

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 Tarek Refaat and Omenya)	
Kishk)	
)	
Charging Party,)	FHEO No.: 02-02-0645-8
)	
v.)	
)	
)	
Barron’s Gate Construction Company, Inc.,)	
Doug Deter)	
)	
Respondents.)	
)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about September 17, 2002, Tarek Refaat, an aggrieved person, filed a timely verified complaint with the U.S. Department of Housing and Urban Development (“HUD”) alleging that the Respondents discriminated against him on the basis of national origin (Arab-Muslim). On July 2, 2004 the complaint was amended to include Tarek Refaat’s wife, Omenya Kishk, as a complainant, and to add Kenneth Rosenblum as a respondent, as well as to revise the bases of discrimination to national origin (Egyptian/Arab), religion (Muslim) and intimidation, interference, and coercion in violation of the Fair Housing Act (“the Act”). *See* 42 U.S.C. §§ 3601 – 3619.

The Act authorizes the issuance of a Charge of Discrimination (the “Charge”) on behalf of aggrieved persons 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 Director of the Office of Fair Housing and Equal Opportunity for the New York/New Jersey Hub, on behalf of the Assistant Secretary, has determined that

reasonable cause exists to believe that a discriminatory housing practice has occurred and 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 in the aforementioned complaint, as set forth in the attached Determination of Reasonable Cause, the Respondents are charged with violating the Act, specifically, 42 U.S.C. § 3604(a), 42 U.S.C. § 3604(c) and 42 U.S.C. § 3617. The following allegations support this Charge of Discrimination:

A. Legal Authority

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. 42 U.S.C. § 3604(a).

It is unlawful to make, , 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, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c).

It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the law and regulations. 42 U.S.C. § 3617.

B. Parties

Complainants Tarek Refaat and Omenya Kishk are Arab, from Egypt and Muslim. Complainant Tarek Refaat, an Egyptian national residing in the United States, is a legal resident and is legally permitted to work in the United States. Complainant Refaat moved to the United States in July 2000, and began working in January 2001 for Fleet Bank as a Senior Business Specialist. Complainant Omenya Kishk, an Egyptian by birth, is Mr. Refaat's wife. She is a naturalized citizen of the United States, and began working in the United States in June 2001. They live in Lawrenceville, New Jersey.

Respondent Barron's Gate Construction Company, Inc. is located in Woodbridge, New Jersey. Mr. Stewart J. Dailey III is a corporate officer of Barron's Gate Construction Company, Inc., and he is also identified as the agent of Barron's Gate Construction Company, Inc. Mr. Kenneth Rosenblum is also a corporate officer of Barron's Gate Construction Company, Inc. The State of New Jersey, Department of Community Affairs, Certificate of Registration indicates that the owner of Barron's Gate at Woodbridge is Barron's Gate Construction Company, Inc. In addition, the Certificate of Registration indicates that the manager of Barron's Gate at Woodbridge is Barron's Gate Construction Company, Inc. The State of New Jersey Business Gateway Service,

Corporate and Business Information Reporting indicates that Barron's Gate at Woodbridge, Inc. was dissolved in 1999 without assets. Mr. Stewart J. Dailey III was the agent for Barron's Gate at Woodbridge, Inc.

Mr. Doug Deter has been the Resident Manager at Barron's Gate Apartments for more than eight years. Barron's Gate Apartments is located at 609 Duke Drive, Woodbridge, New Jersey.

C. Factual Allegations

Barron's Gate Apartments is an apartment complex of 228 two-bedroom and two-bath units. Rents ranged from \$1250 to \$1600 per month.

In September 2001, the complainants had excellent credit as reported by the major national credit bureaus.

On September 15, 2001, shortly after the terrorist attacks on the United States, Mr. Refaat and his wife applied for an apartment at Barron's Gate Apartments in Woodbridge, New Jersey. The couple spoke to Respondent Doug Deter. Respondent Deter told the couple to complete an application and pay \$100 for a credit check. At this point, Complainant Refaat and his wife indicated that they had a short credit history because they had not been living in the United States for a long period of time. They stated also that their credit history was very good. At this time, the couple described their immigration status and work experience to Respondent Deter.

During this interview on September 15, 2001, Respondent Deter began to talk about the World Trade Center attack after the Complainants had submitted initial information about finances and citizenship status. According to Complainant Refaat, Respondent Deter said that he had a friend who owned a weapons store in the area, and since September 11, 2001, this shop owner had only sold weapons to people who wanted to kill Arabs and Muslims. The Complainants completed the application and paid the \$100 credit check fee, but allege that they left the office feeling very distressed and upset about the encounter.

