

**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	)	
Rafaela Alonso, Norberto Barranco, Graciela	)	
Barrera, Laura Castaneda, Maria Castaneda,	)	
Maria del Carmen Maldonado and Fair Housing	)	
Council of Orange County,	)	
	)	
Charging Party,	)	FHEO No.: 09-06-1004-8
	)	09-06-1005-8
v.	)	09-06-1006-8
	)	09-06-1007-8
Gary Luke and Mary Ngo,	)	09-06-1024-8
	)	09-06-1025-8
Respondents.	)	09-06-1112-8
	)	

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

Complaints of housing discrimination were filed with the United States Department of Housing and Urban Development ("HUD") against Gary Luke and Mary Ngo as follows: Rafaela Alonso filed a complaint against Respondents on May 11, 2006, Norberto Barranco, Graciela Barrera, Laura Castaneda and Maria Castaneda filed on May 9, 2006, Maria del Carmen Maldonado filed on June 6, 2006 and the Fair Housing Council of Orange County ("FHCO") filed on May 9, 2006. Complainants allege that Respondents violated the Fair Housing Act ("Act"), as amended in 1988, 42 U.S.C. § 3601 *et seq.*, by discriminating based on national origin, in violation of 42 U.S.C. § 3604(a) and (d).

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. 13,121), who has re-delegated to the Regional Counsel (67 Fed. Reg. 44,234) 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.

By Determination of Reasonable Cause of September 29, 2006, the Regional Director for the Office of Fair Housing and Equal Opportunity, Region IX, has

determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case based on national origin and therefore has authorized 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 complaints and the attached Determination of Reasonable Cause, Respondents Gary Luke and Mary Ngo are charged with discriminating against Complainants, based on national origin in violation of 42 U.S.C. § 3604(a) and (d), as set forth below:

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 national origin. 42 U.S.C. § 3604(a).
2. It is unlawful to represent to any person because of national origin that any dwelling is not available for rental when such dwelling is in fact so available. 42 U.S.C. § 3604(d).
3. The subject property, located at 13172 and 13192 Adland Street, Garden Grove, CA, is an eight-unit apartment complex consisting of two buildings. All eight units have two bedrooms and one bathroom.
4. Rafaela Alonso (Complainant Alonso) is a Hispanic female and Alonso and her family moved into 13172 Adland Street, Unit D in 1993. Complainant Alonso was served with a 60-day notice to vacate in October 2005. Complainant Alonso moved out of the subject property on or around October 31, 2005.
5. Norberto Barranco (Complainant Barranco) is a Hispanic male and he moved into 13192 Adland Street, Unit D in 1995. On October 15, 2005, Complainant Barranco was served with a 60-day notice to vacate and he moved out of the subject property on December 1, 2005.
6. Graciela Barrera (Complainant Barrera) is a Hispanic female and she moved into 13172 Adland Street, Unit B on April 15, 2005. Complainant Barrera was served with a 60-day notice to vacate and she moved out on November 30, 2005.
7. Laura Castaneda (Complainant Laura Castaneda) is a Hispanic female and she moved into 13192 Adland Street, Unit A in January 1989. Complainant Castaneda was served with a 60-day notice to vacate and she moved out on November 15, 2005.
8. Maria Castaneda (Complainant Maria Castaneda) is a Hispanic female and she moved into 13172 Adland Street, Unit C in 1995. Complainant Maria Castaneda was served with a 60-day notice to vacate and she moved out on November 15, 2005.
9. Maria del Carmen Maldonado (Complainant Maldonado) is a Hispanic female. On December 1, 2005, Complainant Maldonado saw vacant apartments at 13192 Adland Street and submitted a rental application to Respondent Gary Luke.

10. Fair Housing Council of Orange County (FHCO) is a non-profit organization that works to ensure fair housing by providing a variety of services including education and enforcement of the Fair Housing Act in Orange County, CA.
11. Respondents Gary Luke and Mary Ngo who is a Vietnamese American own the subject property. On July 25, 2005, Respondents Luke and Ngo purchased the 13172 Adland Street building. Respondent Gary Luke alone purchased the 13192 Adland Street building on the same date.
12. On or about October 15, 2005, Respondents issued a 60-day notice to vacate and served the notice to all tenants living at the subject property in order to repair and remodel the apartments.
13. Respondent Ngo owns, manages and lives in another eight-unit apartment complex located at 12930 Sycamore Street, Garden Grove, CA 92841. All eight units in that complex are occupied by Vietnamese tenants.

