

**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	)	
	)	
	)	HUD ALJ No.
Charging Party,	)	FHEO Nos.: 05-12-0604-8
	)	
v.	)	
	)	
7000 Sandell Condominium Association,	)	
Inc., New Concepts Management Group,	)	
Inc., and Paul L. Bozonie,	)	
	)	
Respondents.	)	

---

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about March 20, 2012 Complainant  ("Complainant") timely filed his complaint with the United States Department of Housing and Urban Development ("HUD" or the "Department"), alleging that he was injured by the discriminatory actions of Respondent Paul L. Bozonie ("Respondent Bozonie"), based on familial status, in violation of Sections 3604(b), 3604(c), and 3617 of the Fair Housing Act (the "Act"), as amended, 42 U.S.C. §3601, *et seq.* Complainant included his spouse,  and their two minor children as "other aggrieved persons."

Complainant amended his complaint on August 13, 2012, to name as additional respondents: 7000 Sandell Condominium Association, Inc. ("Respondent Association" or "Association"), and New Concepts Management Group, Inc. ("Respondent New Concepts").

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 (76 Fed.Reg. 42462), who has redelegated to the Regional Counsel (76 FR 42465), 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 discriminatory housing practices have occurred in this case based on familial status, 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 as set forth in the aforementioned Determination of Reasonable Cause, Respondents Sandell 7000 Condominium Association, Inc., New Concepts Management Group, Inc., and Paul L. Bozonie are charged with discriminating against Complainant, Complainant's wife, and their two minor children, all aggrieved persons, as defined by 42 U.S.C. § 3602(i), based on familial status, in violation of §§ 3604 (b), (c)<sup>1</sup> and 3617 of the Act as follows:

### **A. Legal Authority**

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65.
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 unit 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); 24 C.F.R. § 100.75.
3. It shall be 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 Sections 3603, 3604, 3605, or 3606 of this title. 42 U.S.C. § 3617; 24 C.F.R. § 100.400.
4. The Act, as amended by The Housing for Older Persons Act of 1995 ("HOPA"), exempts "housing for older persons" from the Act's prohibitions against discrimination because of familial status. 42 U.S.C. § 3607(b)(2); 24 C.F.R. § 100.300 – 100.307.
5. As defined in the Act, "housing for older persons" means housing – "(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons ...; or (B) intended for, and solely occupied by persons 62 years of age or older; or (C) intended and operated for occupancy by persons 55 years of age or older []." <sup>2</sup>

---

<sup>1</sup> While it is not included in the original complaint, during the course of the investigation, the Department determined there is reasonable cause to conclude that § 3604(c) of the Act was violated.

<sup>2</sup> Section 3607(b)(2)(C) and 24 C.F.R. §§ 100.304 – 100.307 provide additional requirements that must be met in order for a housing facility or community to qualify as housing for older persons, as defined by the Act.

6. In order to avail itself of the Housing for Older Persons Act of 1995 exemption to the Act, a housing provider must adhere to certain specific requirements, including those set forth at § 3607(b)(2)(C) of the Act, which reads, in relevant part:

“As used in this section, “housing for older persons” means housing –

...  
(C) intended and operated for occupancy by persons 55 years of age or older, and ---

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii).

Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification....”

#### B. Parties and Subject Property

7. At all times relevant to this Charge, Complainant and his wife, [REDACTED], were the parents of two minor children under the age of 18. At all times relevant to this Charge, Complainant and his wife both had custody of their minor children.
8. At all times relevant to this Charge, Complainant was the owner of a condominium unit located at 7000 Sandell Avenue, [REDACTED] (“subject unit”), Edina, Minnesota.
9. The subject unit is located in a condominium building commonly referred to as the “7000 Sandell Condominiums,” in Edina, Minnesota, which is a single building comprised of 18 individually-owned residential dwelling units (“subject property”). Unit owners at the subject property are members of Respondent 7000 Sandell Condominium Association.
10. Complainant purchased the subject unit, located at the subject property, in or around March 2009.
11. At all times relevant to this Charge, Respondent Association was a Minnesota non-profit corporation consisting of the unit owners at the subject property.
12. At the time of the discriminatory acts alleged in this Charge, Respondent New Concepts was a Minnesota based corporation that served as the management company for the subject property. Respondent New Concepts specialized in the management of homeowner associations, commercial properties, apartments, and single family homes.

