

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

Secretary, United States Department of Housing)	
and Urban Development, on Behalf of Complainants)	
JoAnn Murphy and [REDACTED])	
)	
Charging Party)	HUD ALJ No.
)	FHEO No. 01-12-0228-8
v.)	
)	
Scott Walker & Premiere Real Estate, LLC)	
)	
Respondents)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On April 26, 2012, Complainants JoAnne Murphy and [REDACTED] filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Respondent Scott Walker, sole owner and employee of Respondent Premiere Real Estate, LLC, discriminated against them in violation of the Fair Housing Act ("the Act"), as amended. 42 U.S.C. Sections 3601-3619.

The Act authorizes the Secretary of HUD to issue 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), (2). The Secretary has delegated to the General Counsel, who has redelegated to the Regional Counsel, 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. 24 C.F.R. §§ 103.400, 103.405; 76 Fed.Reg. 42,463, 42,465 (July 18, 2011).

The Director of the Fair Housing Hub, Office of Fair Housing and Equal Opportunity for New England, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case, and has authorized the issuance of this Charge of Discrimination by the Regional Counsel. 42 U.S.C. §3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on 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 the Respondents with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to discriminate in the sale or rental, to refuse to negotiate for the sale or rental, or to otherwise make unavailable or deny, a dwelling to any person because of their status. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a), (b)(2).
2. 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. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).

B. PARTIES AND SUBJECT PROPERTY

3. The subject property is Unit B, a two-bedroom apartment, at 255 South Main Street, Concord, New Hampshire. Accordingly this property constitutes a dwelling under the Act. 42 U.S.C. § 3602(b).
4. At all times relevant to this action, Respondent Premiere Real Estate, LLC (“Respondent Premiere Real Estate”) owned the subject property.
5. At all times relevant to this action, Respondent Scott Walker (“Respondent Walker”) was the sole owner and sole employee of Respondent Premiere Real Estate.
6. The subject property is located above a commercial unit rented by Respondent Premiere Real Estate, LLC, to Premiere Properties, Inc., a corporation owned solely by Respondent Walker.
7. Complainant JoAnne Murphy (“Complainant Murphy”) is the mother of Complainant [REDACTED] who resides with her, and they are, therefore, members of a protected class based on familial status. 42 U.S.C. § 3602(k). Complainants meet the definition of aggrieved persons under the Act. 42 U.S.C. § 3602(i).

C. FACTUAL ALLEGATIONS

8. On April 4, 2012, Respondent Walker posted an advertisement on www.craigslist.com advertising the subject property for rent.
9. On April 4, 2012, Complainant Murphy emailed Respondent Walker expressing her interest in the property and her desire to view the property. Complainant was the first individual with a child to inquire about the property.
10. At 8:45 a.m. on April 5, 2012, Respondent Walker replied to Complainant Murphy by email, asking Complainant Murphy what she did for a living and who would be

living at the property. In this same 8:45 a.m. email, Respondent Walker stated that he could show the apartment on Saturday, April 7, 2012.

11. At 8:59 a.m. on April 5, 2012, Complainant Murphy sent a response to Respondent Walker's email explaining that she had just celebrated her tenth anniversary with a local technology company and that the occupants of the apartment would be herself and her [REDACTED]. Complainant Murphy further stated that she was available to view the apartment on Saturday and asked that Respondent Walker "let [her] know what time would be good."
12. Respondent Walker did not respond to Complainant Murphy's 8:59 a.m. email of April 5, 2012.
13. A day and a half later, at 4:11p.m. on April 6, 2012, Complainant Murphy emailed Respondent Walker again stating that she had not heard back from him but asking him to call her to set up a time for a viewing on Saturday, April 7, 2012.
14. On April 6, 2012, Respondent Walker called Complainant Murphy on her cell phone and stated that his office was located below the subject property, that he preferred to rent to a couple who would not be present during the day, and that he had rented in the past to tenants with children that did not work out.
15. During this conversation, Respondent Walker refused Complainant Murphy's request that he show her the apartment.
16. The conversation ended after Complainant Murphy informed Respondent Walker that his preference for families without children was against the law and Respondent Walker replied that he was not legally required to rent to families with children due to the subject property's proximity to his business office.
17. On April 4, 2012, a second individual with children responded to Respondent Walker's April 4, 2012 advertisement by email stating that she has an [REDACTED] [REDACTED] who she looks after during the day.
18. Respondent Walker replied by email dated April 5, 2012, writing "Sounds like a little too much activity for our unit. . . . We look for people who are pretty much gone during the day. Thank you for your interest."
19. On April 5, 2012, a third individual with children contacted Respondent Walker by email in response to Respondent Walker's April 4, 2012 advertisement.
20. That same day, on April 5, 2012, Respondent Walker emailed him asking what he did for a living and who would occupy the unit.
21. On April 5, 2012, the third individual with children responded by email that he receives Social Security disability income and that he has 50% custody of his [REDACTED] [REDACTED].

22. Respondent replied by email dated April 5, 2012, writing that “I don’t think this will work out for us. The apt is above my office. We have tried allowing children upstairs before and it did not work well for either of us. Thank you for your interest.”
23. On April 7, 2012, a fourth individual with children replied to Respondent Walker’s April 4, 2012 advertisement, writing that she is part of a “couple with [REDACTED].”
24. Respondent Walker never replied to this fourth individual with children’s email.
25. As late as April 10, 2012, Respondent Walker was still replying to inquiries from families without children about their potential applications for the property.
26. On April 10, 2012, Respondent Walker and a family without children signed a lease for the subject property.
27. The lease specified that Respondent Premiere Real Estate was the lessor and was signed by Respondent Walker on behalf of Respondent Premiere Real Estate.

D. FAIR HOUSING ACT VIOLATIONS

28. Respondent Walker’s statements to Complainant Murphy, his refusal to show her the subject property and his delay in responding to her violated Section 804(a) of the Act by making housing unavailable through a refusal to rent and a refusal to negotiate over the rental of a property. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.70(a-c).
29. Respondent Walker’s statements to Complainant Murphy on April 6, 2012 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).
30. Respondent Premiere Real Estate is vicariously liable for Respondent Walker’s violations of Section 804(a) and 804(c) as Respondent Walker was acting as agent and principal for Respondent Premiere Real Estate.
31. As a result of the Respondents’ actions, Complainants have suffered damages including but not limited to emotional distress, inconvenience, and loss of housing opportunity.

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel, Region I, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents Scott Walker and Premiere Real Estate, LLC with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a) and § 3604(c) 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. Sections 3601-3619;
2. Enjoins the Respondents from further violations of the Act;
3. Awards such damages as will fully compensate Complainants for their economic loss, loss of housing opportunity, inconvenience, and emotional distress caused by the Respondents discriminatory conduct;
4. Awards a civil penalty against each Respondent for each violation of the Act pursuant to 42 U.S.C. Section 3612(g)(3);
5. Awards such additional relief as may be appropriate under 42 U.S.C. Section 3612(g)(3).

Respectfully submitted,

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