Rafaela Alonso

14. Complainant Alonso, her husband, Rafael Barrera, and their three children moved into 13172 Adland Street, Unit D around 1993.
15. In October 2005, Respondent Luke visited Complainant and gave a 60-day notice to vacate. About one week after receiving the 60-day notice to vacate from Respondent Luke, Complainant Alonso asked to be transferred to another unit. Respondent Luke refused to allow the transfer. Several days later, Complainant Alonso's daughter, Dominga Mendoza again asked Respondent Luke if the family could be transferred to another unit but the request was again denied by Luke. At the time, 13172 Adland Street, Unit A had been completely remodeled and vacant.
16. Because of the notice to vacate, Complainant Alonso moved out of 13172 Adland Street, Unit D on or around October 31, 2005. On November 2, 2005, new Vietnamese tenant, Hoa Nguyen, moved into 13172 Adland Street, Unit A.
17. On January 1, 2006, Complainant Alonso's former unit was rented to Mai Phung, a Vietnamese American, and her family.
18. During their tenancy, Complainant Alonso's husband, Rafael Barrera made various improvements to their apartment including installing a new tile floor, painting the apartment and repairing the bathroom wall. Despite the various improvements made to the apartment, Respondent Luke did not return Complainant Alonso's security deposit.
19. Complainant Alonso is currently paying \$3,449 a month for renting a house with an option to purchase. At the Adland Street apartment, Alonso was paying \$975 a month for rent.

Norberto Barranco

20. Complainant Barranco, his three children and his brother, Alejandro Barranco moved into 13192 Adland Street, Unit D in 1995.

21. On October 15, 2005, Respondent Luke visited Complainant Barranco's apartment and gave Barranco a 60-day notice to vacate. Respondent Luke came with Respondent Ngo and another male who translated English to Spanish. Upon receiving the 60-day notice, Complainant Barranco asked if Luke could transfer Barranco's family to another unit but Luke denied the request. Complainant Barranco stated that he was willing to move out of the apartment and stay at a hotel for a month and reapply to live at the complex. Barranco also stated that he was willing to pay higher rent and move into any of the available apartment units. Respondent Luke denied Barranco's request.
22. Eight days later after Complainant Barranco received the 60-day notice, he asked Luke for a rental application. Luke replied that he would give Barranco a rental application the following day but Luke never gave Barranco a rental application.
23. About a week prior to moving out of the apartment, Complainant Barranco asked Luke why new tenants were moving in while previous tenants were forced to move out. Luke replied that he was renting apartments because he needed the rental income to pay for the modifications to the complex. Barranco again asked for a rental application but Luke refused to give one to Barranco. Luke stated that he could not give Barranco a rental application because Barranco was already moving out.
24. Because of the notice to vacate, Complainant Barranco's family moved out of the unit on December 1, 2005.
25. While Complainant Barranco was still residing at the complex, three units (13172 Adland Street, Unit A, 13192 Adland Street, Unit A, and 13192 Adland Street, Unit C) became available and new tenants moved into those units. On November 2, 2005, Hoa Nguyen, a Vietnamese American, moved into 13172 Adland Street, Unit A. Danhti Vo, a Vietnamese American, moved into 13192 Adland Street, Unit A and Kevin Hyunh, also a Vietnamese American moved into 13192 Adland Street, Unit C.
26. On January 10, 2006, Complainant Barranco's former unit was rented to Hy Vo, a Vietnamese American.
27. Respondent Luke did not return any of the security deposit to Complainant Barranco.
28. Complainant Barranco is currently paying \$1,665 a month in rent. Barranco was paying \$875 a month at the Adland Street apartment.

Graciela Barrera

29. Complainant Graciela Barrera and her family moved into 13172 Adland Street, Unit B on April 15, 2004.
30. On or around October 15, 2005, Respondent Luke gave Complainant Graciela Barrera's son, Daniel Barrera a 60-day notice to vacate. Complainant Barrera wanted to stay in the complex or reapply for tenancy but did not ask Luke. Barrera talked to other tenants in the complex and was told that other tenants had asked Luke to allow them to stay in the complex or move back later and Luke refused their requests.

31. About 15 days before the expiration of the 60-day notice, Luke visited Barrera's apartment and asked Daniel Barrera if they found another place to live.
32. Neither Luke nor anyone associated with him offered Barrera an opportunity to stay in the complex or move back after the units were repaired.
33. Because of the notice to vacate, Complainant Barrera moved out of the unit on November 30, 2005.
34. On January 14, 2006, Complainant Barrera's former unit was rented to Tam Nguyen, a Vietnamese American.

Laura Castaneda

35. Complainant Laura Castaneda and her family moved into 13192 Adland Street, Unit A in January 1989.
36. On or around October 15, 2005, Respondent Luke visited Complainant Laura Castaneda's apartment and gave Castaneda a 60-day notice to vacate. Respondent Luke told Castaneda that she had until December 15 to move out. Complainant Laura Castaneda's husband, Carlos Castaneda asked Respondent Luke if his family could move back into the complex after the remodeling but Respondent said no.
37. About three days after Complainant Laura Castaneda received the notice, she asked Respondent Luke if her family could move into 13172 Adland Street, Unit A since the previous tenants had already moved out of that unit. Luke told Laura Castaneda that all tenants must move out by December 15, 2005. Castaneda asked for a rental application but Luke said to her, "No, I already got my people." Luke never told Castaneda that she could move back into the complex.
38. Because of the notice to vacate, Complainant Laura Castaneda's family moved out of the unit on November 15, 2005.
39. On December 1, 2005, Complainant Castaneda's former unit was rented to Danhti Vo, a Vietnamese American.
40. During their tenancy, Complainant Laura Castaneda made various improvements to her apartment including installing a new tile floor in the kitchen, hallway and dining room. Castaneda spent \$1,200 for the installation cost. When Laura Castaneda asked Luke for her \$250 deposit, he only gave her \$200.

