

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)
Wendy Clement and Montana Fair)
Housing, Inc.,)
)
Charging Party.)
)
v.)
)
Donald A. Bedford and)
Joan K. Bedford.)
)
Respondents.)
)
_____)

HUD ALJ No.
FHEO No. 08-06-0199-8

CHARGE OF DISCRIMINATION

I. **JURISDICTION**

On or about June 1, 2006, the complainants, Wendy Clement (“Complainant Clement”) and Montana Fair Housing, Inc. (“Complainant MFH”) filed verified complaints with the United States Department of Housing and Urban Development (the “HUD Complaints”), alleging that Respondents Donald A. Bedford and Joan K. Bedford (“Respondents”) violated the Fair Housing Act as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (the “Act”), by refusing to rent based upon familial status and discriminatory statements in violation of 42 U.S.C. §3604.

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 re-delegated 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 Office of Fair Housing and Equal Opportunity Region VIII 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 Donald A. Bedford and Joan K. Bedford are charged with discriminating against Complainants Wendy Clement and Montana Fair Housing, Inc., aggrieved persons as defined by 42 U.S.C. §3602(i), based on familial status in violation of 42 U.S.C. §§3604(a) and (c) of the Act as follows:

1. It shall be unlawful to refuse to sell or rent after making 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 race, color, religion, sex, familial status, or national origin. 42 U.S.C. §3604(a); see also 24 C.F.R. §100.60.
2. It shall be unlawful to make, print, or publish, or cause to be made printed, published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling unit that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. §3604(c); see also 24 C.F.R. §100.75.
3. At all times relevant to this Charge, Respondents Donald A. Bedford and Joan K. Bedford were the owners and managers of the property located at 1100 Grand Drive, Bigfork, Montana 59911 ("subject property").
4. The subject property is an eight-unit apartment building with four ground floor units and four upper floor units. Each unit has two bedrooms and one bathroom and the Respondents occupy two of the eight units.
5. As of March 31, 2006, the complex had five occupied units containing adult tenants. At that time, no children or families with children resided at the subject property. No families with children had resided at the subject property since 2002, and no families with teenage children had resided at the subject property since 1998.
6. At all times relevant to this Charge, Wendy Clement and Montana Fair Housing were the Complainants. Wendy Clement ("Complainant Clement" or "Clement") is a single mother residing with her teenage daughter in the Bigfork, Montana area. Montana Fair Housing ("Complainant MFH" or "MFH") is a non-profit organization committed to the prevention and elimination of housing discrimination in Montana. MFH serves the people of the State of Montana as well as those living in the Bigfork area by offering fair housing education, counseling, referral services, and/or enforcement (testing) activities.

7. On or about March 8, 2006, Complainant Clement called (406) 837-6148 in response to an advertisement appearing in a local newspaper, the *Advertiser*. The advertisement indicated the availability of a second floor, two-bedroom apartment for rent at \$500 per month. Complainant Clement called the number appearing in the advertisement and spoke to Respondent Joan Bedford. Respondent Joan Bedford indicated that a unit was available, and that they (Respondent Joan Bedford and her husband, Respondent Donald Bedford) were accepting applications.
8. At some point during their March 8, 2006 conversation, Respondent Bedford inquired as to whether the apartment would be just for Complainant Clement, or whether others would be residing in the unit. Complainant Clement indicated that her fifteen (15) year old daughter would be residing there as well.
9. Upon hearing that Complainant Clement's household included a teenage daughter, Respondent Joan Bedford indicated that teenagers like to have friends over and the building consisted of several older individuals who would not tolerate any noise. Respondent Joan Bedford then informed Complainant Clement that the *Bigfork Eagle*, a local newspaper, came out the next day and it would include rental advertisements that would better fit her needs.
10. On or about March 8, 2006, Complainant Clement contacted Montana Fair Housing, Inc. seeking their assistance as a victim of a discriminatory housing practice.
11. Based upon the information provided by Complainant Clement, MFH began investigating her claims, as well as the rental practices of the Respondents. As part of their investigation, MFH developed a test designed to determine if the Respondents were discriminating against families with children in violation of the Fair Housing Act.
12. On or about March 13, 2006, a tester under contract with MFH contacted Respondent Joan Bedford regarding the advertised apartment at the subject property. The tester indicated that she was interested in renting the apartment for herself, her husband, and her 14-year-old son. After learning of the tester's teenage son, Respondent Joan Bedford indicated that there were several retirement couples residing at the subject property, so that it must be very quiet and there cannot be any playing in the stairwells or balconies. Respondent then stated to the tester that she may "...want to look for a place a little less restrictive."
13. On or about March 17, 2006, the above tester again contacted Respondent Joan Bedford regarding the advertised unit at the subject property. Respondent Joan Bedford recalled the tester had previously contacted her and that the tester had a teenage son. During the conversation, Respondent Joan Bedford stated, "I think I told you that this complex is not suited to kids," or words to that effect. Respondent Joan Bedford further stated that the tester's teenage son would want to have his friends over and that they can get "pretty noisy." Respondent Joan Bedford encouraged the tester to look elsewhere and live somewhere her son "can play and run around

