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)	
Claudio Flores,)	
Charging Party,)	
)	
V.)	FHEO No. 06-04-0579-8
)	
Housing Authority of the City of)	
Edinburg, Texas, Estella Trevino, Ramiro)	
Jackson, and Clemente Gutierrez,)	
Respondents.)	
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	_)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about April 14, 2004, Claudio Flores (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that the Housing Authority of the City of Edinburg, Texas, Estella Trevino, Ramiro Jackson, and Clemente Gutierrez (Respondents) violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by discriminating based on disability, in violation of 42 U.S.C. § 3604(f). On June 30, 2004 and on August 2, 2004, the complaint was amended to reflect corrections to spelling and to clarify the narrative section of the complaint, respectively. On September 8, 2004, the complaint was amended to add the Housing Authority of the City of Edinburg, Texas as a Respondent.

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 for Fair Housing Enforcement (67 Fed.Reg. 44234), the authority to issue such a Charge, following a determination of reasonable cause by HUD.

II. <u>SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS</u> CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the aforementioned Determination of Reasonable Cause, Respondents Housing Authority of the City of Edinburg, Texas, Estella Trevino, Ramiro Jackson, and Clemente Gutierrez are charged with discriminating against Complainant Claudio Flores, an aggrieved person, based on disability in violation of 42 U.S.C. § 3604(f) of the Act as follows:

- 1. It is unlawful to discriminate in the rental, or to otherwise make unavailable or deny, a dwelling to a renter because of a disability of that renter. 42 U.S.C. § 3604 (f)(1)(A). It is unlawful to make an inquiry to determine whether an applicant for a dwelling has a disability or to make inquiry as to the nature or severity of a disability of such a person. 24 C.F.R. § 100.202(c).
- 2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling because of the disability of that person. 42 U.S.C. § 3604 (f)(2)(A).
- 3. Complainant Claudio Flores is a paraplegic individual who sought housing from Respondent Housing Authority of the City of Edinburg, Texas. Complainant was at all relevant times disabled as defined by the Fair Housing Act.
- 4. Complainant Claudio Flores is a client of the Valley Association for Independent Living (VAIL). Monique Carle, an employee of VAIL, is Complainant's case manager. Both Monique Carle and Bonnie Notargiacomo, Assistant Director of VAIL, have assisted Complainant Claudio Flores in obtaining housing.
- 5. Respondent Housing Authority of the City of Edinburg, Texas is located at 910 S. Sugar Road, Edinburg, Texas.
- 6. Respondent Estella Trevino is the Executive Director of the Housing Authority of the City of Edinburg, Texas, and is located at 910 S. Sugar Road, Edinburg, Texas.
- 7. Respondent Clemente Gutierrez is the Section 8 Manager for the Housing Authority of the City of Edinburg, Texas, and is located at 910 S. Sugar Road, Edinburg, Texas.

