

**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)	
Intermountain Fair Housing Council, Inc.,)	
)	
Charging Party,)	
)	
v.)	FHEO No. 10-03-0291-8
)	
Want Ads of Boise, Inc.,)	
)	
Respondent.)	
_____)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On September 10, 2003, Complainant, Intermountain Fair Housing Council, an aggrieved person, filed a timely verified complaint with the United States Department of Housing and Urban Development (“HUD”). The complaint alleged that Doug Bourkland, the president of Want Ads of Boise, Inc., which publishes a classified advertising newspaper in Boise, Idaho, injured Complainant by publishing advertisements for rental housing indicating a preference, limitation or discrimination on the basis of familial status or an intent to make such preference, limitation or discrimination, in violation of the Fair Housing Act (“Act”), as amended, 42 U.S.C. §§ 3601-3619. On May 26, 2004, Want Ads of Boise, Inc., the publisher of the newspaper, was joined by HUD as a respondent.¹

The Act authorizes issuance of a charge of discrimination on behalf of the 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 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.

¹ Doug Bourkland was dismissed as an individual respondent in the Determination of Reasonable Cause.

The Director of the Fair Housing and Equal Opportunity HUB for the Northwest/Alaska Area has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the complaint and the attached determination of reasonable cause, Respondent is hereby charged with violations of the Act, specifically, 42 U.S.C. § 3604(c), as set forth below.

1. 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 familial status or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c).
2. Complainant, Intermountain Fair Housing Council, Inc. (IFHC), is a non-profit corporation organized under the laws of the State of Idaho. IFHC promotes fair housing practices for housing providers and consumers throughout Idaho. IFHC's purpose is to advance equal access to housing for all persons without regard to race, color, sex, religion, national origin, familial status, or disability.
3. Respondent, Want Ads of Boise, Inc., is a Nevada corporation registered to do business in Idaho. At all times relevant herein, Want Ads of Boise published the Thrifty Nickel newspaper under a license to use the name in the greater Boise area.²
4. Thrifty Nickel is a free weekly paper comprised of classified and commercial advertisements. The Boise Thrifty Nickel has a weekly circulation of 42,000 copies. All classified advertisements in local Thrifty Nickel publications, including the Boise paper, were also published on the national website.
5. In 1996, Complainant filed a housing discrimination complaint against Respondent Bourkland for publishing a rental advertisement in the Thrifty Nickel specifying "no children." The complaint was conciliated and closed by HUD in 1998. As part of the conciliation, Thrifty Nickel employees who accepted ads were required to receive training in the advertising requirements of the Fair Housing Act.
6. On or about Saturday, August 23, 2003, Carrie House, an employee of Complainant IFHC, picked up the August 21, 2003, issue of the Thrifty Nickel to identify properties for a planned testing campaign and discovered a rental advertisement that stated, "No children." Ms. House immediately attempted to arrange a test of the listed property, but

² In January, 2004, "Thrifty Nickel" publications were renamed "American Classifieds." Respondent Want Ads of Boise, Inc., continues to publish the paper under its new name pursuant to a licensing agreement.

could not reach a tester. The same day Ms. House contacted IFHC's Executive Director and they began coordinating further action.

7. In response to the discovery of the August 21 advertisement, Complainant began regularly monitoring the Thrifty Nickel and performing fair housing tests on advertised properties. Complainant had stopped conducting regular, systematic monitoring of the Thrifty Nickel after the conciliation of its 1996 complaint in the belief that it was no longer necessary. In the course of this monitoring, Complainant found additional discriminatory advertisements and submitted copies to HUD.
8. From August 21 to October 30, 2003, inclusive, Respondent published seven advertisements in the Boise Thrifty Nickel that form the basis of this Charge. The advertisements read as follows:
 - a. FOR RENT: Small furnished, 1 bedroom house \$500 per month, utilities paid. No children or pets. 1722 Robert Street. 342-6296.
 - b. GREAT DEAL 2 bedroom condo with a pool Boise Beach area only \$550. 2 bedroom mobile home located in a great adult-type park in Mountain Home. \$295. 888-3731.
 - c. SAVE \$1,000. Buy don't rent. All units reduced \$1,000. But if you do want to rent, we have a nice two bedroom unit for \$325. Located in a very nice adult-type park with lots of big trees. Mountain Home. 587-5994. RV spaces also.
 - d. TOWNHOUSE IN newer subdivision – 2 bedroom, 2.5 bath, 2 car garage, air, gas fireplace Deadend culdesac. Private, quiet, central to downtown, airport, Micron, BSU. Ideal for the students, couples, empty nesters. Subject to lease-great renters. Not to close before 12-1-03 offered at \$109,500. Owner-Agent. Call Joe at 861-7171.
 - e. NEW 2 BEDROOM, single wide trailer, in country between Nampa and Meridian. Single person. \$495 + deposit. 467-6838.
 - f. CUTE COTTAGE, in Southwest Boise, Country setting in city, close to shopping. Ideal for Seniors- no yard work. Small, 1 bedroom, excellent condition with washer/dryer. Utilities included. \$475/month. 321-9127.
 - g. PERFECT FOR EMPTY-NESTER IN MERIDIAN. Brand new 2100 square foot home close proximity to everything, yet tucked away in the middle of a lovely golf course. Living area on the mall level with guest quarters on the second level! 3 bedrooms, 2.5 baths-on a small manageable lot. For information call Lisa Thorne (208) 713-5633. \$174,900. 100% financing available.

9. The ordinary reader would interpret the above-listed advertisements as indicating that families with children will not be accepted as tenants (“no children,” “adult-type park,” “single person”) or as intended to encourage adult or senior households to apply, while discouraging families with children from applying (“ideal for the students, couples, empty nesters,” “ideal for seniors,” “perfect for empty-nester”).
10. Respondent committed unlawful discrimination by publishing advertisements for the sale or rental of a dwelling that indicate a preference or discrimination based on familial status, in violation of 42 U.S.C. § 3604(c).
11. As a result of Respondent’s discriminatory conduct, Complainant, IFHC, has suffered damages, including economic loss due to diversion of its resources and frustration of its organizational mission. In an effort to counteract the effects of Respondent’s actions, Complainant has, among other things, expanded its advertising monitoring and testing activities, commenced an advertising education and outreach campaign, and provided increased technical assistance to advertisers.

III. PRAYER FOR RELIEF

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Regional Counsel for Region X, hereby charges Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 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 Respondent, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondent, its agents, employees, successors, and all other persons in active concert or participation with them from printing or publishing advertisements that discriminate on the basis of familial status in the sale or rental of a dwelling;
3. Awards such damages as will fully compensate Complainant, IFHC, for its damages caused by Respondent’s discriminatory conduct;
4. Awards a civil penalty against Respondent, Want Ads of Boise, Inc., for each violation of the Act; and,

//

//

//

//

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

Respectfully submitted,

DAVID F. MORADO
Regional Counsel, Region X

JO ANN RIGGS
Attorney

U.S. Department of Housing and
Urban Development
Seattle Federal Office Building
909 First Avenue, Suite 260
Seattle, Washington 98104-1000
(206) 220-5400

DATE: _____