

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	)	
Patricia Tyus,	)	
	)	HUD ALJ No.
Charging Party,	)	FHEO No. 05-06-0072-8
	)	
v.	)	
	)	
Nelson E. Stuber, and Ella M. Stuber,	)	
	)	
Respondents.	)	
	)	
	)	
	)	

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**CHARGE OF DISCRIMINATION**

I. **JURISDICTION**

On or about October 18, 2005, the complainant, Patricia Tyus (“Complainant”), filed a verified complaint with the United States Department of Housing and Urban Development (the “HUD Complaint”), alleging that Respondent Nelson Stuber violated the Fair Housing Act as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (the “Act”), by refusing to negotiate for rental of an apartment because of her race in violation of 42 U.S.C. §3604(a) of the Act. On or about May 20, 2006, Complainant amended her complaint to (1) add Ella Stuber as a Respondent, (2) add a 42 U.S.C. §3604(c) allegation, and (3) add her daughter, Destini Tyus, as an aggrieved person.

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 V 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 race, 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, Respondents Nelson and Ella Stuber (collectively referred to as Respondents) are charged with discriminating against Complainant Patricia Tyus, an aggrieved person as defined by 42 U.S.C. §3602(i), based on race in violation of 42 U.S.C. §§3604(a) and (c) of the Act as follows:

1. It is unlawful to refuse to sell or rent after the making of 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. See also 24 C.F.R. §100.60.
2. It is unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. See also 24 C.F.R. §100.75.
3. At all times relevant to this Charge, Respondents were Nelson and Ella Stuber, owners of the property located at 730 Detroit Avenue, Morton, Illinois 61550 ("subject property"). Respondents own 16 rental properties that consist of single-family homes, and duplexes. Respondents are a married couple and both are white.
4. At all times relevant to this Charge, Patricia Tyus was an African-American woman with a twelve-year-old daughter who is disabled. Complainant wanted to move to Morton, Illinois because of the excellent special education programs that the Morton School District offered her daughter and to be close to her workplace in Peoria, Illinois.
5. Complainant's daughter, Destini Tyus, is an aggrieved person as defined by 42 U.S.C. § 3602(i) because she was injured by Respondents' discriminatory housing practices.
6. In or about September 2005, another landlord, Ms. Michaels, who Complainant believed to be a friend of Respondent Nelson Stuber, referred Complainant to him, as she understood that he had a unit for rent.
7. On or about September 21, 2005, Complainant called the Stubers and spoke to Respondent Ella Stuber. Respondent Ella Stuber told Complainant that her husband handled all rental inquiries and that he was not at home at that time, but that she would have him call Complainant back. Shortly thereafter, Respondent Nelson Stuber returned Complainant's call and left a message on her voicemail.