- 8. Respondent Ramiro Jackson is the Social Services Coordinator for the Housing Authority of the City of Edinburg, Texas, and is located at 910 S. Sugar Road, Edinburg, Texas.
- On or about July 23, 2003, the Texas Department of Housing & Community Affairs (TDHCA) issued Complainant Claudio Flores a portable Section 8 voucher.
- 10. On or about July 24, 2003, Respondent Housing Authority of the City of Edinburg, Texas received notice from TDHCA that Complainant Claudio Flores had been issued a voucher and was seeking housing through the Housing Authority of the City of Edinburg, Texas.
- 11. Soon after the issuance of the voucher, Monique Carle contacted Respondent Clemente Gutierrez to inquire about the voucher. Respondent Gutierrez stated that Complainant would also need to apply for housing through the Housing Authority of the City of Edinburg, Texas, regardless of his previous application approval from TDHCA. During this conversation, Monique Carle and Respondent Gutierrez scheduled a meeting for July 27, 2003 between Respondent Ramiro Jackson on behalf of the Housing Authority of the City of Edinburg, Texas and Complainant Claudio Flores.
- 12. On July 27, 2003, Respondent Ramiro Jackson met Complainant Flores at his residence in Retama Manor Nursing Home. Monique Carle and Bonnie Notargiacomo both attended the meeting with Complainant Flores and Respondent Jackson. During this meeting, Respondent Jackson questioned Complainant Flores about his ability to care for himself, including questions about what Complainant would do if he fell out of his wheelchair, how Complainant would handle himself if there were a fire, and how Complainant would cook for himself.
- 13. Ms. Carle, Ms. Notargiacomo, and Complainant Flores all objected to Respondent Jackson's questioning. However, in response to their objections, Respondent Jackson threatened to leave without completing the requisite documentation. Complainant Flores, therefore, continued answering Respondent Jackson's questions and completed the application for Respondent Jackson to take back to Respondent Gutierrez.
- 14. Complainant Flores then contacted Respondent Gutierrez to relay his selection of Island Palms Apartments as his future residence. The unit located at Island Palms Apartments was inspected and approved by the Housing Authority of the City of Edinburg, Texas on August 4, 2003.
- 15. On or about August 4, 2003, Respondent Clemente Gutierrez told Complainant Claudio Flores that Complainant would need to get a waiver of liability from Island Palms Apartments before Complainant's application could be approved. This waiver of liability would serve to indemnify the Housing Authority of the

City of Edinburg, Texas from any potential claims of Island Palms Apartments. After hearing this information, Complainant was distraught and contacted Ms. Carle to relay this new information. Ms. Carle then contacted Respondent Gutierrez, who then told Ms. Carle the same information, that Complainant would need a waiver of liability from Island Palms Apartments before Complainant's application could be approved. After some discussion, a meeting was scheduled on August 7, 2003 at the Housing Authority of the City of Edinburg, Texas' office.

- 16. Ms. Carle, Ms. Notargiacomo, Complainant Flores, and Respondents Clemente Gutierrez, Ramiro Jackson, and Estella Trevino were all in attendance at the August 7, 2003 meeting. During the meeting, Respondent Estella Trevino questioned Complainant about his ability to live independently, including questions regarding how Complainant would handle falling from his wheelchair, if there was a fire, and if he burned himself. During the course of these questions, Respondent Trevino admitted to all parties that she was concerned about liability and being sued.
- 17. After Complainant Flores protested the questioning, and Ms. Carle and Ms. Notargiacomo discussed the Fair Housing Act with Respondent Trevino, Respondent Trevino approved Complainant's application. Complainant Flores was issued a voucher later that day, and he moved into his unit at Island Palms Apartments within a few days.
- 18. By discriminating in the rental of a dwelling because of Complainant's disability, by discriminating in the terms and conditions of the rental of a dwelling because of Complainant's disability, and by inquiring into the nature and severity of Complainant's disability, Respondents discriminated against the Complainant in violation of 42 U.S.C. § 3604(f).
- 19. Because of Respondents Housing Authority of the City of Edinburg, Texas, Estella Trevino, Ramiro Jackson, and Clemente Gutierrez' discriminatory conduct, Complainant Claudio Flores has suffered damages, including emotional distress, inconvenience, and delay in obtaining a housing opportunity.

III. <u>CONCLUSION</u>

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 Housing Authority of the City of Edinburg, Texas, Estella Trevino, Ramiro Jackson, and Clemente Gutierrez with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f) of the Act, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of the Respondents Housing Authority of the City of Edinburg, Texas, Estella Trevino, Ramiro Jackson, and

Clemente Gutierrez as set forth above violated the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;

- 2. Enjoins Respondents Housing Authority of the City of Edinburg, Texas, Estella Trevino, Ramiro Jackson, and Clemente Gutierrez, their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of disability against any person in any aspect of the purchase or rental of a dwelling;
- 3. Awards such damages as will fully compensate Complainant Claudio Flores, an aggrieved person, for his damages, including compensation for economic loss and physical and emotional distress caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3604(f); and,
- 4. Awards a civil penalty against Respondents Housing Authority of the City of Edinburg, Texas, Estella Trevino, Ramiro Jackson, and Clemente Gutierrez 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,

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