UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States Department of Housing and Urban Development, on behalf of the Fair Housing Rights Center in Southeastern Pennsylvania,	:	
Charging Party,	:	ALJ No.
v.	:	FHEO No. 03-11-0224-8
Nevin Hill Realty Corporation and Fran Stepnowski,	:	
Respondents	:	

CHARGE OF DISCRIMINATION

I. ***JURISDICTION***

The Fair Housing Rights Center in Southeastern Pennsylvania ("Complainant") submitted a timely complaint with the United States Department of Housing and Urban Development ("HUD") on or about April 4, 2011, alleging that Nevin Hill Realty Corporation and Hill Construction Corporation committed discriminatory housing practices against families with children in violation of the Fair Housing Act, 42 U.S.C. §§ 3601-19 (the "Act"). The final amended complaint, which was filed on or about September 7, 2011, identified Nevin Hill Realty Corporation, William T. Hill, and Fran Stepnowski as the respondents in this case. Complainant, a non-profit fair housing organization, alleged that Respondents made discriminatory statements indicating a preference against families with children and refused to rent to families with children.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §§ 3610(g)(1) and (2). The Secretary has delegated that authority to the General Counsel (76 Fed. Reg. 42462 (July 18, 2011)), who has redelegated the authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Fair Housing and Equal Opportunity Director for Region III (the "Director"), the Assistant Secretary's designee, has issued a Determination of No Reasonable Cause as to William T. Hill. The Director has found that reasonable cause exists to believe that

Nevin Hill Realty Corporation and Fran Stepnowski ("Respondents") have committed discriminatory housing practices and, therefore, has issued a Determination of Reasonable Cause as to Respondents and has authorized the issuance of this Charge.

II. ***SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE***

Based on HUD's investigation of the allegations contained in the aforementioned complaint and as set forth in the aforementioned Determination of Reasonable Cause, Respondents Nevin Hill Realty Corporation and Fran Stepnowski are charged with discriminating based on familial status in violation of 42 U.S.C. §§ 3604(a) and (c).

A. Statutory and Regulatory Provisions

1. It is unlawful to refuse to rent or otherwise make unavailable or deny a dwelling to any person because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a) and (b)(2) (2011).

2. It is unlawful to make statements or publish advertisements with respect to the rental of a dwelling that indicate any preference, limitation or discrimination based on familial status, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.75(a), (c)(1) and (2) (2011).

3. "Familial status" means one or more individuals under the age of eighteen (18) being domiciled with a parent or legal guardian. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20 (2011).

B. Parties and Properties

1. At all times pertinent to this Charge, Complainant Fair Housing Rights Center in Southeastern Pennsylvania is a private, non-profit organization working to ensure equal access to housing opportunities for all people. The Complainant educates the public on fair housing laws, provides assistance to individuals who have experienced housing discrimination, monitors the community for compliance with applicable housing laws, and offers information and counseling on housing related issues.

2. The property at issue is a duplex at 400 West Avenue, Jenkintown, Pennsylvania ("subject property").

3. At all times pertinent to the Charge, Respondent Nevin Hill Realty Corporation owned the subject property.

4. At all times pertinent to the Charge, Respondent Fran Stepnowski, on behalf of Respondent Nevin Hill Realty Corporation, answers phone calls from

prospective tenants, shows apartments to prospective tenants, and posts advertisements for Respondent Nevin Hill Realty Corporation's rental properties.

C. *Factual Allegations*

1. On September 1, 2010, Respondent Fran Stepnowski posted an advertisement on *craigslist.com* for an apartment at the subject property. The advertisement contained the discriminatory language "IT IS NOT RECOMMENDED FOR PRE-SCHOOL AGE CHILDREN (exterior stairs are open steel)" (emphasis in original).

2. Upon viewing this advertisement, Complainant prepared a testing campaign for the subject property with two match-paired tests.

3. On September 3, 2010, Tester #1 called the subject property posing as a mother living with her two-year-old child. She spoke with Respondent Fran Stepnowski. Respondent Stepnowski, upon hearing that the tester had a young child, said that she knew that she was not supposed to discriminate, but that due to the steel staircases in the back of duplex, the apartment was "not recommended for children as young as two." Respondent Stepnowski then terminated the phone call.

4. On September 3, 2010, Tester #2 spoke to Respondent Stepnowski and explained that she was seeking housing for herself and her husband. Respondent Stepnowski suggested that the tester drive by the property and call back if she was interested in seeing the available unit. On September 8, 2010, Tester #2 visited the subject property. Respondent Stepnowski showed her the second-floor apartment and told her to call if she wanted to apply to rent the unit.

5. On September 29, 2010; November 19, 2010, and February 11, 2011, Respondent Stepnowski posted additional advertisements which contained the discriminatory language "IT IS NOT RECOMMENDED FOR PRE-SCHOOL AGE CHILDREN (exterior stairs are open steel)" (emphasis in original).

6. As a result of Respondents' discriminatory actions, Complainant's mission was frustrated. Furthermore, Complainant expended significant time and resources in responding to the discrimination. Complainant conducted a thorough investigation of Respondents' housing advertisements, which required strategic planning, regular monitoring of *craigslist.com* advertisements, and testing. The resources expended in this investigation were diverted from Complainant's other fair housing advocacy and educational programs.

D. Fair Housing Act Violations

1. By refusing to provide a tester with a pre-school age child information about the subject property or an opportunity to see or apply for the subject property, Respondents made a dwelling unavailable to her in violation of 42 U.S.C. § 3604(a) and 24 C.F.R. §§ 100.60(a) and (b)(2) (2011).

2. By publishing advertisements which contained the language "IT IS NOT RECOMMENDED FOR PRE-SCHOOL AGE CHILDREN (exterior stairs are open steel)", and by making the oral statement that the second-floor apartment was "not recommended for children as young as two," Respondents indicated a preference against renting to families with children in violation of 42 U.S.C. § 3604(c) and 24 C.F.R. §§ 100.75(a), (c)(1) and (2).

III. ***CONCLUSION***

WHEREFORE, the Secretary of HUD, through the Office of Regional Counsel for the Philadelphia Regional Office, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a) and (c), and prays that an order be issued that:

1. Declares that Respondents' discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;

2. Pursuant to 42 U.S.C. § 3612(g)(3), enjoins Respondents and all other persons in active concert or participation with them, from discriminating against any person based on familial status in any aspect of a rental transaction;

3. Pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(a)(1), assesses a civil penalty against each Respondent for each violation of the Act;

4. Pursuant to 42 U.S.C. § 3612(g)(3), awards such damages as will fully compensate FHCSP for the diversion of its resources and out-of-pocket expenses devoted to investigating and addressing the matter and frustration of its organizational mission.

The Secretary further prays for such additional relief as may be appropriate.

Respectfully submitted,

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