

**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 Council of Oregon, Deneen
Hayward and Randolph Irwin Kelly,

Charging Party,

v.

FHEO Nos. 10-05-0134-8
10-05-0146-8
10-05-0199-8

Ted Ballis, Mary Ballis and Louis Ballis,

Respondents.

CHARGE OF DISCRIMINATION

I. JURISDICTION

On April 1, April 18, and June 1, 2005, respectively, Complainants Fair Housing Council of Oregon, Deneen Hayward and Randolph Kelly, aggrieved persons, filed timely verified complaints with the United States Department of Housing and Urban Development (“HUD”). The complaints alleged Respondents, Ted Ballis, Mary Ballis and Louis Ballis, refused to rent to Complainants Hayward and Kelly, and to an African-American male tester, because of race, in violation of the Fair Housing Act (“Act”), as amended, 42 U.S.C. §§ 3601-3619.¹

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 The investigation revealed that sex was also a basis for the discriminatory treatment.

The Regional Director for Fair Housing and Equal Opportunity, Region X, 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 determinations of reasonable cause, Respondent is hereby charged with violations of the Act, specifically, 42 U.S.C. § 3604(a)-(c), as set forth below.

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 of rental of, or otherwise make unavailable or deny, a dwelling to any person because of race and sex. 42 U.S.C. § 3604(a).
2. 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 therewith, because of race and sex. 42 U.S.C. § 3604(b).
3. It is unlawful to make, print or publish, or cause to be made, printed or published, any statement with respect to the rental of a dwelling that indicates any preference, limitation or discrimination based on race and sex or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c).
4. The subject property, located at 2648 S.E. 141st Avenue, Portland, Oregon, is a two-bedroom, one-bath apartment in a duplex.² The subject property is part of a nine-unit complex consisting of two duplexes, a triplex and two townhouse units.
5. Complainant Fair Housing Council of Oregon (FHCO) is a non-profit Oregon corporation. FHCO's purpose is to advance equal access to housing of choice for all persons in Oregon and Southwest Washington, without regard to race, color, sex, religion, national origin, familial status or disability.
6. Complainant Deneen C. Hayward is a Caucasian female.
7. Complainant Randolph Irwin Kelly is a dark-complexioned, Black male.
8. At all times relevant herein, Respondent Louis Ballis was the owner of the subject property.
9. At all times relevant herein, Respondents Ted Ballis and Mary Ballis managed the subject property for their son, Respondent Louis Ballis.

² The address of the subject property was mistakenly identified in the complaint as 2642 S.E. 141st Avenue.

10. On or about Monday, May 31, 2004, Complainant Hayward's mother, Colleen Hayward, called Complainant Hayward to inform her that she had found an apartment that she thought would be great for her daughter and her daughter's boyfriend, Mr. Kelly. Colleen Hayward knew Respondents Ted and Mary Ballis because her younger daughter, Complainant Hayward's sister, was renting a unit at another property owned or managed by Respondents.
11. The same day, Complainants Hayward and Kelly and Ms. Hayward's mother went to see the subject property. Respondent Ted Ballis showed them the unit and told Complainants Hayward and Kelly that the apartment was theirs if they wanted it. He stated that he did not need references because he knew Complainant Hayward's parents. Complainant Hayward said she needed to check into storing some of her belongings. Respondent Ted Ballis gave Complainant Hayward a rental application and told her to call him if she wanted the apartment.
12. On or about June 1, 2004, Complainant Hayward found a suitable storage space, but wanted to see the subject property again. Her mother called Respondents and spoke to Respondent Mary Ballis, who said she had shown the unit to another woman the night before who gave her money to hold the apartment. Ms. Ballis asked if Complainant would be interested in an identical unit in a different duplex which would be available at the end of the month. Complainant Hayward said she still needed to see the vacant apartment again. Respondent Mary Ballis met Complainant Hayward and her mother at the subject property. Complainant Hayward decided she wanted to rent the subject property, but she was not interested in the other unit.
13. In the morning of June 2, 2004, Respondent Ted Ballis informed Complainant Hayward's mother that Respondents had decided not to rent to the other applicant. Mr. Ballis said that if Complainants Hayward and Kelly were still interested in the original unit, Complainant Hayward should meet him at the property with her checkbook. Complainant Hayward's mother relayed the conversation to Ms. Hayward.
14. Complainant Hayward called Respondent Mary Ballis and told her she wanted the unit and would give her a rent check. Ms. Ballis stated that Complainant Hayward could meet Respondent Ted Ballis at the unit at 1:00 p.m.
15. On or about June 2, 2004, two tenants at the S.E. 141st Avenue complex, Dawn Warner Davis and Jenny Hirsch, spoke to Respondent Ted Ballis about Complainants Hayward and Kelly. Both tenants threatened to move from the property if he rented to Mr. Kelly, citing problems with a previous African-American male tenant. Ms. Davis told Ted Ballis that there was a third tenant who was also threatening to move.
16. On June 2, 2004, Complainant Hayward stopped by her house to pick up the signed application, then she and her mother met Respondent Ted Ballis at the subject property. When they arrived at approximately 1:00 p.m., Mr. Ballis immediately told them there

