

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)
Fair Housing of the Dakotas,)
)
Charging Party,)
)
v.)
)
Paul Hasse,)
)
Respondent.)
)
)

HUD ALJ No.
FHEO No. 08-05-0250-8

CHARGE OF DISCRIMINATION

I. **JURISDICTION**

On or about September 6, 2005, the complainant, Fair Housing of the Dakotas (“Complainant”), filed a verified complaint with the United States Department of Housing and Urban Development (the “HUD Complaint”), alleging that Respondent Paul Hasse (“Respondent”) violated the Fair Housing Act as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (the “Act”), by advertising in a discriminatory manner in violation of 42 U.S.C. §3604.

The Act authorizes the issuance of a charge of discrimination 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 the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Office of Fair Housing and Equal Opportunity Region VIII Director, 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. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondent Paul Hasse is charged with discriminating against Complainant Fair Housing of the Dakotas, an aggrieved person as defined by 42 U.S.C. §3602(i), based on familial status in violation of 42 U.S.C. §§3604(a) and (c) of the Act as follows:

1. It shall be unlawful to refuse to sell or rent after making a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin. 42 U.S.C. §3604(a); see also 24 C.F.R. §100.60.
2. It shall be unlawful to make, print, or publish, or cause to be made printed, published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling unit that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. §3604(c); see also 24 C.F.R. §100.75.
3. At all times relevant to this Charge, Respondent Paul Hasse was the owner and manager of the property located at 816 W. Main Street, Vermillion, South Dakota 57069 ("subject property").
4. The subject property is an eight-unit apartment building situated on elevated bluffs overlooking the Missouri River valley in Vermillion, South Dakota. As of September 2005, the complex had seven occupied units containing adult tenants. At that time, no children or families with children resided in the building.
5. At all times relevant to this Charge, Fair Housing of the Dakotas was the Complainant. Fair Housing of the Dakotas ("Complainant" or "FHD") is an organization committed to the prevention and elimination of housing discrimination. FHD serves the people of the State of South Dakota as well as those living in the Vermillion area by offering fair housing education, counseling, referral services, and/or enforcement (testing) activities.
6. On or about August 16, 2005, the Respondent placed advertisements in the *Vermillion Broadcaster*,¹ a Vermillion, South Dakota newspaper, for a vacancy in his rental property located at 816 W. Main Street, Vermillion, SD. The published advertisement read, "2 Bedroom, garage, ca, dw, gd, nw, refrig. & range. Sept. 1, \$630/mon. No smokers, pets, minors, or deadbeats. 624-7311 eve. 670-1068. 816 W. Main." The discriminatory advertisement, or similar a version, also ran in *The*

¹ The advertisement also appeared in the on-line version of the *Yankton Press & Dakotan*, which is owned by the same company as *The Broadcaster*. *The Broadcaster* and *Yankton Press & Dakotan*, along with two other publications, share a web database for classified advertisements.

Broadcaster on August 23, 2005, August 30, 2005, September 6, 2005, September 13, 2005, and September 20, 2005².

7. Based upon the discriminatory language used in the August 16, 2005 advertisement, specifically because of the mention of no minors, FHD began investigating the advertisement.
8. On or about August 23, 2005, a tester under contract with FHD contacted an unknown male at (605) 624-7311 regarding the apartment for rent at the subject property, and advertised in *The Broadcaster*. The tester indicated that she was interested in renting the apartment for herself and her two daughters. The unknown male indicated he had three restrictions: “no pets, no smoking, and no kids.” The unknown male stated that he did not want any kids because there was not a playground on the property and all the other renters are adults.
9. On or about August 25, 2005, a second tester under contract with FHD contacted “Paul” (Respondent Hasse) at (605) 670-1068 to inquire about the advertised unit at the subject property. The tester asked about the availability of the two bedroom apartment unit, which Respondent Hasse indicated was still available however he had three restrictions: “no pets, no kids, and no smokers.” The tester informed the Respondent that apartment would be for herself, her husband, and her mother. Respondent Hasse then provided a few more details about the property, including amenities and rent, and offered to show the unit to the tester.
10. On several occasions, the Respondent has admitted that he did not and does not wish to rent to families with children because of past negative experiences involving families with children and because most of his renters are older adults.
11. Respondent’s property does not meet the criteria to be an exempt property for housing for older persons. *See* 42 U.S.C. §3607(b)(2).
12. Several current tenants have indicated that when they rented their units at the subject property, the Respondent informed them of his three basic rules: “no smoking, no pets, and no children.” They were told that children were not allowed and families with children were not welcome to live at the subject property.
13. On or about August 16, 2005, when Respondent advertised his preference to not rent to families with children, Respondent made unavailable and/or denied a dwelling to families with children in violation of 42 U.S.C. §3604(a).
14. On or about August 16, 2005, when Respondent caused an advertisement to be published that involved the sale or rental of a dwelling unit that indicated a preference to not rent to families with children, Respondent violated 42 U.S.C. §3604(c).

