

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,)
Suleyman Uludag, Ziyneti Uludag)
and their minor child Mehmed Uludag)
(Aggrieved Person))
)
Charging Party,)
)
vs.)
)
Draper and Kramer, Incorporated,)
1130 South Michigan Partnership, an)
Illinois Limited Partnership, D&K 1130)
South LLC, DKIA 1130 South LLC, and)
FC Ford LLC.)
)
Respondents.)
_____)

HUDALJ No.
FHEO No.: 05-04-1358-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about September 22, 2004, Complainant Suleyman Uludag filed a verified complaint with the U.S. Department of Housing and Urban Development (“HUD”), alleging that Respondents, Draper and Kramer, Incorporated and Kellee Laarveld, violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (“the Act”), by discriminating based on familial status. 42 U.S.C. § 3604 (b). On or around November 2, 2005, the complaint was amended to include additional allegations of discrimination under 42 U.S.C. § § 3604 (a) and (c). The complaint was also amended to add additional parties, including Complainant Ziyneti Uludag and their minor child, Mehmed Uludag, as an aggrieved person, Respondent 1130 South Michigan Partnership, an Illinois Limited Partnership (“1130 LP”) and Respondents D&K 1130 South LLC, DKIA 1130 South LLC and FC Ford LLC, the general partners of Respondent 1130 LP.

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 (54 Fed.Reg.13121), who has redelegated to the Regional Counsel (67 Fed.Reg 44234), 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 Director of the Office of Fair Housing and Equal Opportunity for Region V, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause¹ 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 OF DISCRIMINATION

Based on HUD's investigation of the allegations contained in the aforementioned complaint, and the aforementioned Determination of Reasonable Cause, Respondents are charged with discriminating against Complainants, based on familial status, in violation of § 3604 (a) of the Act as follows:

1. It is unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of familial status. 42 U.S.C. § 3604 (a).
2. The Act defines "familial status" 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).
3. The subject property is located at 1130 South Michigan Avenue, in Chicago, Illinois ("subject property"). The subject property consists of five hundred and seventy four (574) units, including eighty-two (82) studio units, four hundred and ten (410) one-bedroom units and eighty-two (82) two-bedroom units.
4. Respondent 1130 LP is the owner of the subject property. Respondent 1130 LP consists of three general partners, namely, Respondents D&K 1130 South LLC, DKIA 1130 South LLC and FC Ford LLC. The business address for Respondent 1130 LP and its three general partners is 33 W. Monroe Street, 19th Floor, Chicago, Illinois 60602.
5. Respondent Draper and Kramer, Incorporated ("Draper and Kramer") is an Illinois Corporation and is the managing agent for Respondent 1130 LP. As the

¹ The Determination found reasonable cause to believe that Respondents discriminated against Complainants in violation of 42 U.S.C. § 3604 (a), but found no reasonable cause to believe Respondents discriminated against Complainants in violation of 42 U.S.C. § § 3604 (b) and (c). As a result, Respondent Kellee Laarveld, an agent of Respondent Draper and Kramer, was not named in the Charge of Discrimination, as HUD issued a no reasonable cause determination with regard to Complainants' § § 3604 (b) and (c) allegations.

managing agent, Respondent Draper and Kramer operates and manages the subject property.

6. From on or about August 2000, to at least August 2004, the following occupancy standard applied to the subject property:

Studios & Efficiencies[,] Not more than Two (2) occupants. One (1) Bedroom[,] Not more than Two (2) occupants. Two (2) Bedroom[,] Not more than Four (4) occupants, including not more than Three (3) adults. If the unit is to be occupied by Three (3) persons, Two (2) must be related. If the unit is to be occupied by Four (4) or more persons, Three (3) must be related.²

7. The subject property guidelines further provide, in pertinent part, “[n]otwithstanding anything contained herein to the contrary, if during the term of any existing lease, either (a) a child shall be born to Tenant of [sic] (b) a child under the age of one shall be adopted by Tenant, and as a result of such birth or adoption, the occupancy standard established above shall be violated, the Tenant shall not be required by Landlord to move or transfer to a larger unit in order to comply with the occupancy standard until the conclusion of the term of the then-existing lease; provided, however, that Tenant shall at all times satisfy all other obligations under the Lease and the Rules and Regulations applicable to the leased premises.”
8. At the time of the alleged incident of discrimination, Complainants Suleyman and Ziyneti Uludag (“Complainants” or “Uludags”) were the parents of an infant son, Mehmed Uludag. Complainants and their child enjoy familial status protection under the Act.
9. Prior to the allegations set forth in this complaint and prior to the birth of their son, in or around September 1999 through August 2001, the Uludags rented a unit at the subject property. Based on their previous residency at the subject property, the Uludags decided to return to the property, as they enjoyed their two-year residency there, and because the property was near the university where Complainant Suleyman Uludag was employed.
10. On or about April 3, 2004, the Uludags, along with their son, who was then five-months old, and Complainant Ziyneti Uludag’s parents, visited the subject property and inquired about renting a one-bedroom apartment to begin in or around September 1, 2004.³ The Uludags met with Anne-Elizabeth Dwyer (“Dwyer”), a rental agent for Respondent Draper and Kramer, who showed Complainants both a one- and two-bedroom unit.

