

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)
Andres Trujillo and Patricia Cruz)
Charging Party,)
)
v.)
)
Woodrow Guntharp and)
Ethel Guntharp,)
Respondents.)
_____)

FHEO No. 06-06-1219-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about August 22, 2006, Andres Trujillo (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Woodrow and Ethel Guntharp (Respondents) violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by discriminating based on disability, in violation of 42 U.S.C. § 3604(f). The complaint was amended on September 21, 2006, to correct Respondent Ethel Guntharp's name.

The Act authorizes the issuance of a Charge of Discrimination (Charge) 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 for Fair Housing Enforcement (67 Fed.Reg. 44234), the authority to issue such a Charge, following a determination of reasonable cause by HUD.

By determination of reasonable cause of May 1, 2007, the Director of the Office of Fair Housing and Equal Opportunity for Region VI, 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 disability, 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 complaint and the aforementioned Determination of Reasonable Cause, Respondents Woodrow and Ethel Guntharp are charged with discriminating against Complainants Andres Trujillo, and his mother, Patricia Cruz, aggrieved persons, based on disability in violation of 42 U.S.C. § 3604(f) of the Act as follows:

It is unlawful to discriminate in the rental, or to otherwise make unavailable or deny, a dwelling to a renter because of a disability of that renter. 42 U.S.C. § 3604 (f)(1)(A). It is unlawful to make an inquiry to determine whether an applicant for a dwelling has a disability or to make inquiry as to the nature or severity of a disability of such a person. 24 C.F.R. § 100.202(c).

2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling because of the disability of that person. 42 U.S.C. § 3604 (f)(2)(A).
- 3 Respondent Woodrow and Ethel Guntharp own the subject property and are located at 4944 Shenandoah Ave., Los Angeles, California 90056.
4. The Rock Creek Apartments, the subject property, is an apartment complex of 120 units located at 3135 Comanche Road N.E., Albuquerque, New Mexico 87107.
5. Complainant Andres Trujillo ("Complainant Trujillo") is an individual with a hearing-impairment who sought housing from Respondents Woodrow and Ethel Guntharp. Complainant was at all relevant times disabled as defined by the Fair Housing Act.
6. Complainant is also a beneficiary of the Housing Choice Voucher Program, also known as the Section 8 voucher program.
7. Complainant's mother, Patricia Cruz ("Complainant Cruz") has power of attorney of Complainant to assist him in securing housing.
8. On or about June 21, 2006, Complainant Cruz contacted the Rock Creek Apartments, via telephone, to inquire about availability for a one-bedroom apartment for her son and whether the landlord accepted Section 8 vouchers.
9. The person Complainant Cruz spoke with identified herself as Ethel and informed Complainant Cruz there were no one-bedroom units available, but there were two-bedroom units available. Respondent Ethel Guntharp offered to show Complainant Cruz a two-bedroom unit. Respondent Ethel Guntharp also informed Complainant Cruz they accepted Section 8 vouchers. Respondent Ethel Guntharp then asked where Complainant Trujillo was currently living.

Complainant Cruz informed her that Complainant Trujillo lived in public housing. Respondent Ethel Guntharp then asked why Complainant Trujillo was leaving public housing. Complainant Cruz explained to Respondent Ethel Guntharp that Complainant Trujillo was accepted into the Section 8 voucher program and thus, wanted to use it. Respondent Ethel Guntharp then asked why he was eligible for public housing to which Complainant Cruz responded Complainant Trujillo was disabled. Respondent Ethel Guntharp then inquired of Complainant Cruz what Complainant Trujillo's disability was. Complainant Cruz asked why Respondent Ethel Guntharp needed to know and Respondent Ethel Guntharp informed her she had a right to ask. Complainant Cruz then informed Respondent Ethel Guntharp that her son was deaf in one ear and partially deaf in the other ear.

