

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

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| The Secretary, United States | : | |
| Department of Housing and Urban | : | |
| Development, on behalf of the Fair | : | |
| Housing Council of Suburban | : | |
| Philadelphia, | : | |
| | : | |
| Charging Party, | : | |
| | : | |
| v. | : | FHEO No. 03-11-0212-8 |
| | : | |
| Young Kim, Kwang Kim, and | : | |
| Margaret Kim, | : | |
| | : | |
| | : | |
| Respondents | : | |
| | : | |

CHARGE OF DISCRIMINATION

I. JURISDICTION

The Fair Housing Council of Suburban Philadelphia (“FHCSF” or “Complainant”) submitted a timely complaint with the United States Department of Housing and Urban Development (“HUD”) on or about March 25, 2011, alleging that Young, Kwang, and Margaret Kim (“Respondents”)¹ 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 made discriminatory statements indicating a preference against families with children and refused to rent to families with children.

The Act authorizes the issuance of a Charge of Discrimination (“Charge”) on behalf of an aggrieved person following an investigation and determination that reasonable cause exists to believe that discriminatory housing practices have occurred. 42 U.S.C. §§ 3610(g)(1) and (2). The Secretary has delegated to the General Counsel (74 Fed. Reg. 62802 (Dec. 1, 2009)), who retains and redelegates to the Regional Counsel

¹ The complaint was amended on June 20, 2011, to name Young and Margaret Kim as Respondents.

(74 Fed. Reg. 62804 (Dec. 1, 2009)), the authority to issue such a Charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity (“the Assistant Secretary”) or his or her designee.

The Fair Housing and Equal Opportunity Director for Region III, the Assistant Secretary’s designee, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred 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 against the Complainant based on familial status in violation of 42 U.S.C. §§ 3604(a) and (c).

A. Statutory and Regulatory Provisions

1. It is unlawful to refuse to rent or otherwise make unavailable or deny a dwelling to any person because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a) and (b)(2) (2011).
2. It is unlawful to make statements 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), (c)(1) and (2) (2011).
3. “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, FHCSF 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. The property at issue is 108 North Aberdeen Avenue, Wayne, Pennsylvania, which consists of a commercial business and two apartments (“subject property”).
3. At all times pertinent to the Charge, Respondents Young and Kwang Kim owned the subject property.

4. At all times pertinent to the Charge, Respondent Young Kim was responsible for lease agreements, policy creation, and rental property oversight for the subject property. At all times pertinent to the Charge, he used the email address kimbike@aol.com.
5. At all times pertinent to the Charge, Respondent Kwang Kim provided prospective tenants with property information and apartment tours.
6. At all times pertinent to the Charge, Respondent Margaret Kim posted rental advertisements for the subject property, at the direction of her parents, on craigslist.com.

C. Factual Allegations

August Advertisements and Testing

1. On July 30, 2010, Respondent Margaret Kim, at the direction of Respondents Kwang and Young Kim, posted two advertisements on craigslist.com for apartments at the subject property. The advertisements provided the email address kimbike@aol.com and read as follows:

“\$980 / 2 br – 2 Bd R for rent (Wayne, PA)
2 bed room w/ kitchen/dining, full bath, living room,
including water, gas, electric, heating and private parking
on 2nd fl of a house, for 2 upper class college students.
None smoker, no pets/ children. Available 9/1/2010.
Convenient area in middle of Wayne, Pa. \$980/m, call
610-688-6006”

“\$660 / 1 br – 1 Bd R for Rent (Wayne, PA)
1 bed room on 3rd fl of a house, w/ kitchen/dining/living,
full bath, including water, gas, electricity, heating and
private parking, located very convenient middle of Wayne,
Pa for a upper middle class student, no pets/children, no
smoker. Available mid-October, \$660/m. call 610-688-
6006”

2. On August 2, 2010, [REDACTED], Complainant’s Test Coordinator, viewed these advertisements and noted that they contained the discriminatory phrase “no pets/children.” In response to these advertisements, [REDACTED] prepared a testing campaign with four match-paired tests.

Test #1

1. Test #1, Tester #1 posed as a single mother of one four-year-old child. On August 2, 2010, she called (610) 688-6006 to inquire about the advertised

apartments and spoke to Respondent Kwang Kim. When Tester #1 indicated that she had a child, Respondent Kwang Kim asked how old the child was and told Tester #1 that she would have to watch the child at all times. On August 5, 2010, Tester #1 visited the subject property. That day, Respondent Kwang Kim told Tester #1 that her husband did not think the apartment was “convenient” for children because it was on the second floor, and that her husband didn’t think it was safe for children to run up and down the stairs. Respondent Kwang Kim also asked Tester #1 whether she was a single parent and “what happened.” When Tester #1 asked whether she should call Respondent Kwang Kim’s husband to discuss renting the apartment, Respondent Kwang Kim stated that her husband would say that the apartment was not convenient for children.