13. At all times relevant to this Charge, Respondent Bozonie was an employee of Respondent New Concepts, who served as the off-site property manager for the subject property. On information and belief, Respondent Bozonie reported directly to Respondent New Concepts.

C. Factual Allegations

14. Respondent Association is the governing body for the subject property. The subject property is subject to the restrictions and covenants found in the Association's Declaration for Condominium (the "Declaration"), the Articles of Incorporation of 7000 Sandell Condominium Association, Inc. (the "Articles"), the Association's By-laws (the "By-laws"), and the Association Rules and Regulations ("Association rules"), (collectively, "Governing Documents").
15. At all times relevant to this Charge, Respondent Association published and maintained rules and regulations restricting and/or imposing a limitation on occupancy at the subject property by children under the age of 18. Said restrictions are found in Sections P and R of the Declaration, which read as follows:

P. No child under the age of eighteen (18) years shall be permitted to reside in any unit or to stay therein as a visitor or temporary guest except for not more than thirty (30) days cumulatively during any calendar year. Any children visiting or living in a unit on a temporary basis are subject to rules of conduct promulgated from time to time by the Association, and the owner of the unit in which they are visiting or living shall be responsible for the adherence of the children to such rules.

R. No unit in the condominium shall be owned or occupied by or sold or leased to any person who is not an eligible owner. An eligible owner is defined as any of the following:

1. any person 55 years of age or older, and the spouse, relative or companion of such person, regardless of the age of the spouse, relative or companion;
  2. the widow or widower of an eligible person who is in residence in the condominium at the time of the eligible spouse's death;
  3. the divorced spouse of an eligible person who is in residence in the condominium at the time of the divorce;
  4. any person who is a shareholder in 7000 Sandell Avenue Cooperative or a lawful occupant of the Real Estate as of the recording of this Declaration.
16. At all times relevant to this Charge, Section S of the Declaration stated: "As used in this Declaration or in the By-Laws of the Association, any words or

terms defined in the Act shall have the meaning there ascribed to them."

17. The Association rules regarding rental of units, effective August 1, 2007, state, in relevant part:
  - "3. As is Association policy, renter/occupant(s) must be 55 years of age or older; no children under the age of 18."
18. On information and belief, it is Respondent Association's practice to provide sellers with a Resale Disclosure informing any unit purchaser of the Declaration's prohibition against occupants who are under the age of 55, if they do not occupy the unit with an "eligible" owner.
19. At all relevant times to this Charge, the Governing Documents contained no description or reference to age verification procedures for routinely verifying the age(s) of unit occupants at the subject property, in order to maintain eligibility for the HOPA exemption.
20. During the course of the HUD investigation which gave rise to this Charge, several unit owners were interviewed who stated that their age was never verified by Respondents at the time of purchase. Further, unit owners interviewed during this investigation who recalled being asked to verify their age, were asked to do so years after their purchase of a unit at the subject property, and then, only once, at an annual meeting of the Association, which, on information and belief, took place in 2011.
21. In or around March 2009, Complainant, who was then 57 years old, purchased a unit at the subject property. At no time, either prior or subsequent to his purchase, did Respondents inquire as to Complainant's age, or require Complainant to fill out an affidavit and/or survey verifying that he was 55 years of age or older or that he had a household member who was 55 years of age or older. Complainant received no inquiries related to age until in or around 2011, when the events that gave rise to this Charge transpired.
22. Complainant was aware of the restriction on occupants under the age of 18 at the subject property but believed, in good faith, that the restriction did not apply to his children because Section R of the Declaration defined "eligible owner" to include, in relevant part, "any person 55 years of age or older, and the spouse, *relative* or companion of such person, *regardless of the age of the* spouse, *relative* or companion.." (Emphasis added.) At least one other unit owner interviewed by HUD during the investigation also understood the definition of "eligible owner" to allow minor children of eligible owners to reside at the subject property.
23. During 2009, Complainant and his two minor children lived at the subject property "off and on." In or around 2010, Complainant enrolled his children in schools close to the subject property and his children began to regularly occupy the subject

property. During this time, Complainant also served on the Board of Directors for Respondent Association.