10. Records revealed Respondents had three two-bedroom units available in June 2006 and no tenant was identified for one studio unit. The July 2006 rent roll indicated there were five vacancies: a one-bedroom unit, 2 two-bedroom units, and two studio units.
11. Complainants visited Rock Creek Apartments on or about June 22, 2006. Upon Complainant Cruz introducing Complainant Trujillo as her disabled son, Respondent Ethel Guntharp began to ask questions about Complainant Trujillo's disability. Specifically, Respondent Ethel Guntharp asked what the disability was and if he was bi-polar. Respondent Ethel Guntharp informed Complainant Cruz "they had a bi-polar there before and they did not want anyone there that was bi-polar."
12. Complainants did not request any modifications or accommodations for Complainant Trujillo's disability, which Respondents confirmed.
13. At all relevant times, Respondents acknowledge that they do not ask all applicants about their disability or whether an applicant can care for himself.
14. However, during Complainants' June 22, 2006, visit, Respondent Ethel Guntharp inquired whether Complainant Trujillo needed a ramp, whether he could live alone, and whether he was capable of taking care of himself. Complainant Cruz responded by saying Complainant Trujillo was deaf. Respondent Ethel Guntharp then inquired into whether Complainant Trujillo would need special equipment, such as lights for the doorbell.
15. Complainant Cruz asked to view the available two-bedroom apartment. Respondent Woodrow Guntharp indicated they would not show Complainants a unit. Although Complainant Cruz cannot recall the exact language Respondent Woodrow Guntharp used, she and Complainant Trujillo felt they were not welcome and would no longer be shown a unit, as evidenced by Respondent Woodrow Guntharp's conduct when he interrupted Respondent Ethel Guntharp's apology to Complainant Cruz for her inquiries about Complainant Trujillo disability. Respondent Woodrow Guntharp informed Complainant Cruz they do

not discriminate and that Complainants could sue him as he had been sued for millions before. Complainants took this as an indication they would not be shown a unit that day.

16. Complainants left the property without seeing a unit because they felt that an application for rental would be futile.
17. Respondent Ethel Guntharp does not deny inquiring into the nature and severity of Complainant Trujillo's disability.
18. By discriminating in the rental of a dwelling because of Complainant Trujillo's disability and by inquiring into the nature and severity of Complainant Trujillo's disability, Respondents discriminated against Complainants in violation of 42 U.S.C. § 3604(f)(1)(A).
19. By discriminating in the terms and conditions of the rental of a dwelling because of Complainant Trujillo's disability and by inquiring into the nature and severity of Complainant Trujillo's disability, Respondents discriminated against the Complainants in violation of 42 U.S.C. § 3604(f)(2)(A).
20. Because of Respondents Woodrow and Ethel Guntharp's discriminatory conduct, Complainants have suffered damages, including emotional distress, inconvenience, and loss of a housing opportunity. Complainant Trujillo was offended by Respondents' actions and felt ignored and belittled. In addition, Complainant Trujillo was forced to seek alternative housing at a higher price. Complainant Cruz was also offended and felt intimidated and uncomfortable by Respondents' conduct.

III. CONCLUSION

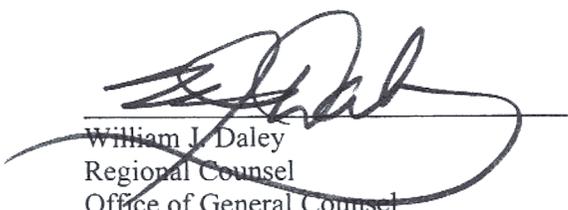
WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents Woodrow and Ethel Guntharp with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f) of the Act, and prays that an Order be issued that:

- 1 Declares that the discriminatory housing practices of Respondents Woodrow and Ethel Guntharp, as set forth above, violated the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents Woodrow and Ethel Guntharp, their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of disability against any person in any aspect of the purchase or rental of a dwelling;

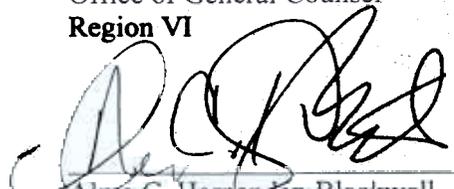
3. Directs Respondents Woodrow and Ethel Guntharp, their agents, employees, and successors to attend Fair Housing training;
4. Awards such damages as will fully compensate Complainant Andres Trujillo, an aggrieved person, for his damages, including compensation for economic loss and physical and emotional distress caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3604(f)(1)(A) and (f)(2)(A);
5. Awards such damages as will fully compensate Complainant Patricia Cruz, an aggrieved person, for her damages, including compensation for economic loss and physical and emotional distress caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3604(f)(1)(A) and (f)(2)(A); and
6. Awards a civil penalty against Respondents Woodrow and Ethel Guntharp for each violation of the Act committed, 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,



William J. Daley
Regional Counsel
Office of General Counsel
Region VI



Alma C. Hernández-Blackwell
Attorney-Advisor
U.S. Department of Housing
and Urban Development
Office of General Counsel
801 Cherry Street
PO Box 2905
Fort Worth, TX 76113-2905
Phone: (817) 978-5994
Fax: (817) 978-5563

5/1/07
Date