

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)
██████████,)
and her minor child,)
Charging Party,)
)
v.)
)
Kacy Grotjan, Creek Point LP,)
Picerne Development Corporation, and)
Picerne Creek Point, LLC,)
Respondents.)
)
_____)

FHEO No. 06-11-0259-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about November 23, 2010, ██████████ (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Kacy Grotjan and Creek Point LP violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by discriminating based on familial status, in violation of 42 U.S.C. § 3604(b). On November 23, 2010, the Texas Workforce Commission Civil Rights Division (TWCCRD), a substantially equivalent agency, received the complaint from HUD for investigation. On July 18, 2011, HUD reactivated the complaint from the TWCCRD for processing.

On August 26, 2011, Complainant amended her complaint to identify her daughter, ██████████, as an aggrieved person as defined under the Act, and to identify Creek Point LP as the owner of Creek Point Apartments, Picerne Development Corporation as the management company of Creek Point Apartments, and Picerne Creek Point, LLC, as the general partner of Creek Point LP. The amended complaint also removed an 804(a) allegation and added an 804(c) allegation. Finally, the amended complaint also updated the name of the respondents' counsel, which is James T. Muska at Hoover Slovacek LLP.

The Act authorizes the issuance of a Charge of Discrimination (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 retained and redelegated to the Regional Counsel (73 Fed.Reg. 68442) 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.

By determination of reasonable cause on September 23, 2011, the Office of Fair Housing and Equal Opportunity Region VI Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has 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 Determination of Reasonable Cause, Respondents Kacy Grotjan, Creek Point LP, Picerne Development Corporation, and Picerne Creek Point, LLC, are charged with discriminating against Complainant [REDACTED], and her minor child, [REDACTED], both aggrieved persons as defined by 42 U.S.C. § 3602(i), based on familial status, in violation of 42 U.S.C. § 3604(b) and (c) as follows:

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of 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).
2. It is unlawful to make, print or publish any statement or advertisement with respect to the sale or rental of a dwelling 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).
3. "Familial status" is defined by the Act as one or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another person having legal custody of such individual or individuals. 42 U.S.C. §3602(k).
4. At all relevant times, Complainant [REDACTED] was the mother of thirteen year old [REDACTED]. Beginning on or around March 4, 2010, Complainant and her daughter resided in apartment 823 at the subject property, Creek Point Apartments, [REDACTED], McKinney, Texas, 75069.
5. Complainant [REDACTED] and her daughter are "aggrieved persons," as defined by 42 U.S.C. §3602(i), and enjoy familial status protection under the Act.
6. The subject property, Creek Point Apartments, is a 200-unit low-income tax-credit-affordable housing complex, ranging from one- to three-bedroom units.

7. At all relevant times, Respondent Creek Point LP owned Creek Point Apartments. At all times relevant to this Charge, Respondent Picerne Creek Point LLC was the general partner of Respondent Creek Point LP.
8. At all relevant times, Respondent Picerne Development Corporation managed Creek Point Apartments.
9. At all relevant times, Respondent Kacy Grotjan was the on-site manager for Creek Point Apartments and was employed by Respondent Picerne Development Corporation.
10. In or about March 2010, Complainant and all residents of Creek Point Apartments received a notice from Respondents that established a policy wherein children under the age of 16 years could not be outside unsupervised. The notice stated, in part,

NO LONGER ARE CHILDREN UNDER THE AGE OF 16 ALLOWED TO ROAM AROUND PROPERTY BY THEIRSELVES. WE ARE HAVING SEVERAL PROBLEMS WITH THIS ISSUE. THE KIDS ARE WRITING ON THE BUILDING WALLS, CURSING, KISSING BEHIND THE BUILDINGS, FIGHTING, HITTING CARS AND WINDOWS WITH FOOTBALLS, BEING IN THE FITNESS CENTER WITHOUT PARENT SUPERVISION, PLAYING IN THE STREETS WITHOUT MOVING WHEN CARS ARE COMING IN AND OUT OF THE PROPERTY ETC. THIS IS NO LONGER GOING TO BE A PROBLEM HERE AT CREEKPOINT. THIS DOES NOT MEAN THAT CHILDREN CAN BE WATCHED FROM WINDOWS AND BREEZEWAYS YOU MUST BE WITH YOUR CHILDREN AT ALL TIMES OUTSIDE. IF YOUR CHILD IS CAUGHT OUTSIDE WITHOUT A PARENT RIGHT BESIDE THEM YOU WILL BE GIVEN A FINE OF \$50.00 AND RENT WILL NOT BE ACCEPTED IF THIS IS NOT PAID IN FULL ASAP!

