

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful for any person to make any statement with regard to the sale or rental of the dwelling that indicates any preference, limitation, or discrimination based on familial status, race, and/or national origin, or that indicates an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).
2. It is 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, any right granted or protected by Sections 803, 804, 805, or 806 of the Fair Housing Act. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b) and (c)(1-5).

B. PARTIES AND SUBJECT PROPERTY

3. The subject property is a two-story, two-family dwelling located at 74-76 Jackson Street, Ansonia, Connecticut.
4. The second-floor unit at the subject property is a three-bedroom unit.
5. At all times relevant to this action, Complainant Marisa Fragomeli and her husband, Frederick Fragomeli, owned a one half interest in the property at issue.
6. On July 15, 2009, the will of Frank A. Berlinger, deceased spouse of Respondent Jacqueline Berlinger, was admitted to probate, at which point his one half interest in the property passed to Respondent Berlinger.
7. Respondents Linda Thornberg and Diane Hunsaker are the adult daughters of Respondent Jacqueline Berlinger.
8. Complainant Marisa Fragomeli is the niece of Respondent Jacqueline Berlinger.

C. FACTUAL ALLEGATIONS

9. Before 2007, Complainant lived in the second-floor unit of the subject property and Respondent Berlinger lived in the first-floor unit.

10. Sometime during 2007, Complainant Fragomeli moved to South Carolina. Respondent Berlinger continued living in the first-floor unit.
11. Each of the three Respondents has at one time or another asserted to Complainant that it would be legally necessary for Respondent Berlinger to sign any lease involving the rental of the upstairs unit formerly occupied by Complainant.
12. Beginning in or around October 2009, Complainant hired Oakbridge Management and Construction, a rental property management company located in Seymour, Connecticut, to assist her in renting her unit. Bryan Nesteriak and Bernice Bakstis, employees of Oakbridge, assumed responsibility for finding prospective tenants and showing them the unit.
13. Sometime between late 2009 and early 2010, Oakbridge employee Mr. Nesteriak showed the apartment to a family with children.
14. Respondents Berlinger and Thornberg became aware that these prospective tenants had children. Respondent Thornberg then told Mr. Nesteriak that the noise made by the children of the prospective tenants would kill her mother, Respondent Berlinger.
15. Mr. Nesteriak then spoke to Respondent Berlinger, who stated that she did not want to rent to African-Americans or to families with children and that, furthermore, she did not want children using the property's backyard.
16. Mr. Nesteriak informed Respondent Berlinger and Respondent Thornberg that rental restrictions based on race or familial status were illegal.
17. During one showing of the unit in late 2009 or early 2010, Respondent Berlinger told a potential tenant who did not have children that she did not want to rent to a family with children.
18. In a January 25, 2010 letter to Complainant, Respondent Berlinger wrote that some of the people who have viewed the unit "are terrible – straight from Bridgeport."
19. According to the most recent census records, Bridgeport, Connecticut is a city whose population consists of over 50% African-American and Hispanic residents.
20. On or about February 5, 2010, a prospective tenant interested in renting the second-floor unit sent an email to Ms. Bakstis in which the tenant recounted a conversation she had with Respondent Berlinger, in pertinent part as follows:

I talked to [Respondent Berlinger] yesterday and she said she had to think about it. She said she didn't know if she would be happy with kids. She told me I was only allowed to shower once a day

and wash one load of clothes a day. She told me if my kids were fat they would have to go to bed early because of the noise.