was “a problem.” He explained that several long-term tenants had threatened to move if he rented to her, because her boyfriend, Complainant Kelly, is Black. He explained that a previous Black male tenant had caused problems. Mr. Ballis was apologetic.

17. Complainant Hayward stated to Respondent Ted Ballis that it was against the law to discriminate. Mr. Ballis replied that he knew it was but these people were long-term tenants and he had to go with them.
18. Respondent Ted Ballis then called Respondent Mary Ballis. Respondents had a brief conversation in their native language, Greek. Mr. Ballis then gave the phone to Complainant Hayward. Respondent Mary Ballis stated to Complainant Hayward, “I’m sorry, we can’t rent the apartment to you.” Complainant Hayward was crying when she got off the phone.
19. Complainant Hayward again stated to Respondent Ted Ballis that what he was doing was against the law. Mr. Ballis replied, “I know, but what am I going to do?” Complainant Hayward and her mother left.
20. The next day, June 3, 2004, Complainant Hayward contacted Complainant FHCO to report her experience attempting to rent a unit from Respondents. FHCO interviewed Ms. Hayward and later assisted her with the filing of her HUD complaint. In response to the information provided by Ms. Hayward, FHCO staff designed two paired tests for housing discrimination based on race.
21. On or about July 2, 2004, the male protected class tester, a 38-year-old African-American, called Respondents and spoke to Respondent Mary Ballis; the tester stated he was calling about the apartment for rent. Ms. Ballis told him about the subject property and made arrangements for her or her husband to meet him there the same day.
22. On or about July 2, 2004, Respondent Ted Ballis met the male protected class tester at the subject property. Mr. Ballis pointed out features of the unit and asked the tester about his rental history. Mr. Ballis asked if anyone would be living with him and the tester replied that he would be living alone. Mr. Ballis quoted a monthly rent of \$685, plus a \$200 cleaning fee and a \$300 refundable damage deposit. Respondent Ted Ballis informed the tester that two other people had submitted applications but he hadn’t checked them out yet. Mr. Ballis told the tester he would take his name and telephone number and call him if the unit was still available; the tester provided his name and number.
23. On or about July 8, 2004, the male comparison tester, a 21-year-old Caucasian, called Respondents to inquire about renting a two-bedroom apartment. Respondent Ted Ballis enthusiastically described the subject property and asked several times whether the tester lived alone and whether he threw parties, emphasizing that the complex was quiet. The tester arranged to meet Mr. Ballis the next morning.

