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)	
Border Fair Housing Center)	
Charging Party,)	
)	
v.)	FHEO No. 06-05-0242-8
)	
John Falvey)	
Respondent.)	
)	
)	
)	

CHARGE OF DISCRIMINATION

I. <u>JURISDICTION</u>

On or about December 9, 2004 Border Fair Housing Center (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging John Falvey (Respondent) violated the Fair Housing Act as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (the Act), by refusing to rent after the making of a bona fide offer, or refusing to negotiate for the rental of, or otherwise made unavailable or denied, a dwelling to any person because of familial status 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. Section 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.

By determination of reasonable cause on September 23, 2005 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 familial status and has authorized and directed the issuance of this Charge of Discrimination.

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

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the aforementioned Determination of Reasonable Cause, Respondent John Falvey is charged with violating the Act, specifically, 42 U.S.C. Section 3604 (a) as follows:

- 1. It is unlawful to refuse to rent after the making of a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny, a dwelling to any person because of familial status. 42 U.S.C. § 3604 (a).
- 2. Complainant, Border Fair Housing Center, is a non-profit corporation organized to promote fair housing and non-discrimination in housing throughout El Paso and its surrounding communities. Complainant is located at 2017 Texas Ave., El Paso, Texas 79901.
- 3. Respondent John Falvey is the owner of the subject rental property. At all relevant times, he owned the subject property which consists of 16 units, located at 521 West Missouri, El Paso, Texas 79901.
- 4. <u>El Diario</u> and its subsidiary weekly publication, <u>Looking at El Paso</u>, are periodicals of Editoria Paso Del Norte, Inc. located at 425 North Kansas El Paso, Texas 79901.
- 5. On or about September 3, 2004 through September 16, 2004, Complainant Border Fair Housing Center was monitoring the Spanish newspaper daily, entitled El Diario for discriminatory housing advertisements.
- 6. On or about September 3, 2004, an English advertisement placed by Respondent John Falvey appeared in <u>El Diario</u>, which is the subject of the complaint. The advertisement read as follows:
 - "APARTMENTS for rent downtown 521 W. Missuri (sic), 1-2 adults, only \$220.00 dls. Historic area, special for students (915) 740-8700 *sep08".
 - The same advertisement, still in English, was subsequently published free of charge in <u>El Diario's</u> subsidiary weekly publication, <u>Looking at El Paso</u>.
- 7. On or about September 9, 2004, Complainant Border Fair Housing Center performed a telephonic fair housing test on the subject rental property. Complainant identified the occupants to be a mother and her seven (7) year old daughter to rent a one bedroom apartment. Respondent Falvey informed the Complainant that the occupancy standards as promulgated by the Housing Authority of the City of El Paso (HACEP) directed that a two-bedroom unit was necessary to house the Complainant and child, and that he had no two bedroom units at the subject property.

- 8. On or about September 13, 2004, Complainant recontacted Respondent Falvey asking for a one-bedroom apartment for a husband and wife, with no children. Respondent Falvey advised that an apartment was available.
- 9. On or about September 29, 2004, Respondent Falvey rented a one-bedroom unit to two adult males, after refusing to rent to the Complainant and minor child.
- 10. On or about June 24, 2002, Respondent Falvey rented a one-bedroom unit to two adult females, before refusing to rent to the Complainant and minor child. Respondent Falvey has also rented a one-bedroom unit to cohabitating unrelated male and female adults.
- 11. From about September 1999 to December 2004, no apartments at the subject property were leased to applicants with children. However, between about December 2004 and March 2005, Respondent Falvey rented two units to applicants with children.
- 12. By discriminating in the rental of a dwelling because of familial status, Respondent John Falvey discriminated against the Complainant Border Fair Housing Center in violation of 42 U.S.C. Section 3604(a).
- 13. Because of Respondent John Falvey's discriminatory conduct, Complainant Border Fair Housing Center has suffered damages, including economic loss due to diversion of their resources and a frustration of mission. Complainant Border Fair Housing Center provided educational outreach and training to housing consumers, housing providers, and others within El Paso and its surrounding areas in an effort to counteract the effects of Respondent's actions.

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. Section 3610(g)(2)(A) of the Act, hereby charges Respondent John Falvey with engaging in discriminatory housing practices in violation of 42 U.S.C. Section (a) of the Act, and prays that an Order be issued that:

- Declares that the discriminatory housing practices of Respondent John Falvey as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. Section 3601 et seq.;
- 2. Enjoins Respondent John Falvey, his agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of familial status against any person in any aspect of the purchase or rental of a dwelling, or advertising for the purchase or rental;
- 3. Awards such damages as will fully compensate Complainant Border Fair Housing Center, an aggrieved person, for damages, including compensation for economic loss for diversion of their resources and a frustration of mission caused by

Respondent John Falvey's discriminatory conduct pursuant to 42 U.S.C. Section 3604 (a).

4. Awards a civil penalty against Respondent John Falvey, pursuant to 42 U.S.C. Section 3612(g)(3).

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

Respectfully submitted,

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