

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

Secretary, United States Department)	
of Housing and Urban Development, on)	
behalf of)	
)	
)	
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)	
)	
Charging Party,)	
)	
v.)	HUD ALJ No.
)	FHEO No. 01-09-0483-8,
Elaine Romano, Property Management of Andover, Inc.,)	01-09-0480-8, 01-09-0481-8,
Dennis DeFrancesco, and the Stonecleave Village)	01-09-0482-8.
Association, Inc.)	
)	
Respondents.)	
)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On July 27, 2009, and July 28, 2009, Complainants filed complaints with the United States Department of Housing and Urban Development ("HUD"), alleging that the Respondents discriminated in violation of the Fair Housing Act ("the Act"). 42 U.S.C. § 3601-3619.

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) - (2). The Secretary of HUD has delegated to the Assistant Secretary for Fair Housing and Equal Opportunity the authority to make such a determination; and to the General Counsel the authority to issue such a charge of discrimination. The General Counsel has redelegated to the Regional Counsel the authority to issue such a charge.

By Determination of Reasonable Cause dated December 2, 2009, the Director of the Fair Housing Hub, Office of Fair Housing and Equal Opportunity for New England, has determined that reasonable cause exists to believe that a discriminatory housing practice has

occurred in this case, and has authorized the issuance of this Charge of Discrimination by the Regional Counsel. 42 U.S.C. §3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents with violating the Act as follows:

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of the familial status of that person. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65(a).
2. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act. 42 U.S.C. 3617; 24 C.F.R. §§100.400(b) and (c)(1-2).
3. Complainant _____ owns unit 44 at the Stonecleave Village Condominiums where she resides with her minor child, Complainant _____.
4. Complainant _____ owns unit 31 at the Stonecleave Village Condominiums where she resides with her two minor children, Complainants _____.
5. Complainant _____ resides at unit 33 of the Stonecleave Village Condominiums with her three minor children, Complainants _____.
The property itself is owned by her parents and she rents the property from them.
6. Complainants _____ reside at unit 63 of the Stonecleave Village Condominiums with their three minor children, Complainants _____.
Complainants _____, rent the property from Joanne Ruel.
7. Complainants are protected from discrimination based on familial status. 42 U.S.C. § 3602(k) ("Familial status means "one or more individuals (who have not attained the age of 18 years) being domiciled with . . . a parent or another person having legal custody of such individual or individuals . . ."); 24 C.F.R. § 100.20.
8. The property at 20 Washington Street, Methuen, MA 01844 is part of the Stonecleave Village complex, a development consisting of a series of buildings containing 78 individual units.

9. Upon information and belief, 10 units at the 20 Washington Street property are occupied by families with children.
10. At all times relevant to this action, Respondent Dennis DeFransesco ("Respondent DeFransesco") was the President of the Stonecleave Condominium Association Board of Directors, a five member board that directs the management of the Stonecleave Village Association, Inc.
11. The Stonecleave Village Association, Inc. ("Respondent Stonecleave") is a registered non-profit corporation with the Commonwealth of Massachusetts.
12. From 2005 to the present date, Respondent Property Management of Andover, Inc. ("Respondent PMA") has been the management agent of the development and is registered as a domestic profit corporation with the state of Massachusetts.
13. At all times relevant to this action, Respondent Elaine Romano ("Respondent Romano") was the Property Manager of the complex and was an employee of Respondent PMA.
14. In July 2008, the Stonecleave Condominium Association Board of Directors informed residents via memorandum that there had been numerous complaints about disturbances connected with residents' loud behavior and playing of organized sports in Respondent Stonecleave's outdoor common areas.
15. In an August 2008 meeting, the Stonecleave Condominium Association Board of Directors reiterated that no organized sports could be played on the common areas of the development and designated a field in the back corner of the complex as an appropriate place for recreational activities such as children playing.
16. On August 21, 2008, after the alternate field was designated as an appropriate area for play, Complainant filed a HUD complaint against the Respondents, which was referred to the Massachusetts Commission Against Discrimination ("MCAD") alleging familial status discrimination in the terms and condition of ownership.
17. Complainant case was investigated by MCAD and dismissed for lack of probable cause on March 13, 2009.
18. On July 28, 2009, Respondent Romano of PMA wrote to Complainant informing her that she was being assessed a charge of \$1,000 for "the cost the association bore to hire an attorney regarding your MCAD issue."
19. On June 8, 2009, Respondent Romano received a complaint from a resident alleging that children were outside playing and screaming on Saturday, June 6, 2009. In the

email, the resident suggests “tricking” children into using a different area for play and complains that “I feel like we are living in the projects.”