24. On or about July 9, 2004, Respondent Ted Ballis met the male comparison tester at the subject property. Mr. Ballis again stressed the quiet environment, then showed the tester the unit. Ted Ballis stated that the rent was \$685, and that he normally charges a \$200 cleaning fee and \$300 damage deposit. Mr. Ballis then said that because the tester would be living alone, he would only charge him a \$200 damage deposit.³ Respondent Ted Ballis told the comparison tester that the unit was available immediately. He stated that two people had submitted applications, but they were “so-so.” Mr. Ballis encouraged the tester to submit an application with a deposit, and told the tester that as soon as he gave him the money the apartment would be secured. The comparison tester told him he was interested but would have to give it some thought.
25. On or about July 22, 2004, the African-American male protected class tester called Respondents to follow up on the earlier test. Respondent Mary Ballis answered, and the tester asked to speak to Ted Ballis. The tester told Mr. Ballis that he was calling about the apartment Respondent had shown him a couple weeks ago and asked if it was still available. Respondent Ted Ballis stated that he had taken a couple of applications but one guy had a “bad record.” Respondent asked the protected class tester, “Are you the guy who left your number?” The tester said he was. Respondent then stated, “I don’t know, maybe wait a bit longer.” The tester said, “So, should I call you later?” Respondent Ted Ballis replied, “I don’t know . . . maybe next week.”
26. On or about August 11, 2004, the Caucasian male comparison tester called Respondents. Respondent Mary Ballis answered the phone, and the tester told her he had viewed a rental unit a few weeks ago. Ms. Ballis remembered him and proceeded to tell the tester about another available unit, a three-bedroom house renting for \$800 a month; she gave him the address and told him it would be closer to his work. She then gave the phone to her husband.
27. Respondent Ted Ballis remembered the tester and commented that he had not heard back from him. The tester asked about the apartment and Mr. Ballis replied that it had been rented but the new tenants had not come up with all of the money. Respondent Ted Ballis advised the comparison tester that it was “kind of up in the air,” adding that if the tester was still interested, the tester should tell him immediately. The tester replied that he was still undecided.
28. The following day, on or about August 12, 2004, the Caucasian male tester called Respondents again and asked Respondent Mary Ballis if the subject property was still available. Ms. Ballis replied that it was as the rental fell through. She stated that the apartment would be advertised in the paper the following day. The tester said he would think about it and get back to her.

³ Respondents also told the Caucasian female tester that the security deposit was \$200.

29. Respondents never contacted the African-American male protected class tester to inform him that the subject property was still available. Respondents rented the unit on September 28, 2004. Upon information and belief, the successful applicants were a non-Hispanic Caucasian family.
30. The three-bedroom house offered to the Caucasian male comparison tester was not mentioned to the African-American male protected class tester, although it was vacated on July 15, 2004, one week before the protected class tester's follow-up telephone call.
31. Respondents committed unlawful discrimination by refusing to rent the subject property to Complainants Hayward and Kelly, because of Mr. Kelly's race and sex, in violation of 42 U.S.C. § 3604(a).
32. By making the subject property unavailable to the African-American male tester, Respondents committed unlawful discrimination on the bases of race and sex, in violation of 42 U.S.C. § 3604(a).
33. By quoting a higher damage deposit amount to the African-American male tester than to the Caucasian testers, Respondents committed unlawful discrimination in the terms or conditions of the rental of a dwelling because of race and sex, in violation of 42 U.S.C. § 3604(b).
34. Respondents Ted and Mary Ballis committed unlawful discrimination by making oral statements to Complainant Hayward and her mother with respect to the rental of the subject property, which indicated discrimination based on race and sex, and an intent to discriminate on those bases, in violation of 42 U.S.C. § 3604(c).
35. As a result of Respondents' discriminatory conduct, Complainants Hayward and Kelly have suffered damages, including economic loss, emotional and physical distress, inconvenience and loss of an important housing opportunity. Complainants Hayward and Kelly experienced emotional and physical distress, including anger, depression, loss of sleep, nervousness, social withdrawal and damage to their relationship; Mr. Kelly experienced loss of self esteem, stress, embarrassment and humiliation, as well as headaches and stomach aches. Complainants Hayward and Kelly rented another residence after attempting to rent the subject property. The replacement housing is significantly more expensive than the subject property, does not have air-conditioning or off-street parking, and is located on a busier, less-desirable street.
36. As a result of Respondents' discriminatory conduct, Complainant FHCO has suffered damages, including economic loss due to diversion of its resources and frustration of its organizational mission.

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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 Respondents 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 Respondents, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
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 and sex in the rental of a dwelling;
3. Awards such damages as will fully compensate Complainants Hayward, Kelly and FHCO for their damages caused by Respondents' discriminatory conduct;
4. Awards a civil penalty against Respondents 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,

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