

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)	
Marvin and Stephanie Benton,)	
Charging Party,)	
)	
v.)	FHEO No. 06-04-0403-8
)	
Lillie Arnett and Teddy J. Arnett,)	
Respondents.)	
)	
)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about February 25, 2004, Marvin and Stephanie Benton (Complainants) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Lillie Arnett and Teddy J. Arnett (Respondents) violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by discriminating based on race and color, in violation of 42 U.S.C. § 3604(a).

The Act authorizes the issuance of a Charge of Discrimination (Charge) on behalf of an aggrieved person following an investigation and a 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 to the General Counsel (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel (67 Fed.Reg. 44234) the authority to issue such a Charge, following a determination of reasonable cause by HUD.

By determination of reasonable cause on _____, 2004, the Director of the Office of Fair Housing and Equal Opportunity for the Southwest HUB, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on race and color, and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the aforementioned Determination of Reasonable Cause, Respondents Lillie Arnett and Teddy J. Arnett are charged with discriminating against Complainants Marvin and Stephanie Benton, aggrieved persons, based on race and color in violation of 42 U.S.C. § 3604(a) of the Act as follows:

1. It is unlawful to refuse to sell after the making of a bona fide offer, or to refuse to negotiate for the sale of, or otherwise make unavailable or deny, a dwelling to any person because of race and color. 42 U.S.C. § 3604 (a).
2. Respondent Teddy J. Arnett is a Caucasian male. At all relevant times, he owned the subject property, a single-family home located at 13915 Old River Drive, Scott, Arkansas.
3. Respondent Lillie Arnett, a Caucasian female, is a realtor and real estate broker for Arnett & Associates. She is also the mother of Respondent Teddy J. Arnett. From the time Complainants viewed the subject property on January 24, 2004, until expiration of the listing contract at midnight on January 25, 2004, Respondent Lillie Arnett was Respondent Teddy J. Arnett's real estate broker for the sale of the subject property.
4. Complainants Marvin and Stephanie Benton are a married African-American couple who attempted to purchase the subject property from Respondent Teddy J. Arnett.
5. At all relevant times, Wayne Smith of James Greene Realty represented the Complainants as their real estate agent.
6. On January 24, 2004, Complainants Marvin and Stephanie Benton viewed the subject property. On January 24, 2004 at approximately 2:55 p.m., Complainants made an offer to purchase the subject property. This initial offer stipulated a purchase price of \$139,900, the full asking price, contingent upon Seller/Respondent Teddy J. Arnett's agreement to pay up to six percent of the Complainants' closing and prepaid fees. In addition, Seller/Respondent Teddy J. Arnett was to agree to payment of up to three percent of the Complainants' down payment requirement through a buyer assistance program.
7. Complainants Marvin and Stephanie Benton submitted their initial offer through their agent, Wayne Smith. Mr. Smith forwarded the initial offer to Respondent Teddy J. Arnett's agent, Respondent Lillie Arnett. Respondent Lillie Arnett contacted Mr. Smith by telephone at approximately 5:45 p.m. on January 24, 2004 to advise him that Respondent Teddy J. Arnett would not accept this initial offer.
8. After relaying the rejection of Complainants' initial offer to Mr. Smith, Respondent Lillie Arnett inquired as to whether Mr. Smith's clients, the Complainants, were "black". Mr. Smith reprimanded Respondent Lillie Arnett,

stating that this inquiry was a violation of the Fair Housing Act. Mr. Smith did not answer Respondent Lillie Arnett's question as to the race or color of Complainants.

9. At approximately 7:30 p.m. on January 24, 2004, Complainants, via Mr. Smith, submitted a second offer to purchase the subject property. The second offer was scheduled to expire on Sunday, January 25, 2004, at 2:00 p.m. This second offer stipulated a purchase price of \$135,900, without asking Seller/Respondent Teddy J. Arnett to pay any closing or prepaid fees or any down payment assistance.
10. At approximately 10:11 p.m. on January 25, 2004, Respondent Lillie Arnett informed Mr. Smith that Seller/Respondent Teddy J. Arnett would not be able to consider the second offer until Monday, January 26, 2004. During this conversation, Mr. Smith inquired and was told by Respondent Lillie Arnett that no other offers were pending from prospective buyers.
11. On January 26, 2004 at approximately 11:00 a.m., Respondent Teddy J. Arnett's next-door neighbors, Frank and Barbara Ferraro, a Caucasian couple, made an offer to purchase the house for \$138,000, contingent upon Mr. and Mrs. Ferraro's ability to obtain financing.
12. Respondent Teddy J. Arnett accepted Mr. and Mrs. Ferraro's offer at approximately 12:00 p.m.
13. At approximately 11:43 a.m. on January 26, 2004, Respondent Lillie Arnett contacted Mr. Smith to advise him that another offer had been made and accepted by the Seller/Respondent Teddy J. Arnett. During this conversation, Mr. Smith stated that he attempted to make a third offer of the full asking price of \$139,900; however, Respondent Lillie Arnett rejected the offer, stating that her son had already accepted another offer.
14. Mr. And Mrs. Ferraro never obtained financing for the purchase of the subject property. Mr. And Mrs. Ferraro never attempted to apply for a first mortgage loan on residential property.
15. On or about May 19, 2004, Respondent Teddy J. Arnett sold the house to John Bryant, a Caucasian male, for the purchase price of \$130,000.
16. By refusing to sell the subject property after the making of a bona fide offer, by refusing to negotiate for the sale of the subject property, and by otherwise making unavailable or denying the subject property to the Complainants because of their race and color, Respondents Lillie Arnett and Teddy J. Arnett violated 42 U.S.C. § 3604(a).
17. Because of Respondents Lillie Arnett and Teddy J. Arnett's discriminatory conduct, Complainants Marvin and Stephanie Benton have suffered damages, including emotional distress, economic loss, inconvenience, and loss of a

housing opportunity. Complainants Marvin and Stephanie Benton secured housing at a higher purchase price, and the discrimination and subsequent housing situation negatively impacted them.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges the Respondents Lillie Arnett and Teddy J. Arnett with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a) of the Act, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of the Respondents Lillie Arnett and Teddy J. Arnett, as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents Lillie Arnett and Teddy J. Arnett, their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of race and color against any person in any aspect of the purchase or rental of a dwelling;
3. Awards such damages as will fully compensate Complainants Marvin and Stephanie Benton, aggrieved persons, for their damages, including compensation for economic loss and emotional distress caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3604(a); and,
4. Awards a civil penalty against Respondents Lillie Arnett and Teddy J. Arnett for each violation of the Act committed, pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

William J. Daley
Regional Counsel
Office of General Counsel
Region VI

Allyssa D. Wheaton-Rodriguez
Trial Attorney
U.S. Department of Housing
and Urban Development
Office of General Counsel
801 Cherry Street
PO Box 2905
Fort Worth, TX 76113-2905
Phone: (817) 978-5994
Fax: (817) 978-5563

Date: October , 2004