² The occupancy policy can be found in Respondent Draper and Kramer’s “Residential Selection Criteria Guidelines for Draper and Kramer Managed Properties” (“guidelines”).

³ The Uludags planned to travel internationally that summer and were interested in reserving a one-bedroom unit with a lease beginning in or around September 2004.

11. During the showing, Dwyer asked Complainant Suleyman Uludag if everyone would be staying there, referring to Complainants, Complainants' son and Complainant Ziyneti Uludag's parents. Complainant Suleyman Uludag replied that the one-bedroom unit would be for him, his wife and their child. At that time, Dwyer informed Complainants that it would not be possible to rent to them because no more than two people were allowed in a one-bedroom unit.⁴ Complainant Suleyman Uludag informed Respondent Laarveld that he and his wife had previously resided in a studio and it did not "make sense" that no more than two people could reside in a one-bedroom unit. Dwyer responded by repeating the occupancy policy.
12. On or about August 31, 2004, the Uludags returned to the subject property to inquire about renting a one-bedroom unit for immediate occupancy. During this second visit, Dwyer again met with the Uludags. Upon seeing Complainants, Dwyer remembered the Uludags and asked them, "Didn't you come here in April, and didn't I refuse you?" or similar words to that effect. Dwyer asked the Uludags why they returned, and in response, Complainant Suleyman Uludag informed her that they wanted a copy of the occupancy policy stating that no more than two people are permitted in a one-bedroom unit. Dwyer left and returned with the Leasing Director, Kellee Laarveld, who provided Complainants with a copy of the occupancy policy. Complainants left after they received the written policy.
13. Upon information and belief, in or around August 2004, approximately seventeen one-bedroom units of various configurations were available for rent at the subject property. The investigation revealed that two or fewer occupants resided in all of the one-bedroom units at the subject property.
14. The investigation revealed that the one-bedroom units, which were available for rent on or about August 31, 2004, included units that ranged in size from 722 square feet, to 803 square feet of total floor area. In addition, each bedroom in the available one-bedroom units ranged in size from 174 square feet, to 198 square feet of floor area.
15. At all times relevant to this Charge, the City of Chicago Municipal Code at Section 13-196-490 (the "Code"), "Residential buildings – Space requirements – Sleeping rooms" provided in pertinent part, "[e]very room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age. For the purpose of this section a person under two years of age shall not be counted as an occupant." As a result, based on the Code requirements, a family of two adults and a nine-month old child could occupy a bedroom measuring 100 square feet of floor area. In

⁴ Dwyer informed Complainants that they would have to rent a two-bedroom unit; however, the one-bedroom unit was more affordable for Complainants' family.

addition, the Code at Section 13-196-480 also requires a minimum of 350 square feet of floor area for the entire unit for units housed by three occupants.⁵

16. Based on the Code requirements and the measurements provided for in paragraph 15, any of the available seventeen one-bedroom units were large enough to house Complainants' family under the City of Chicago Municipal Code.
17. The investigation revealed that the occupancy policy for the subject property was revised in or around August 1, 2000, to reflect the current policy of no more than two occupants per bedroom. Respondent Draper and Kramer's occupancy policy guidelines suggest that the newly implemented occupancy policy is "more stringent" than it had been previously.
18. The investigation revealed that Respondent Draper and Kramer enforced the occupancy policy without regard to the size of the unit, size of the bedrooms, or age of the residents, and failed to offer an explanation of why it implemented such a policy.
19. Upon information and belief, at the time of Complainants' second visit to the subject property in August 2004, of the total five hundred and seventy four apartments (574), only one family with a child resided at the subject property. The family, one adult and one child, resided in a one-bedroom unit (unit 2501).
20. The investigation revealed that after Respondent Draper and Kramer received notice of Complainant Suleyman Uludag's initial complaint, there was a sudden increase in the number of units leased to households with children. The investigation revealed that two additional one-bedroom units (units 2208 and 2310) were leased to households with one adult and one minor child. In addition, two two-bedroom units (units 803 and 1503)⁶ were also leased to households with minor children after September 2004.
21. Respondent Draper and Kramer's occupancy policy of no more than two persons per bedroom is unreasonable and more restrictive than the local occupancy code applicable to residential buildings in Chicago, Illinois, and the IPM under which a family of three could have lived at the subject property.
22. Complainants and their minor child are aggrieved persons as defined in 42 U.S.C. § 3602 (i), and have suffered damages as a result of Respondent Draper and Kramer's conduct.