outside.” or words to that effect. Due to the tester’s insistence, Respondent Joan Bedford eventually agreed to show her the unit.

14. On or about March 18, 2006, the above tester contacted Respondent Joan Bedford for a fourth time to inform her that she had decided to look elsewhere. When the tester informed Respondent Joan Bedford that she had decided to look elsewhere, Respondent Bedford responded, “I’m sure that’s for the best. The last thing a teenager wants is a bunch of old fogies yelling at them to shut up.”
15. Respondents’ property does not meet the criteria to be an exempt property for housing for older persons. *See* 42 U.S.C. §3607(b)(2).
16. On or about March 8, 2006, when Respondent Joan Bedford informed Complainant Clement of her preference to not rent to families with teenagers and discouraged her from renting. Respondent made unavailable and/or denied a dwelling to families with children in violation of 42 U.S.C. §3604(a).
17. On or about March 8, 2006, when Respondent Joan Bedford informed Complainant Clement of her preference to not rent to families with teenagers by telling her that a local newspaper came out the next day that included rental advertisements that would better fit her needs, Respondent Bedford violated 42 U.S.C. §3604(c).
18. On or about March 13, 2006, when Respondent Joan Bedford informed a tester with a teenage child and under contract with Montana Fair Housing that the subject property was home to several retirement couples and that she would want to look for less restrictive housing opportunities, Respondent violated 42 U.S.C. §3604(a).
19. On or about March 13, 2006, when Respondent Joan Bedford informed a tester with a teenage child and under contract with Montana Fair Housing that the subject property was home to several retirement couples and that the tester would want to look for less restrictive housing opportunities, Respondent Bedford indicated a preference to not rent to families with teenage children in violation of 42 U.S.C. §3604(c).
20. On or about March 17, 2006, when Respondent Joan Bedford informed a tester with a teenage child and under contract with Montana Fair Housing that the subject property was not suited for children, Respondent Joan Bedford violated 42 U.S.C. §3604(a).
21. On or about March 17, 2006, when Respondent Joan Bedford informed the tester with a teenage child and under contract with Montana Fair Housing that the subject property was not suited for children. Respondent Joan Bedford indicated a preference to not rent to families with teenage children in violation of 42 U.S.C. §3604(c).
22. As a result of Respondents’ discriminatory conduct, Complainant Clement has suffered damages, including economic loss, loss of housing opportunities, and inconvenience.

23. As a result of Respondents' discriminatory conduct, Complainant MFH has suffered damages, including economic loss through diversion of its resources, and frustration of its mission to achieve equal housing opportunities. Complainant MFH incurred damages, including but not limited to, counseling costs, filing costs, investigation costs, testing costs, and other miscellaneous costs as a direct result of the Respondent's discriminatory conduct.
24. The Respondents' discriminatory conduct denied rental-housing opportunities to families with children and deprived Bigfork, Montana citizens of living in non-segregated communities.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) (2004) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of Section 3604(a) and (c) of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondent, as set forth above, violate the Fair Housing Act, as amended 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of familial status against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant Clement and Complainant MFH for their actual damages, inconvenience, and economic loss caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3604(a) and (c); and
4. Assesses a civil penalty against Respondents for each violation of the Act that the Respondents have 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) (2004).

Respectfully submitted,



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Date: March 29, 2007