Maria Castaneda

41. Complainant Maria Castaneda and her family moved into 13172 Adland Street, Unit C in 1995.
42. On or around October 15, 2005, Complainant Maria Castaneda received a 60-day notice to vacate. Maria Castaneda and her husband, Javier O. Castaneda, Sr. told Respondent Luke that they wanted to transfer from their unit to 13172 Adland Street, Unit A. Luke said he would give them a rental application but never did so. 13172 Adland Street, Unit A became

occupied by Hoa Nguyen, a Vietnamese American, while Maria Castaneda was still residing at the complex.

43. About 20 to 30 days after receiving the 60-day notice, Complainant Maria Castaneda's son, Javier O. Castaneda, Jr. approached Respondent Luke and asked for a rental application but Luke did not provide one.
44. Because of the notice to vacate, Complainant Maria Castaneda's family moved out on November 15, 2005.
45. On January 10, 2006, Complainant Castaneda's former unit was rented to Khoa Van Nguyen, a Vietnamese American.
46. Complainant Maria Castaneda is currently paying \$1,576 a month in rent. Maria Castaneda was paying \$850 a month at the Adland Street apartment.

#### Maria del Carmen Maldonado

47. On December 1, 2005, Complainant Maldonado saw vacant apartments at 13192 Adland Street. Maldonado told Respondent Luke that she was looking for an apartment in the area. Luke gave Maldonado a rental application and Maldonado completed the application and gave it back to him later that day. Luke told Maldonado that he would "talk it over with [his] partner," and inform Maldonado of the decision. During the conversation, Luke asked Maldonado if she had any pets. Maldonado replied that she has a dog but she could give the dog to a friend.
48. On December 4, 2005, Maldonado went to 13192 Adland Street and asked Luke the status of her rental application. Luke said to Maldonado, "I don't want you to get rid of your dog." Maldonado again told Luke that she could give the dog to a friend. Luke responded by stating that he would discuss her application with his partner.
49. On December 8, 2005, Maldonado called Luke to inquire about the status of her application. Luke told Maldonado that his "partner has in mind only to rent to Vietnamese families."
50. On April 5, 2006, Maldonado provided a statement to FHCOC and Maldonado stated that Luke told her that he needed to discuss her rental application with his partner "because she is the one that makes the decisions."

#### Fair Housing Council of Orange County

51. FHCOC received discrimination complaints from Complainants Alonso, Barranco, Barrera, Laura Castaneda and Maria Castaneda. The complaints allege that Complainants were discriminated based on national origin.
52. FHCOC also received a complaint from Complainant Maldonado alleging that she was denied tenancy at the subject property because of national origin.
53. Because of Respondents' discriminatory actions, Complainant FHCOC has suffered damages, including economic loss due to diversion of its resources and frustration of its organizational mission.

### Violations

54. By refusing to rent the subject property to Complainants Alonso, Barrera, Barranco, Laura Castaneda, Maria Castaneda, and Maldonado based on national origin, Respondents committed unlawful discrimination in violation of 42 U.S.C. § 3604(a).
55. By representing to Complainant Maldonado that the subject property is not available for rental based on national origin, Respondents committed unlawful discrimination in violation of 42 U.S.C. § 3604(d).
56. As a result of Respondents' discriminatory actions, Complainants have suffered damages, including economic loss, loss of an important housing opportunity, inconvenience, physical and emotional distress. Complainants rented other places of residence after attempting to stay or move back into the subject property. The rent for replacement housing is significantly more expensive than the rent at the subject property.
57. As a result of Respondents' discriminatory actions, Complainant FHCOG has suffered damages, including economic loss due to diversion of its resources and frustration of its organizational mission.

### **III. CONCLUSION**

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Regional Counsel for Region IX, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a) and (d), and prays that an order be issued, pursuant to 42 U.S.C. § 3612(g)(3), that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating on the basis of national origin against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainants Alonso, Barranco, Barrera, Laura Castaneda, Maria Castaneda and Maldonado, aggrieved persons, for their damages including economic loss, inconvenience, emotional distress and loss of an important housing opportunity caused by Respondents' discriminatory conducts;
4. Awards such damages as will fully compensate Complainant FHCOG, for damages including economic loss due to diversion of its resources and frustration of its organizational mission caused by Respondents' discriminatory conduct;
5. Awards a civil penalty against Respondents for each violation of the Act; and,

6. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) of the Act.

Respectfully submitted,

DATE: Sept. 29, 2006

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R. FAYE AUSTIN  
Regional Counsel  
Office of Regional Counsel  
Region IX

DATE: Sept. 29, 2006

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MARC ROTHBERG  
Supervising Attorney

DATE: Sept. 29, 2006

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