

## ARE YOU A LITIGATION TARGET?

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### The Headlines Are All Too Familiar:

- Developer and architect ordered to pay \$435,000 in settlement costs, attorney's fees and retrofit units so that their companies comply with disability access provisions.
- Landlord ordered to pay \$88,000 in settlement in a seeing-eye dog lawsuit.
- Lawsuit against developer and architect who designed multi-family residential development without including accessibility features for persons with disabilities.

These headlines make it clear what you already know. As a landlord, developer, manager, builder or architect you have a target on your back. Plaintiff's lawyers have identified you as a lucrative target for fair housing lawsuits.

If any one of the following five deadly sins are present in your organization—you could be a prime candidate to be the next target for litigation by the plaintiff bar.

**Deadly Sin No. 1: Not having an up to date tenant on tenant harassment policy or an employee harassment policy.**

Properly drafted harassment policies that cover both tenant and employee harassment issues are the cornerstone in any effort to avoid legal problems. Make sure your policies are up to date.

**Deadly Sin No. 2: Not having new construction/renovation plans renewed by an accessibility expert for compliance with the Fair Housing Act's provisions regarding disability accessibility.**

Bob Villa said it best, "Measure twice and cut once". It appears that a new trend is on the horizon. Funding agencies are beginning to add points to its State QAP. When an applicant for new construction and or Rehab has its plans reviewed by an independent third party certifying compliance with all the applicable accessibility laws, it could be worth up to 3 points.

**Deadly Sin No. 3: Not providing regular or routine training for your front line apartment managers and upper management on what to do when you receive a fair housing complaint.**

A great of litigation can be avoided by responding appropriately and promptly to tenants' concerns. Most people try to "work things out" before they take the step to see an attorney. When they are shut out or treated poorly, their attitude can often harden into

one of revenge, not conciliation. Once they are sitting across the desk from an attorney, it is usually too late to achieve a painless and cooperative resolution.

**Deadly Sin No. 4: Not having an update to date service animal policy and training in place for your people.**

Strict adherence to a boilerplate, “We don’t allow animals here” policy can be costly. Disabled individuals are entitled to have animals designed to treat their disability. With health care providers recommending animals for treatment of everything from blindness to depression, it is important to know and comply with your obligations in this area.

**Deadly Sin No. 5: Not having an adequate crisis management plan in place.**

Do your employees know what to do in the event of a tornado, a terrorist attack, or if a nearby nuclear plant has a catastrophe? Do you know how and where you will continue operating if your facilities are destroyed or if your technology infrastructure is disabled? When critical incidents occur, you should have a plan in place for dealing with them both as they are occurring and with the aftermath.

Our advice to you is to begin working to remedy any shortcomings that this article has identified in your organization’s plans and policies. The steps that you take today may help you avoid a very costly lesson.