20. At some point during this time, a resident member of the board of directors took approximately 45 photographs of children allegedly playing on June 3, 2009, and June 6, 2009.
21. Besides the June 8, 2009, complaint, there are no records of any other written complaints to the Respondents regarding children playing that summer prior to the fine.
22. In letters dated June 9, 2009, Complainants [redacted] and two other families were informed by Respondent Stonecleave’s attorney Gary M. Daddario, Perkins & Anctil, P.C., that they were being fined the following amounts:

\$10 a day for two days for her children’s actions playing on the common,
\$10 a day for two days for allegedly causing damage to the common,
\$25 to reimburse Respondents for damage to the common area lawn, and
\$437.50 for attorney fees “incurred in this matter.”
23. Complainants had not received any previous fines or written warnings regarding violations being committed by their children.
24. Respondent Stonecleave’s rules set maximum fines at \$10 per violation.
25. Respondents’ records indicate that they had never charged attorney fees for drafting fine letters, or even involved attorneys, regarding any other fines for any other violations of the condo developments rules.
26. From 2005 when Respondents hired Property Management of Andover, Inc. to the June 9, 2009, letters to Complainants, PMA itself had sent out all notices of fines or warnings of violations without the involvement of attorneys.
27. Respondents’ records indicate that all prior fines issued by the Respondents or their agents abided by the \$10 per violation rule contained in the Respondent Stonecleave’s rules. Respondents’ records also indicate that all prior fines were handled by Respondent Stonecleave or their property management agent.
28. When an adult resident was found to have held a “gathering/party” on the common area in violation of the Board’s “Summer Party Policy” by which gatherings of over ten persons on the common were required to be pre-approved, no fine was issued for the unauthorized use of the common.

29. Respondents treated Complainants differently in singling them out for the imposition of fines including attorney's fees.
30. Respondent Stonecleave's requirement that Complainant pay legal fees incurred in the drafting of the fine letters constitutes disparate treatment of families with children, affecting the terms and conditions of their occupancy. 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b).
31. Respondent Stonecleave's requirement that Complainants pay the legal fees incurred in the drafting of the fine letters constitutes impermissible coercion, intimidation, and interference with the Complainants' exercise of their right to be treated in the same manner as families without children. 42 U.S.C. 3617; 24 C.F.R. §§100.400(b) and (c)(1-2).
32. Respondent Stonecleave's requirement that Complainant pay an additional \$1,000 for the Respondents' costs relating to an MCAD investigation constitutes coercion, intimidation, and interference with the Complainant's exercise of her rights under the Fair Housing Act. 42 U.S.C. 3617; 24 C.F.R. §§100.400(b) and (c)(1-2).
33. Respondent Stonecleave's action in requiring that Complainant pay an additional \$1,000 for the Respondents' costs relating to an MCAD investigation constitutes impermissible and illegal retaliation for the filing of a fair housing complaint. 42 U.S.C. 3617; 24 C.F.R. §§100.400(b) and (c)(4-5).
34. Respondents Romano and Property Management of Andover, Inc. were agents acting upon the instructions of the Respondent Stonecleave in levying the \$1,000 fee against Complainant and are therefore liable for the violations relating to this fee.
35. Respondent DeFrancesco is the President of the Stonecleave Condominium Association Board of Directors and is therefore liable in his official capacity for the violations set forth above.
36. As a result of the Respondents' conduct, Complainants have suffered damages, including economic loss and emotional distress.

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. §3610(g)(2)(A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §3604(b) and 42 U.S.C. §3617 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. § 3601-3619;

2. Enjoins the Respondents from further violations of 42 U.S.C. § 3604(b) and 42 U.S.C. § 3617 of the Act;
3. Awards such damages as will fully compensate each Complainant for their economic loss and emotional distress caused by the Respondents' discriminatory conduct;
4. Awards a civil penalty against Respondents for each violation of the Act pursuant to 42 U.S.C. § 3612(g)(3);
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,



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