, and New Orleans, the growth of the number of units managed by multi-unit operators more than doubled — and Nashville saw an increase of more than 160%.
- The markets with the highest share of total revenue derived from multi-unit hosts are Miami (57.9 percent), Oahu (53.5 percent), and New Orleans (42.3 percent).

Aimco's case also argues that private property owners have the right to determine the how their properties are used, and that long-term renters of those properties want to live in a community and don't want transient hotel-like apartment buildings in their residential communities.



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Airbnb claims that the Communications Decency Act shields online service providers from liability for content posted by users of websites such as Airbnb.com. The company also says its service provides extra income for middle-class families.

Some studies by researchers have challenged this view.

A 2015 report by researchers in Los Angeles found that commercial Airbnb rentals were costing Los Angeles renters \$464 million a year in lost housing units removed from the long-term rental market. The study found that commercial leasing agents controlled roughly two-thirds of Los Angeles Airbnb listings – not middle class families – and that those operators generated 84 percent of total revenues that year, about \$64 million.



Result

The legal battle between Airbnb and the Apartment Investment and Management Company over Aimco's claims that Airbnb was encouraging residents to violate their leases by renting out their apartments on the short-term rental platform is now over.

And everyone appears to be pleased.

Aimco and Airbnb jointly announced December 11th that they reached a settlement that covers "all their disputes" and ends all of the litigation between the two parties.

Aimco sued Airbnb last year in Florida and California, claiming that the site was actively promoting deliberate breaches of tenants' leases.

The two sides battled in court for most of this year after a California court ruled last year against an Aimco apartment community's claim that Airbnb helped facilitate lease violations after residents complained that Airbnb users were negatively affecting quality of life at the property.

Aimco planned to take the case to Ninth Circuit Court of Appeals, while simultaneously fighting Airbnb's contention that the California court's ruling necessitated tossing the Florida lawsuit as well.

Additionally, Aimco had two massive multifamily trade organizations in its corner, as the National Apartment Association and National Multifamily Housing Council filed an amicus brief supporting Aimco's claims against Airbnb saying that though open to the prospect of short-term rental activity in multifamily properties, the practice must be better regulated.

But now, after more than 18 months of fighting, the two sides reached a settlement. Terms of the settlement were not disclosed, but the companies issued a joint statement on the matter.

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“The parties believe the settlement is in both sides’ best interests,” the companies said. “Aimco believes that the parties’ agreement provides Aimco with the ability to control short-term rental activity consistent with its contract and property rights. As part of the settlement, Aimco and Airbnb have agreed to meet to discuss opportunities in the multifamily housing industry.”

Additionally, Airbnb spokesperson Christopher Nulty said that the company is ready and willing to work with landlords like Aimco to facilitate short-term renting.

“Airbnb is committed to building mutually beneficial partnerships with building owners and landlords through initiatives like our Friendly Building program,” Nulty said in a statement provided to HousingWire. “We believe that by working together, home sharing can bring economic benefits to both landlords and tenants.”

Developers to pay \$11.3M Settlement in Disability Discrimination Case

The Justice Department recently announced a \$11.3 million settlement in a fair housing case alleging that the owners of 50 apartment complexes in six states and the District of Columbia failed to build the communities with accessible features for persons with disabilities.

The Fair Housing Act requires that multifamily housing constructed for first occupancy after Mar. 13, 1991, have basic accessible features; the Americans with Disabilities Act requires that places of public accommodations, such as rental offices, at multifamily housing built for first occupancy after Jan. 26, 1993, have accessible features.



As alleged in the government’s complaint, the defendants built the properties at issue with significant barriers that inhibited access to the units and the associated public and common-use areas. These barriers include routes to building entrances with steps and excessive slopes, units with electrical outlets and thermostats that are beyond the reach of persons who use wheelchairs, and kitchens and bathrooms with insufficient space for persons who use wheelchairs to maneuver.

Under the settlement agreement, the defendants must spend \$8.7 million to retrofit 36 properties that they currently own. This amount is in addition to \$2.4 million in retrofits that had been made to many of the properties after the United States filed the lawsuit. The defendants also must pay \$175,000 to compensate victims and up to \$25,000 for accessibility retrofits at 14 properties they no longer own. The defendants also agreed to undergo training, to construct any new multifamily housing in accordance with the Fair Housing Act and Americans with Disabilities Act, and to provide periodic reports to the Justice Department.

Developers to pay \$11.3M Settlement in Disability Discrimination Case (Cont'd)

“The Justice Department is committed to ensuring that new multifamily housing is built with the accessible features that are required by law,” Assistant Attorney General Eric Dreiband for the Civil Rights Division said in a statement. “This comprehensive settlement will ensure that equal housing opportunities are afforded to persons with disabilities.”

“The Fair Housing Act and Americans with Disabilities Act ensure that persons with disabilities have access to housing, leasing offices, and related amenities,” said U.S. Attorney Jessie K. Liu for the District of Columbia. “The U.S. Attorney’s Office is committed to vigorously pursuing enforcement of the rights guaranteed by these laws. This settlement is an example of that commitment in the District of Columbia and elsewhere and serves to promote equal access to multifamily housing for persons with disabilities.”

NAA Files Amicus Brief on Criminal Screening Case



As part of its continued efforts to weigh in on legal cases of national concern, NAA has filed an amicus brief in *Yim et al. v. City of Seattle*. The case is an ongoing battle between a small property owner and the City of Seattle over its [Fair Chance Housing ordinance](#). The ordinance, which went into effect earlier this year, bars owners from evaluating the criminal history of applicants during the resident screening process (with

very few limited exceptions). The ordinance in question would have a severe impact on owners and operators across the country if other policymakers were persuaded to adopt similar legislation.

In its brief, NAA argues emphatically that it is not in the business interests of rental housing providers to reject potential residents without good cause and urges the Court to recognize the importance of tenant screening in the context of rental housing. “The Seattle Fair Chance Housing Ordinance not only violates the First

Amendment...but it also ignores common sense and experience in predicting human behavior. It further impairs rental property owners’ ability to provide safe rental housing, and it creates liability concerns for rental housing owners and operators.”

NAA urges the Court to grant the Plaintiff’s motion for summary judgment and strike down the ordinance. We continue to monitor this case and will update NAA affiliates and members on the outcome. To learn more about this amicus brief, please see the Criminal Screening of Residents issue page.



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