⁵ The International Property Maintenance Code of 2003 ("IPM"), a model code adopted by numerous municipalities, requires a minimum of 150 square feet of floor area in bedrooms occupied by three occupants, and an additional 200 square feet of floor area in combined living and dining room areas in units housing three occupants.

⁶ Unit 803 was leased to a household of two adults and one minor child. Unit 1503 was leased to a household of one adult and two minor children.

23. Because of Respondent Draper and Kramer's discriminatory conduct, Complainant Uludags and their son have suffered damages, including lost housing opportunity, inconvenience and emotional distress. The Uludags were interested in the subject property as they had previously lived there for two years. The Uludags enjoyed living at the subject property very much as it was a clean, safe and convenient area to live in the city. Complainant Suleyman Uludag specifically desired the location of the subject property as it was near his employment. Complainant Suleyman Uludag rides his bike to work each day and this location provided for a close and safe bike route to his office. The unit the Uludags subsequently moved to was located on West Madison Street in the financial district area of the city. This location was much more congested and dangerous for Complainant Suleyman Uludag to ride his bike to and from work each day.
24. The location of the property was ideal for the Uludag family. The subject property had a health club with the membership fee included in the rent. The unit they resided at on West Madison also had a health club; however, the membership fee was not included in the rent and, as a result, the Uludags incurred an additional monthly expense in order to use the facilities. Furthermore, the Uludags enjoy going to the park approximately 3-4 times per week. The subject property was located across the street from Grant Park, which would have enabled the family to walk a short distance and enjoy the park at any time. However, the West Madison unit did not have a park nearby that the Uludag family could enjoy.
25. After residing at the West Madison address, the Uludags moved to a unit located in downtown Chicago on South Indiana. At this location, Complainant Suleyman Uludag's bike route was approximately three miles from his employment, as opposed to the subject property, which was only one mile from his office. In addition, while residing at the South Indiana address, Complainant Suleyman Uludag's bike route to and from work included riding past the subject property twice a day, which made it difficult for him as it reminded Complainant Suleyman Uludag of Respondent Draper and Kramer's discriminatory conduct each time he rode passed the subject property. Furthermore, while residing at the South Indiana address, which was located in an unsafe and less desirable area, the Uludags were woken up each night by security roaming the hallway in the middle of the night. Complainant Suleyman Uludag did not feel safe leaving his wife and child alone at home while he went to work.
26. By implementing its no more than two persons per bedroom policy, and by failing to take into consideration the size of the bedroom and unit, or the age of Complainants' child, Respondent Draper and Kramer's occupancy restriction excludes families with children and limits the ability of families with children to obtain housing of their choice, resulting in discrimination on the basis of familial status in violation of 42 U.S.C. § 3604 (a).

II. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of Regional Counsel, and pursuant to 42 U.S.C. § 3610 (g)(2)(A), hereby charges the Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 (a) and respectfully requests that this court enter an order that:

1. Declares that Respondent Draper and Kramer's discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. § § 3601-19 and its implementing regulations;
2. Enjoins each Respondent, its agents, employees, and successors, and all other persons in active concert or participation with any of them from discrimination because of familial status against any person in any aspect of the purchase or rental of a dwelling;
3. Requires Respondent Draper and Kramer to take into consideration other factors such as the size of the bedrooms and the size of the unit, the ages of children in the unit, the configuration of the unit, and other physical limitations of the housing when implementing their occupancy policy. See "Fair Housing Enforcement-Occupancy Standards Statement of Policy," 63 Fed. Reg. 70256-57 (Dec. 18, 1998);
4. Awards such damages as will fully compensate Complainants and their minor child, aggrieved persons, for their lost housing opportunity, inconvenience and emotional distress that was caused by Respondent Draper and Kramer's discriminatory conduct pursuant to 42 U.S.C. § 3604 (a); and
5. Assesses a \$6,000 civil penalty against each Respondent for violating the Act including making housing unavailable 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,

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