On September 19, 2001, Respondent Deter contacted Complainant Omenya Kishk and informed her that the apartment application had been denied due to the couple's short credit and employment history. On the same day, the Complainants returned to Barron's Gate to ask the manager to reconsider the application. Complainant Refaat brought copies of his credit report and the 12 checks he had used to pay rent for the past year. Respondent Deter informed Complainant Refaat that he would check with his supervisor and get back to him by September 21, 2001.

Respondent Deter failed to contact the Complainants by September 21, 2001, so the Complainants went to the rental office the next day. The Complainants brought a video camera with them. The tape shows that the Complainants sat for approximately 10 minutes without being acknowledged. Respondent Deter appeared and spoke to other

individuals, but did not speak or acknowledge the presence of the Complainants. At one point, Respondent Deter stated to someone in the adjoining room “they’re here.” When Respondent Deter returned and spoke with the Complainants, he indicated that without two-years’ employment and credit history they could not rent an apartment. Respondent Deter then, without explanation, began speaking with other individuals. When he returned to speak with the Complainants, Complainant Refaat asked Respondent Deter why he took the application and \$100 if he knew this. Complainant Refaat explained that he had not had two years’ credit history when he had come to the Respondent’s office. However, Complainant Refaat stated that he did have 14 months of excellent credit. The Complainant then offered to pay three months rent in advance, plus a security deposit. At this point, Respondent Deter noticed the video camera, and he made the Complainants turn it off. The Complainants then offered to pay one years’ rent in advance.

On September 29, 2001, the Complainants faxed a letter dated September 25, 2001 to the management office of Barron’s Gate Apartments. The letter reiterates the offer to provide one years’ upfront payment of rent and outlines the attempts the Complainants made to rent an apartment at Barron’s Gate. The letter indicates the Complainants willingness to pay one full years’ rent in advance plus the required security deposit with a certified check.

On September 24, 2001, the Complainants contacted the Housing Coalition of Central Jersey, Incorporated and filed a complaint against Barron’s Gate Apartment Complex regarding the above-referenced incident. On June 20, 2002, the Housing Coalition conducted a test in response to Complainant Refaat’s complaint. A White female tester went to Barron’s Gate Apartments to inquire about a two-bedroom apartment. At two points, the tester brought up the potential problem of a short credit history due to recent employment outside the United States. Both times, a Barron’s Gate employee indicated that this would not be a problem.

The investigation of this case revealed that while many tenants had been employed at their jobs for more than two years, this was not uniformly the case. Applicants were accepted with employment histories of less than two years. The tenants’ credit histories ranged from poor to very good. A credit report was not contained in every file. In some instances salary information was not submitted.

On December 16, 2002, a HUD investigator interviewed five tenants at Barron’s Gate Apartments about the financial background information they were required to submit to apply for an apartment. Responses from the tenants varied. None of the tenants were asked to submit rent receipts from former residences. Employment histories and credit ratings also varied, although some employment histories were shorter than Mr. Refaat’s and one of the interviewed tenants had poor credit.

As a result of the discriminatory conduct, Complainants became upset, fearful and uncomfortable.

D. Fair Housing Act Violations

The Respondents committed unlawful discrimination by refusing to negotiate the rental of and denying a dwelling to Complainant because of national origin and religion in violation of 42 U.S.C. § 3604(a). Respondents also made statements with respect to the rental of a dwelling that indicated discrimination based on national origin and religion in violation of 42 U.S.C. § 3604(c). Respondents' actions were intimidating, threatening and interfered with the Complainants fair housing rights in violation of 42 U.S.C. § 3617.

III. CONCLUSION

WHEREFORE, The Secretary of Housing and Urban Development, through the Regional Counsel for New York/ New Jersey, hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a), 42 U.S.C. § 3604(c), and 42 U.S.C. § 3617 and prays that an order be issued, pursuant to § 3612(g)(3), that:

1. Declares that the discriminatory housing practices of the Respondents as set forth above violate the Fair Housing Act, 42 U.S.C. §§ 3601 – 3619;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating based on race, color, or national origin in any aspect of the rental or sale of a dwelling;
3. Awards such damages as will fully compensate Complainants for the damages caused by Respondent's discriminatory conduct;
4. Awards an \$11,000 civil penalty against Respondents for each discriminatory housing practice pursuant to 42 U.S.C. § 3612(g)(3); and
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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DATE: September 21, 2004