8. On or about September 22, 2005, Complainant returned Respondent Nelson Stuber's voicemail. Respondent Nelson Stuber told Complainant that he had a duplex for rent and that the rent was \$595.00. Respondent Nelson Stuber inquired whether Complainant would be able to afford the rent and as to who would reside in the unit. Complainant requested an appointment to see the unit. Respondent told her that the current tenant left for work at approximately 12:30 p.m. so he could show her the apartment then. Consequently, the appointment to see the apartment was scheduled for September 23, 2005 at 12:30 p.m.
9. On or about September 23, 2005, at 12:00 p.m., Complainant arrived at the subject property in order to view it. She met and greeted Respondent Nelson Stuber. As Complainant arrived early to the appointment and the current tenant had not left for work yet, Respondent Nelson Stuber and Complainant agreed that she would drive around the area until 12:30 p.m. and return to see the apartment at the appointed time. In the interim, Respondent commented to Complainant that he was going to visit the tenant in the duplex to the left of the unit for rent.<sup>1</sup> At 12:30 p.m., Complainant returned for the appointment and saw a woman she believed to be the current tenant leaving the apartment.
10. After viewing the subject property, Respondent Nelson Stuber asked Complainant if she was African-American, to which Complainant replied affirmatively. Complainant thought the question odd as she believes that it is apparent from looking at her that she is African-American although light skinned.
11. Complainant asked if there was an application process and a fee. Respondent Stuber replied that he does have an application, but does not charge a fee. Complainant then told Respondent that she was very interested in the unit and wished to fill out an application for the subject property. Respondent Nelson Stuber told Complainant that he did not have an application on him at the time, but that he only lived three to five blocks away and he would go home and get one. Complainant agreed to wait for Respondent to return with an application.
12. When Respondent Nelson Stuber returned and approached Complainant, she noticed that he did not have any papers in his hand. He then told Complainant "my wife says I should not rent to you." Complainant asked if it was because she is African-American and Respondent replied affirmatively.
13. Complainant admonished Respondent Nelson Stuber that his statement was "discriminatory and illegal." Respondent Nelson Stuber responded that he tried to tell his wife that. He added that he did "not have a problem, but my wife do[es] not want to rent to you." Complainant then asked Respondent again whether he realized that his statement was "discriminatory and illegal." In response, Respondent explained, "but if I rent to you, the neighbors will move out; the last time we showed the unit to an African-American lady, the neighbor threaten[ed] to move out." He

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<sup>1</sup> Complainant stated that at no time while she was at the property did she see the neighbor that Respondent Nelson Stuber referred to during the appointment.

- then stated, “besides if I rent to you, you will come, your family will come, and then all your friends.” Complainant informed Respondent Nelson Stuber that her family does not live close by.
14. Finally, Complainant advised Respondent Nelson Stuber that if his wife was a “bigot,” then maybe they should not be in the business of renting apartments, and she left the subject property.
  15. Later that day, Complainant went to a previously scheduled appointment at Morton Junior High School in order to meet with one of the special education teachers and to observe one of the classes at the school.
  16. In a statement to HUD, Nancy Meldrum, a secretary at Morton Junior High School, said that Complainant talked with her and Jill Parod, another employee at the school, about her experience at the subject property. Ms. Meldrum recalled Complainant telling her “the guy refused to rent to her because she was black,” and that Complainant was upset, “shocked” and “appalled.”
  17. In a statement to HUD, Jill Parod, an employee at Morton Junior High School, said that Complainant relayed her experience trying to rent an apartment in the Morton area. Further, Ms. Parod recalled Complainant explaining that the man refused to rent to her because she was black and that Complainant appeared to be “shocked” or in “disbelief” regarding the incident. She also believed that this incident immediately preceded Complainant’s visit to the school.
  18. Ultimately, Complainant Tyus could not find housing in Morton, Illinois before her lease expired; she instead moved to Bloomington, Illinois, where she currently resides.
  19. In response to a March 8, 2006 HUD data request, Respondents admitted that all of their tenants are white.
  20. During a February 15, 2006 interview, Respondent Nelson Stuber acknowledged never renting to a minority but commented that he has noticed them looking into the windows of his units. He alleges that none have applied to rent one of his properties.
  21. During the same February 15, 2006 interview, Respondent Nelson Stuber confirmed that he met Complainant Tyus and showed her the subject property, but did not offer her a lease. Respondent Nelson Stuber also alleged that after he showed Complainant the unit, a tenant of his who saw Complainant during her visit to the subject property told Respondent Nelson Stuber that he would move out immediately if Respondent Nelson Stuber rented the unit to her.
  22. During another February 15, 2006 interview, Respondent Ella Stuber was asked if she told her husband, Respondent Nelson Stuber, not to rent to Complainant because she