21. On or about February 10, 2010, Respondents rejected the Diaz family, potential tenants with a four-year-old daughter, a fourteen-year-old son who resided with the family every other weekend, and a twenty-year-old son. Despite paying \$25.00 to have their credit checked and being told by Ms. Bakstis that they effectively had the apartment, at the direction of Respondents, Ms. Bakstis informed the Diaz family that the unit was no longer available.
22. Shortly after the rejection of these prospective tenants, Oakbridge Management suspended their efforts to rent the unit, and sent Complainant a \$496.00 bill for rental services rendered.
23. Ms. Bakstis informed Complainant that Oakbridge was suspending their rental efforts as a result of the discriminatory limitations imposed by Respondent Berlinger, who would not allow any family with children to rent the unit.
24. Based on the events set forth above, Complainant filed a complaint of unlawful discrimination under the Fair Housing Act with HUD on February 17, 2010.
25. On May 18, 2010, Complainant received a voicemail message from Respondent Thornberg stating that Respondent Berlinger had told her that she was willing to sign a lease with a prospective tenant, Charles, a 74-year-old man without children, but only on the condition that Complainant withdraw her HUD complaint and pay \$500 in compensation for attorney fees incurred by Respondent Berlinger as the result of the complaint.
26. On May 21, 2010, Complainant received a voicemail message from Respondent Thornberg reiterating the demand that Complainant withdraw the HUD complaint and pay attorney fees incurred by Respondent Berlinger.
27. In late 2009, Respondent Hunsaker left multiple voicemails for Complainant urging her to sell her interest in the property and stating that "you own a house with my mother, soon you'll be owning a house with me, so you want to consider this harassment, fine, sell us the house, be done with it, Marisa, just be done with it!"
28. On February 25, 2010 Respondents Hunsaker and Thornberg told a HUD investigator that they were "doing all the work" regarding the rental of the unit because of Respondent Berlinger's age.
29. At some point in early 2010, in a phone conversation with Complainant's husband Respondent Berlinger made a point of stating that Charles, the 74-year-old prospective tenant without children, is the only "American" who looked at the unit.

30. In early May of 2010, Charles signed a lease with Complainant and moved into the unit.
31. On May 28, 2010, and on May 30, 2010, Respondents Hunsaker and Thornberg, respectively, left messages for Complainant stating that eviction proceedings were going to be brought against the tenant, and that the objective of such proceedings would be to deny Complainant the benefit of rental payments in view of Complainant's filing with HUD.

D. FAIR HOUSING ACT VIOLATIONS

32. Respondent Berlinger's statements to Oakbridge employees and potential tenants regarding her desire to rent to families without children violated Section 804(c) of the Act by indicating a "preference, limitation, or discrimination based on familial status . . ." 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).
33. Respondent Berlinger's statements regarding African-American and non-American prospective applicants for the unit violated Section 804(c) of the Act by indicating a "preference, limitation, or discrimination based on race and/or national origin. . . ." 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).
34. Respondents Berlinger, Hunsaker, and Thornberg's statements to Mr. Nesteriak, Ms. Bakstis, and the Complainant violated Section 818 of the Fair Housing Act through coercion, intimidation, and interference with the Complainant's attempts to lawfully rent the subject property. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(c).
35. Respondents Hunsaker and Thornberg's statements threatening to refuse to rent the unit unless and until Complainant withdrew her complaint with the Department and reimbursed attorney fees to Respondent Berlinger constituted retaliation for filing a complaint in violation of Section 818 of the Fair Housing Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(c)(5).
36. Respondent Berlinger is vicariously liable for Respondents Hunsaker and Thornberg's actions as they were acting as Respondent Berlinger's agents in communications with Complainant and the Oakbridge employees regarding the unit.
37. As a result of the Respondents' conduct, Complainant has suffered damages, including emotional distress and economic loss.

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. § 3610(g)(2)(A),

hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(c) and 42 U.S.C. § 3617, and prays 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. §§ 3601-3619;
2. Enjoins the Respondents from further violations of 42 U.S.C. §§ 3604(c) and 3617 of the Act;
3. Awards such damages as will fully compensate Complainant for the economic loss and emotional distress caused by the Respondents' discriminatory conduct;
4. Awards a civil penalty against Respondents for each violation of the Act pursuant to 42 U.S.C. § 3612(g)(3);
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,



Miniard Culpepper
Regional Counsel for New England



Abraham Jack Brandwein
Associate Regional Counsel for
Fair Housing



Christopher C. Ligatti
Attorney



Eric D. Batcho
Of Counsel

Office of Regional Counsel
Department of Housing and Urban Development
10 Causeway St., Rm. 310
Boston, MA 02222
(617) 994-8250

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