² After August 16, 2005 the advertisement changed slightly. The term “deadbeat” was eliminated from the later versions of the advertisement, but the rest of the advertisement was identical to the August 16, 2005 version, and the discriminatory prohibition on minors remained.

15. On or about August 23, 2005, when Respondent advertised his preference to not rent to families with children, Respondent made unavailable and/or denied a dwelling to families with children in violation of 42 U.S.C. §3604(a).
16. On or about August 23, 2005, when Respondent caused an advertisement to be published that involved the sale or rental of a dwelling unit that indicated a preference to not rent to families with children, Respondent violated 42 U.S.C. §3604(c).
17. On or about August 30, 2005, when Respondent advertised his preference to not rent to families with children, Respondent made unavailable and/or denied a dwelling to families with children in violation of 42 U.S.C. §3604(a).
18. On or about August 30, 2005, when Respondent caused an advertisement to be published that involved the sale or rental of a dwelling unit that indicated a preference to not rent to families with children, Respondent violated 42 U.S.C. §3604(c).
19. On or about September 6, 2005, when Respondent advertised his preference to not rent to families with children, Respondent made unavailable and/or denied a dwelling to families with children in violation of 42 U.S.C. §3604(a).
20. On or about September 6, 2005, when Respondent caused an advertisement to be published that involved the sale or rental of a dwelling unit that indicated a preference to not rent to families with children, Respondent violated 42 U.S.C. §3604(c).
21. On or about September 13, 2005, when Respondent advertised his preference to not rent to families with children, Respondent made unavailable and/or denied a dwelling to families with children in violation of 42 U.S.C. §3604(a).
22. On or about September 13, 2005, when Respondent caused an advertisement to be published that involved the sale or rental of a dwelling unit that indicated a preference to not rent to families with children, Respondent violated 42 U.S.C. §3604(c).
23. On or about September 20, 2005, when Respondent advertised his preference to not rent to families with children, Respondent made unavailable and/or denied a dwelling to families with children in violation of 42 U.S.C. §3604(a).
24. On or about September 20, 2005, when Respondent caused an advertisement to be published that involved the sale or rental of a dwelling unit that indicated a preference to not rent to families with children, Respondent violated 42 U.S.C. §3604(c).
25. On or about August 23, 2005, when Respondent informed a tester with children, under contract with the Fair Housing of the Dakotas that he did not allow families with children to reside at the subject property, Respondent violated 42 U.S.C. §3604(a).

26. On or about August 23, 2005, when Respondent informed a tester under contract with the Fair Housing of the Dakotas that he did not allow families with children to reside at the subject property, Respondent violated 42 U.S.C. §3604(c).
27. On or about August 25, 2005, when Respondent informed a second tester under contract with the Fair Housing of the Dakotas that he did not allow families with children to reside at the subject property, Respondent violated 42 U.S.C. §3604(c).
28. As a result of Respondent's discriminatory conduct, Complainant has suffered damages, including economic loss through diversion of its resources, and frustration of its mission to achieve equal housing opportunities. The Respondent's conduct denied rental-housing opportunities to families with children and deprived citizens of living in non-segregated communities. Complainant incurred damages, including but not limited to, investigation costs, testing costs, and other miscellaneous costs as a direct result of the Respondent's discriminatory conduct and advertisements.
29. As a result of Respondent's discriminatory conduct, Complainant was inconvenienced. Complainant was forced to divert some of its scarce resources to investigate the Respondent's discriminatory advertisements, and conduct further testing. Complainant had to delay its efforts to pursue grant opportunities and was forced to delay an attorney training seminar as a result of the Respondent's discriminatory conduct.
30. As a result of the Respondent's discriminatory conduct, an unknown number of potential tenants with children were discouraged from seeking out this rental opportunity because of the "no minor" language in the advertisement placed by the Respondent.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) (2004) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of Section 3604(a) and (c) of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondent, as set forth above, violate the Fair Housing Act, as amended 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondent, his agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of familial status against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate the Complainant for its actual damage, inconvenience, and economic loss caused by Respondent's discriminatory conduct pursuant to 42 U.S.C. § 3604(a) and (c); and

4. Assesses a civil penalty against Respondent for each violation of the Act that the Respondent has 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) (2004).

Respectfully submitted,

Ellen Dole
Regional Counsel, Region VIII

Matt Mussetter
Attorney Advisor
U.S. Department of Housing and
Urban Development
Office of Regional Counsel,
Region VIII
1670 Broadway, 25th Floor
Denver, CO 80202-4801
Telephone: (303) 672-5409
Fax: (303) 672-5027

Date: _____, 2006