24. In or around 2011, two members of the Respondent Association Board, Mary Ann Martin and Maggie West, approached Complainant with concerns about his children living with him at the subject property.
25. On or about March 1, 2011, Complainant received a letter signed by Respondent Bozonie requesting information regarding the occupants of Complainant's unit. In pertinent part, the letter read:

We need to obtain additional information from you regarding the current residents of your home. We understand that two residents are children of yours. Can you verify their ages? Per the Association's Governing Documents, all residents are required to be over eighteen years of age if occupying a unit for more than 30 days as a resident.

We received the Board Meeting Minutes of December 14, 2010 which it [sic] refer to current issues with the Association Declarations. As you are aware, there are current restrictions at the Association regarding age issues. Going forward, the Board of Directors will need to discuss the process of verifying the age of each occupant, probably each year at the Annual Meeting. Please contact me to discuss this matter.

26. On or about March 22, 2011, Complainant received a second letter, in which Respondents' legal counsel indicated that Respondent Association had made a determination that Complainant was noncompliant with the Association's restriction on children under the age of 18. The letter referenced Sections P and R of the Declaration. The letter stated that if Complainant did not comply with the restriction by March 28, 2011, the Board would impose fines.
27. On or about April 14, 2011, Respondent Association held a Board meeting, the minutes of which reveal that the Respondent Association was just then beginning to formulate a procedure for age verification at the subject property.
28. On or about April 15, 2011, Complainant received another letter from Respondent Bozonie concerning the alleged violation of the Respondent Association's restriction on children under 18 at the subject property. This letter carried a \$25 assessment and threatened that if the issue was not corrected by May 16, 2011, the Association Rules and Regulations allowed for a fine imposition of \$50 per each day the violation continued.
29. In or around April 2011, Complainant resigned from the Respondent Association Board, because his "children were not welcomed at the subject property."

30. Effective July 1, 2011, Respondent Association amended the Association rules to address, in large part, age verification procedures at the subject property, as well as penalties for noncompliance, which amended rules state, in relevant part:

“3) As is Association policy, renter/occupants must be 55 years of age or older, no children under 18. (see Declaration of Condominium document page 16, section P and page 18, section R.)

...5) All renters of a resident must sign an affidavit indicating that they have read the rules and regulations of the Association. The affidavit must also be signed by the owner of the residence.

6) Owners who violate rental requirements will be assessed \$100 per month during the rental term of their unit. ...

...

Penalties and Fines:

FIRST OFFENSE: Warning by way of letter.

SECOND OFFENSE: \$25.00 fine and opportunity to have a hearing before the Board of Directors.

THIRD & SUBSEQUENT OFFENSES: \$50.00 fine per day or per month, depending on severity of offense, for non compliance.

The Association may assess the costs of collection and/or enforcement to an owner who is out of compliance with the Rules and Regulations, the Declaration of the Condominium, or the Condominium By-Laws. (Revised 6/1/11)

Owners disputing penalty/fine may request, in writing, a meeting with the Board of Directors to discuss resolution.”

31. On or about August 3, 2011, the Association initiated a lawsuit against Complainant and his wife in Minnesota state court, alleging that they willingly and unlawfully violated the Association’s rules by allowing their children, who are under the age of 18, to remain at the subject property. Respondents requested that Complainant and his wife be:

“1)...enjoined temporarily and permanently from causing or permitting children under the age of eighteen (18) to reside in or visit any unit in the 7000 Sandell Condominium for the remainder of calendar year 2011; and 2) ...enjoined temporarily and permanently, from causing or permitting children under the age of eighteen (18) to reside in or visit any unit in the 7000 Sandell Condominium building for more than thirty (30) days in calendar year 2012 or thereafter.”

32. Respondents have imposed fines and charged Complainant for legal fees related to Complainant’s minor children living at the subject property. As of September 2012,

Complainant's amount due was \$8,290.50, approximately \$7,948.50 of which represents a forward balance of legal fees and penalties.

33. Respondents have failed to adhere to requirements necessary to qualify for the Housing for Older Persons Act exemption as set forth at §3607(b)(2)(C) of the Act. Specifically, Respondents failed to properly publish and adhere to policies and procedures which demonstrate an intent to operate as housing for persons 55 years of age or older, including the failure to conduct regular age verification to insure that units were occupied by at least one individual aged 55 or older in compliance with 42 U.S.C. §3607(b)(2)(C), 24 C.F.R. §§ 100.304 – 100.307.
34. On information and belief, Respondents failed to post any signage identifying the subject property as housing for older persons until in or around 2011, when Respondent New Concepts posted, inside the building, two identical small brass-colored signs located at each side of the split entrance near the residents' mail boxes that read:

7000 Sandell Condominium Association Inc.  
A Community of Residents  
55 Years of Older
35. At no time during the marketing of the subject property during the time periods relevant to this Charge, or before Complainant moved into the subject property, did Respondents consistently screen prospective purchasers and/or renters to determine whether at least one family member age 55 or older resided in 80% or more of the households at the subject property.
36. At no time relevant to this Charge did Respondents consistently and uniformly enforce age verification procedures at the subject property.
37. At no time relevant to this Charge, or before Complainant moved into the subject property, did Respondents conduct surveys, and/or complete affidavits in order to verify that at least one household member occupying units at the subject property was 55 years of age or older in 80% or more of the units at the subject property.
38. At no time relevant to this Charge did the subject property qualify as a housing for persons who are 55 years of age or older, or qualify under any other exemptions relating to housing for older persons, pursuant to 42 U.S.C. § 3607(b) and 24 C.F.R. Sections 100.300-100.307.

#### D. Legal Allegations

39. By forbidding Complainant to reside with his minor children at the subject property because of the existence of Respondent Association's rules restricting children under the age of 18, Respondents unlawfully subjected Complainant to discriminatory terms and conditions based on familial status in violation of 42 U.S.C. § 3604(b) of Act.

40. By making, printing and/or publishing Respondent Association's rules restricting and/or imposing a limitation on children under the age of 18 from residing at the subject property, sending Complainant letters directing him to comply with said discriminatory policy and threatening adverse action for failure to comply, and initiating a lawsuit against Complainant and his wife based on their violation of said discriminatory policy, Respondents unlawfully made discriminatory statements indicating a limitation upon or discrimination against families with children with respect to the sale and/or rental of a dwelling in violation of 42 U.S.C. § 3604(c) of the Act.
41. By forbidding Complainant to live with his minor children at the subject property, Respondents interfered with Complainant's exercise of his right to live free from discrimination with his minor children in violation of 42 U.S.C. § 3617 of the Act.
42. Complainant, his wife, [REDACTED] and their two minor children are "aggrieved persons" within the meaning of 42 U.S.C. § 3602(i), and as a result of Respondents' discriminatory conduct as described above, Complainant and his family have suffered damages, including, but not limited to, economic loss, substantial inconvenience, stress, and emotional distress.
43. Complainant and, especially his wife, have been experiencing increased levels of stress. Complainant's wife has felt "very upset" after interactions she has had with Board members concerning her minor children. Complainant stated that he believes his youngest son feels "intimidated" by hostile interactions he has had with neighbors at the subject property because of the age restriction policy. Respondents' actions have also caused Complainant's wife to experience difficulties sleeping.
44. As a result of Respondents' discriminatory housing practices, Complainant has had to retain an attorney, incurring approximately \$5,500 in legal fees, to date. He has also been assessed fines, penalties and attorneys' fees by Respondents.

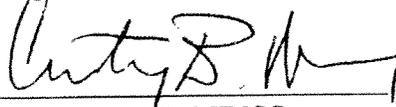
### **III. CONCLUSION**

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Regional Counsel, Region V, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondent Association, Respondent New Concepts, and Respondent Bozonie with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(b), § 3604(c) and § 3617 of the Act and requests 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, and successors, and all other persons in active concert or participation with any of them, from discriminating because of familial status, against any person in any aspect of the rental or sale of a dwelling;

3. Awards such monetary damages as will fully compensate Complainant and his family;
4. Assesses a civil penalty of sixteen thousand dollars (\$16,000) against each Respondent for his or her violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

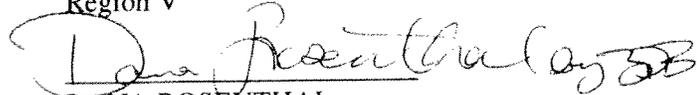
Respectfully submitted,



COURTNEY B. MINOR  
Regional Counsel for the Midwest  
Region V



LISA M. DANNA-BRENNAN  
Associate Regional Counsel for Litigation,  
Region V



DANA ROSENTHAL  
Trial Attorney  
U.S. Department of Housing  
and Urban Development  
Office of the Regional Counsel  
for the Midwest  
77 West Jackson Boulevard, Room 2633  
Chicago, Illinois 60604-3507  
PHONE: (312) 913-8614/ FAX: (312) 886-4944

Date: 9-28-12