

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 the Fair	:	
Housing Council of Suburban	:	
Philadelphia,	:	ALJ #
	:	
Charging Party,	:	
	:	
v.	:	FHEO No. 03-11-0288-8
	:	
The Blue Valley Times; Blue	:	
Valley Times Publishing, Inc.; and	:	
Michael Ortoski,	:	
	:	
Respondents	:	

CHARGE OF DISCRIMINATION

I. JURISDICTION

The Fair Housing Council of Suburban Philadelphia (“Complainant”) submitted a timely complaint with the United States Department of Housing and Urban Development (“HUD”) on or about May 18, 2011, alleging that Blue Valley Times; Blue Valley Times Publishing, Inc.; and Michael Ortoski¹ (collectively, the “Respondents”) committed discriminatory housing practices against families with children in violation of the Fair Housing Act, 42 U.S.C. §§ 3601-19 (the “Act”). The Complainant, a non-profit fair housing organization, alleged that the named Respondents published discriminatory advertisements indicating a preference against families with children.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and 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 that authority to the General Counsel

¹ The complaint was amended on September 1, 2011, to name Michael Ortoski as a Respondent.

(76 Fed. Reg. 42462 (July 18, 2011)), who has redelegated that authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Fair Housing and Equal Opportunity Director for Region III, the Assistant Secretary's designee, has made a determination that reasonable cause exists to believe that discriminatory housing practices have occurred (the "Determination of Reasonable Cause") and, therefore, has authorized the issuance of this Charge.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and as set forth in the aforementioned Determination of Reasonable Cause, Respondents are charged with discriminating based on familial status in violation of 42 U.S.C. § 3604(c).

A. Statutory and Regulatory Provisions

1. It is unlawful to publish advertisements with respect to the rental of a dwelling that indicate 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(a) and (c)(1) (2011).
2. "Familial status" means one or more individuals under the age of eighteen (18) being domiciled with a parent or legal guardian. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20 (2011).

B. Parties and Properties

1. At all times pertinent to this Charge, the Fair Housing Council of Suburban Philadelphia is a private, non-profit organization working to eliminate housing discrimination. The organization's stated mission is to educate and advocate for equal access to quality, affordable housing for all persons in Southeast Pennsylvania without regard to race, color, religion, national origin, disability, gender or familial status.
2. At all times pertinent to the Charge, Respondent Michael Ortoski owns and manages Blue Valley Times Publishing, Inc., and *Blue Valley Times*, a newspaper with a weekly readership of over 20,000 which publishes classified advertisements for the sale and rental of houses, mobile homes, and apartments.
3. At all times pertinent to the Charge, Respondent Blue Valley Times Publishing, Inc., publishes *Blue Valley Times*.

C. Factual Allegations

1. On November 17, 2010, Complainant received a phone call from a woman who had observed discriminatory rental advertisements in *Blue Valley Times*. The woman explained that she was seeking housing for herself, her husband, and her three-year-old son, and that she had been discouraged from applying for available units by rental advertisements in *Blue Valley Times* indicating that children were not permitted or preferred.
2. In response to this phone call, Complainant viewed *Blue Valley Times*'s current and archived classified advertisements, and continued to monitor the classified advertisements in *Blue Valley Times* for several months. Complainant observed each of the advertisements described below.
3. Respondents published an advertisement in the classified section of *Blue Valley Times* on August 10, 2010, August 17, 2010, and August 24, 2010 which contained the phrase "No children or pets."
4. Respondents published advertisements in the classified section of *Blue Valley Times* on October 12, 2010; October 19, 2010; October 26, 2010; November 2, 2010; January 11, 2011; January 18, 2011; January 25, 2011; February 1, 2011; March 22, 2011; March 29, 2011; April 5, 2011; and April 12, 2011, which contained the phrase "Mature individual or couple."
5. Respondents published an advertisement in the classified section of *Blue Valley Times* on October 26, 2010 which contained the phrase "2 occupants only."
6. As a result of Respondents' discriminatory actions, Complainant expended significant time and resources. Complainant conducted a thorough investigation of Respondents' housing advertisements, which required strategic planning and regular monitoring of the *Blue Valley Times* classified section. The resources expended in this investigation were diverted from Complainant's other fair housing advocacy and educational programs.
7. Complainant launched education and outreach efforts specifically designed to counteract the damage caused by Respondents' discriminatory actions. Complainant devoted staff time and monetary resources to develop a campaign, which included publishing a newspaper advertisement, to inform local residents that excluding families with children from housing violates the Fair Housing Act.

D. Fair Housing Act Violations

1. By publishing advertisements which contained language that indicated a preference, limitation, or discrimination based on familial status, such as "No

children or pets” and “Mature individual or couple,” Respondents violated 42 U.S.C. § 3604(c) and 24 C.F.R. §§ 100.75(a) and (c)(1).

III. CONCLUSION

WHEREFORE, the Secretary of HUD, through the Office of Regional Counsel for the Philadelphia Regional Office, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 (c), and prays that an order be issued that:

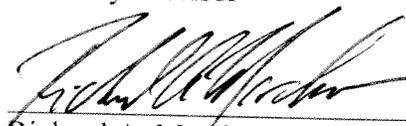
1. Declares that Respondents’ discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;
2. Pursuant to 42 U.S.C. § 3612(g)(3), enjoins Respondents and all other persons in active concert or participation with them, from publishing advertisements which contain language that indicates a preference, limitation, or discrimination based on familial status;
3. Pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(a)(1), assesses a civil penalty against each Respondent for each violation of the Act;
4. Pursuant to 42 U.S.C. § 3612(g)(3), awards such damages as will fully compensate FHCSF for the diversion of its resources and out-of-pocket expenses devoted to investigating and addressing the matter and frustration of its organizational mission.

The Secretary further prays for such additional relief as may be appropriate.

Respectfully submitted,



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