11. In a letter dated August 30, 2010, addressed to Creek Point residents, Respondents informed the residents that Creek Point Management was implementing a policy restricting children under the age of 18 years old from being allowed outside without adult supervision, thereby, increasing the minimum age allowed for unsupervised use of the subject property from 16 years to 18 years. Specifically, the pertinent part of the notice states,

As you know a few months ago we sent out letters stating that kids were not allowed outside without adult supervision unless they were 16yrs and up, as things mellowed down we were letting kids go back outside. Over the weekend office staff saw several kids nearly get hit by cars driving in etc. **This letter is to inform you that kids are not allowed back outside by themselves without adult supervision unless they are 18 years and older.** We apologize for any inconvenience this may cause you and your family. If children are caught outside unattended there will be a \$50.00 fine.

12. On at least one occasion, Respondent Kacy Grotjan told Complainant's daughter, [REDACTED], to go inside when she was found to be outside of their apartment without adult supervision. [REDACTED] stated that Respondent Kacy Grotjan told her that she and her cousin, [REDACTED], better go inside or Respondent Kacy Grotjan would fine their parents. [REDACTED] stated that her friend, fifteen-year-old [REDACTED], told her that his family got fined because of the policy.
13. From August 13, 2010, through September 17, 2010, at least nine residents received notices of lease violations for unsupervised children.
14. In or about October 2010, witness [REDACTED], Complainant's brother-in-law, wrote a letter advising Respondents that the current policy was illegal, citing cases in support of his position. Witness [REDACTED], requested a retraction of the policy by October 29, 2010. In response to this letter, Respondents' attorney did not offer to retract the unsupervised children policy.
15. Complainant decided not to renew her lease. Complainant informed an investigator from HUD that she decided to move because Respondent Kacy Gortjan made it impossible to live there. Complainant found the unsupervised children policy overly restrictive, and the policy partially formed the basis for her relocation. Respondents assessed a move-out charge of approximately \$500.
16. Complainant was not alone in filing a housing discrimination complaint against Respondents during this time. On November 4, 2010, [REDACTED] filed a housing discrimination complaint against Respondents on the basis of discrimination based upon familial status in violation of 42 U.S.C. § 3604(b) and (c). The [REDACTED] terminated their tenancy early because of the discriminatory practices they experienced at the subject property.
17. In the course of the investigation, a HUD investigator observed other restrictive policies for families with children concerning the subject property's amenities. The posted "Pool Rules" state, "No one under 16 years of age permitted in pool area without an adult." The posted "Fitness Rules" state, "Persons under 16 must be accompanied by an adult."
18. By subjecting Complainant to an overly restrictive policy that did not allow her minor daughter to leave their apartment without an adult present, and by threatening to charge a fine for any violation of said policy, Respondents subjected Complainant to more restrictive terms and conditions than tenants of the subject property who do not reside with minor children, in violation of 42 U.S.C. §3604(b) of the Act.
19. By verbally communicating to Complainant and her daughter that children were not allowed outside unless supervised by an adult, Respondents made

discriminatory statements that indicated a limitation or discrimination against families with children in violation of 42 U.S.C. § 3604(c).

20. By publishing discriminatory statements in notices and on amenity signs throughout the subject property that indicated a limitation or discrimination against families with children, Respondents violated 42 U.S.C. § 3604(c).
21. As a result of Respondents' discriminatory conduct, Complainant and her daughter have suffered significant damages, including, but not limited to economic loss, physical and emotional distress, substantial inconvenience, embarrassment and the loss of a housing opportunity.
22. As a result of Respondents' discriminatory conduct, Complainant had to keep her daughter inside the apartment. To avoid incurring a fine, Complainant would drive her daughter 10 minutes to the park when Complainant's daughter wanted to go outside. Complainant decided not to renew her lease, in part, because of the unsupervised children policy. Complainant's daughter felt embarrassed by Respondents' discriminatory actions.
23. As a result of Respondents' discriminatory conduct, Complainant lost a housing opportunity and suffered an inconvenience in having to move. Complainant was charged approximately \$500 in move-out fees by Respondent which have been referred to a collection agency. Complainant has experienced an increase in rent, paid a new security deposit, opened a new account for electricity, paid \$200 in moving expenses, and paid fees to transfer her utilities. Complainant took leave from work when she moved, and never received a refund for her security deposit from Creek Point Apartments. Moreover, Complainant's current apartment is now approximately 20 miles further from her employer than Creek Point Apartments was, thereby, increasing the cost, in terms of both time and money, expended on the commute.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents Kacy Grotjan, Creek Point LP, Picerne Development Corporation, and Picerne Creek Point, LLC, with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(b) and (c) of the Act, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents Kacy Grotjan, Creek Point LP, Picerne Development Corporation, and Picerne Creek Point, LLC, as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents Kacy Grotjan, Creek Point LP, Picerne Development Corporation, and Picerne Creek Point, LLC, 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 purchase or rental of a dwelling;

3. Awards such monetary damages as will fully compensate Complainant [REDACTED] and her child, [REDACTED]; and
4. Awards a \$16,000 civil penalty against each Respondent for violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

/S/

William J. Daley
Regional Counsel
Region VI

/S/

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Date: September 23, 2011