2. Test #1, Tester #2 posed as a student living with her husband. On August 9, 2010, she sent an email to kimbike@aol.com to inquire about the advertised apartments. She received a reply asking if she was a student, and stating that if she was a student, she should call (610) 688-6006. When Tester #2 responded and indicated that she was a student but that her husband was not, she received an email from kimbike@aol.com that stated: “This is not for a family, single students, sorry.”

Test #2

1. Test #2, Tester #1 posed as a single mother of a seven-year-old child. On August 8, 2010, Tester #1 sent an email to kimbike@aol.com. She inquired about the advertised apartments and indicated that she was seeking housing for herself and her seven-year-old son. Tester #1 received an email reply which stated: “This is for students, not for a family, sorry.”
2. Test #2, Tester #2 posed as a married woman. On August 9, 2010, she sent an email to kimbike@aol.com inquiring about the advertised apartments. On the same day, Tester #2 received a reply email which stated: “Are you a student? If so, please call 610-688-6006.”

Test #3

1. Test #3, Tester #1 posed as the single mother of a five-year-old child. On August 17, 2010, she called (610) 688-6006 and spoke with a woman. When Tester #1 explained that she was looking for an apartment for herself and her child, the woman stated that the advertised apartments would not be convenient for children because of the stairs. The woman then said “Okay, thanks,” and attempted to end the phone call. Tester #1 stated that her child might move in with the child’s father, and asked the woman if she could see the apartment. The woman told her that she could call to make an appointment to view the apartment.

2. Test #3, Tester #2 posed as a single female college student with a roommate who was also a college student. On August 19, 2010, she called (610) 688-6006 and spoke with a woman. When Tester #2 identified herself as a Cabrini College student, the woman said that that was “good” and mentioned that she liked good students and that “some funny stuff” had happened before. The woman described the two-bedroom apartment and offered to show it to Tester #2.

Test #4

1. Test #4, Tester #1 posed as a single mother of a four-year-old child. On August 25, 2010, she sent an email to kimbike@aol.com inquiring about the advertised apartments, and indicated that she was seeking housing for herself and her child. Later that day, Tester #1 received a reply email that said: “Sorry young children not allowed.”
2. Test #4, Tester #2 posed as a college student with a college student roommate. On August 27, 2010, Tester #2 sent an email to kimbike@aol.com inquiring about the advertised apartments, and identified herself and her roommate as college students. On the same day, she received a reply email stating that the two-bedroom apartment would be available in September, and telling her to call (610) 688-6006 for details. On September 1, 2010, Tester #2 called (610) 688-6006 and spoke with a woman. The woman stated that the two-bedroom apartment was available, and was a “nice place for students, all students, only students.”

September Advertisement

1. On September 8, 2010, Margaret Kim, at the direction of Respondents Kwang and Young Kim, posted another advertisement for the two-bedroom apartment at the subject property on *craigslist.com*. The advertisement read as follows:

“\$980 / 2 br – \$980/mo, 2BR (Wayne, PA)
2 BR apt. on 2nd fl of a house located in middle of Wayne, Pa. including all utilities, water, electricity, gas, heat & private parking. Ideal for upper class college students. Convenient location for everything, grocery, train, shopping, etc. None smoker, no pets and / or children. Now available for viewing, for details, please call 610-688-6006.”
2. On September 8, 2010, [REDACTED], Complainant’s Test Coordinator, viewed the advertisement.

Complainant's Injury

1. 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, regular monitoring of *craigslist.com* advertisements, and testing. The resources expended in this investigation were diverted from Complainant's other fair housing advocacy and educational programs.
2. 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 a newspaper advertisement, to inform local residents about familial status protections under the Act.

D. Fair Housing Act Violations

1. By enacting a policy of not renting to families with children, and refusing to rent to testers with children, Respondents violated 42 U.S.C. § 3604(a) and 24 C.F.R. §§ 100.60(a) and (b)(2) (2011).
2. By publishing advertisements which contained the language "no pets/children" and "no pets and/or children", and by making oral and written statements indicating an unwillingness to rent to testers with children, Respondents violated 42 U.S.C. § 3604(c) and 24 C.F.R. §§ 100.75(a), (c)(1) and (2).

III. CONCLUSION

WHEREFORE, the Secretary of HUD, through the Office of 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(a) and (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 discriminating against any person based on familial status in any aspect of a rental transaction;
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 FHCSP 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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