- is African-American. Respondent Ella Stuber responded that their tenants would move out if they rented to Complainant Tyus.
23. Eventually, Respondent Nelson Stuber rented the subject property to three white college students.
  24. By refusing to rent an apartment to Complainant, Respondents committed unlawful discrimination in the sale or rental of a dwelling after the making of a bona fide offer because of the race of Complainant in violation of 42 U.S.C. §3604(a).
  25. By making a statement with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on the race of Complainant Respondents violated 42 U.S.C. §3604(c).
  26. As a result of Respondents' discriminatory conduct, Complainant has suffered damages, including economic loss, emotional distress, inconvenience, and a lost housing opportunity.
  27. Complainant suffered economic loss due to Respondents' discriminatory acts. Unable to locate another apartment, Complainant moved herself and her daughter into the basement of a friend's home and resided there for approximately nine months before finding an apartment. She paid her friends \$600.00 a month to occupy the basement area, which consisted of one room and lacked privacy. Complainant currently pays \$646.00 per month for rent on a subleased apartment and the rent will increase to \$700.00 once the sublease ends, over \$100.00 more per month than Respondents' apartment. Complainant also incurred storage costs due to Complainant's cramped living arrangement in her friend's basement.
  28. Complainant had to drive further to work and spend more time commuting than she would have had Respondents rented the subject property to her. Complainant's commute to work, had she lived in the subject property, would have been approximately ten minutes, whereas her commute from Bloomington, Illinois was approximately forty-five minutes, each way. This caused her to incur more costs for transportation as her commute was too long and her employer could not support the increased cost of her longer commute.
  29. Respondents' discriminatory statement and refusal to rent to Complainant was emotionally stressful for Complainant, as she was concerned about being a forty-five minute drive away from her home and daughter during her work hours.
  30. The discriminatory conduct caused Complainant to become angry and made her feel "like nothing." Additionally, Complainant feels more guarded in her relationships with people. Complainant also explained that her living situation was hard on her and her daughter because they were sharing a space with another family.

31. Complainant Tyus' emotional distress also manifested itself physically. She felt depressed for a period of time and a sense of lowered self-esteem.
32. Complainant lost a housing opportunity. Complainant wanted to rent the subject property because of its location (1) near the highway, (2) in Morton, Illinois, (3) on a quiet street, (4) close to her work, and (5) close to Morton Junior High School. Complainant liked that the property had an attached covered garage and a yard, which her current apartment does not have. Complainant felt the subject property would have been more like living in a single family home based on its layout, providing her increased privacy. Also, the subject property was closer to Complainant's church in Peoria. She has since joined a new church because of the increased distance she would have to drive to the church she attended in Peoria.
33. Complainant was inconvenienced by Respondents' discriminatory act. Complainant researched which schools had the best special education programs for her daughter's needs and determined that Morton Junior High School best accommodated her daughter, as it offered her daughter the least restrictive environment possible to maximize her learning through interaction with other students. Additionally, Morton Junior High School had programming for the Educatable Mentally Impaired ("EMI"), the Trainable Mentally Impaired ("TMI") and "touch math," a program that Complainant's daughter was already participating in at her school in Peoria. Further Complainant felt the teacher-to-student ratio in the school was "outstanding." However, because she was not able to secure housing in the Morton School District, she was forced to send her daughter to a different school district with what Complainant felt was an inferior program.
34. Finally, due to her move, Complainant and her daughter could no longer participate in the Heart of Illinois Special Recreation Association ("Hearts of Illinois SRA"), a cooperative extension of the Morton, Chillicothe and Peoria Park Districts. Hearts of Illinois SRA provides "quality" recreation programs and services to persons with disabilities and special needs in the least restrictive environment possible such as, summer day camping with extended care, parents' night out, social clubs, art classes, and sporting activities.

### 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 Section 42 U.S.C. §3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§3604(a) and 3604(c) of the Act, and prays that an order be issued 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, successors, and all other persons in active concert or participation with them from discriminating on the basis of race against any person in any aspect of the purchase or rental of a dwelling;
3. Awards such damages as will fully compensate Complainant and her daughter, aggrieved persons, for their actual damages caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. §§3604(a) and 3604(c); and
4. Awards a civil penalty against each Respondent 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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