

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 Complainant	)	
Roberta Jean Leong,	)	
	)	
Charging Party,	)	FHEO Case Number:
	)	09-07-1380-8
	)	
v.	)	HUD ALJ Number:
	)	_____
	)	
Castle Management & Consulting, LLC, and	)	
Lakeside Village Homeowners Association,	)	
	)	
Respondents	)	
_____	)	

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about August 16, 2007, Roberta Jean Leong (“Complainant”) filed a complaint with the United States Department of Housing and Urban Development (“HUD”), alleging that Castle Management & Consulting, LLC (“Castle Management”) and Lakeside Village Homeowners Association (“Association”) (collectively “Respondents”), *inter alia*, violated the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19, based on familial status. The complaint alleged that Respondents discriminated against families with children in violation of the Act while failing to meet its housing for older persons exemption, 42 U.S.C. § 3607(b)(2)(C). On June 14, 2008, the complaint was amended to correctly name Respondents and remove certain individuals as respondents. Specifically, Complainant alleged facts that are violations of 42 U.S.C. §§ 3604(a) – (d) and 3617. Efforts at conciliating this complaint were unsuccessful.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons 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 that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405), who has redelegated the authority to the

Assistant General Counsel for Fair Housing Enforcement. 74 Fed. Reg. 62803, 62804 (Dec. 1, 2009).

The Regional Director of the Office of Fair Housing and Equal Opportunity for Region IX, 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 THE CHARGE**

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause, filed herewith, Respondents are charged with violating the Act as described below.

1. It is unlawful to discriminate against any person in the sale or rental of, or otherwise make unavailable or deny, a dwelling to any persons because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(3); 100.70(a) and 100.70(c)(2).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.50(b)(2).
3. It is unlawful to make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of any dwelling that indicates any preference, limitation or discrimination based on familial status. 42 U.S.C. § 3604(c); 24 C.F.R. §100.50(b)(4) and 24 C.F.R. § 100.75(a), (b) and (c)(1) and (2).
4. It is unlawful to represent to any person because of familial status that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available. 42 U.S.C. § 3604(d); 24 C.F.R. §.100.50(b)(5) and 24 C.F.R. § 100.80(b)(2).
5. It is unlawful to coerce, intimidate, threaten or interfere with any person in the exercise of enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by sections 3603, 3604, 3605 or 3606 of the Fair Housing Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b).
6. On or about October 3, 2003, Complainant Roberta Jean Leong purchased 7908 Sailboat Lane, Las Vegas, NV 89145, a detached single level house with a yard, in Lakeside Village ("Subject Property"). The Subject Property is a dwelling as defined in 42 U.S.C. § 3602(b).

7. Lakeside Village is located near or at 7600 W. Charleston Blvd., Las Vegas, NV 89145.
8. Respondent Castle Management & Consulting, LLC is located at 8859 W. Flamingo Rd., Las Vegas, NV 89147, and receives mail at 9360 W. Flamingo Rd., #110-521, Las Vegas, NV 89147. Castle Management has been the managing agent for the Lakeside Village Homeowners Association since 2000.
9. Respondent Lakeside Village Homeowners Association regulates activities and sets policies within Lakeside Village. Lakeside Village Homeowners Association's mailing address is 9360 W. Flamingo Rd., #110-521, Las Vegas, NV 89147. Lakeside Village consists of 89 residential units in a gated community. The Association is also known as "Brookview."
10. At the time Complainant purchased the Subject Property, the Association's CC&Rs, originally recorded on April 26, 1988, prohibited discrimination against families with children. Complainant Leong purchased her unit in Lakeside Village in part because it was a community that did not prohibit children.
11. On or about October 19, 2005 Respondent Association voted to convert Lakeside Village to a community for persons age 55 and older, thus excluding families with children.
12. Complainant listed the Subject Property for sale in or about February 2007.
13. Beginning in or about February 2007 and continuing until about June 26, 2007, Complainant sought from Respondents Castle Management and Lakeside Village Homeowners Association a copy of the amended CC&Rs containing the occupancy restrictions voted on in 2005 in order to provide such information to prospective purchasers.
14. Neither Respondent Castle Management nor Respondent Association provided copies of the CC&Rs to Complainant. On or about April 30, 2007, Respondent Castle Management directed Complainant to a website to purchase the resale package for the Lakeside Village Homeowners Association. Respondent Castle Management told Complainant that the materials would include the updated CC&Rs. However, the CC&Rs were identical to the ones Complainant received as a new homeowner in 2003; they did not include the 55 years and over restriction.
15. On or about June 10, 2007, Respondents offered Complainant a copy of an April 25, 2006 letter to share with potential purchasers as documentation of the Association's age restriction and prohibition against children. The April 25, 2006 letter, issued by Respondent Castle Management and addressed to "whom it may concern," states:

Brookview/Lakeside Village Homeowners Association is an age restricted community. The community voted by majority vote to restrict the Age

[sic] to 55+. Resolution of that matter took effect in November 2005. We are awaiting the recordation documents and amended CC&R's from counsel. Please note any listings for Lakeside Village HOA...must reflect the age restriction on any listing.

16. Respondent Association executed the First Amendment to the Declaration of Covenants, Conditions and Restrictions on June 22, 2007.

17. The First Amendment to Lakeside Village's Declaration of Covenants, Conditions and Restrictions (CC&Rs), Article VIII, Section 8.10 states in part:

The purpose of this Amendment is to create a restriction such that the Properties are an age-restricted community, providing housing for persons who are fifty-five (55) years of age or older ("Age-Qualified Occupant"). This Amendment is intended to be in compliance with the Fair Housing Older Persons Act of 1995, and any other federal or state laws applicable to age-restricted communities. If any provision of this Amendment is deemed to be in violation of federal or state law, then the provision in question shall be considered void, but the balance of the Amendment will remain in full force and effect.

The new section further states,

Upon recordation of the Amendment, the Association shall be operated as an age-restricted community in accordance with all applicable state and federal laws. Accordingly, subject to any exceptions adopted by the Board of Directors, as set forth in subsection 5 below, the Lots in the Association, if Occupied, shall be Occupied by at least one Age-Qualified Occupant and no person under the age of eighteen (18) years of age shall occupy a Lot for more than fifteen (15) days in any one calendar year.

18. The First Amendment to the Declaration of Covenants, Conditions and Restrictions was recorded with the Office of the Clark County Recorder on June 25, 2007.

19. By the terms of the First Amendment to the CC&Rs, recordation was a condition precedent to operate Lakeside Village as an age-restricted community that prohibited families with children.

20. Nevada Revised Statutes 116.2117(3) requires recordation of declaration amendments to be effective:

Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation.

21. On or around June 4, 2007, Complainant entered into a purchase agreement to sell her home for \$245,000. The buyer, who was age 39 at the time, terminated the purchase agreement after Respondent Castle Management informed the potential purchaser of the 55 years and older occupancy restrictions. Respondent Castle Management admits that it informed prospective purchasers that Lakeside Village was a 55 years and older community.
22. Complainant could not sell her property because of Respondents' illegal restrictions against families with children.
23. On or about July 24, 2007, Complainant rented her home to a couple without children who were 55 years or older. In order to comply with Respondents' occupancy policies, Complainant had to turn away other prospective renters with children.
24. By prohibiting children under the age of 18 from residing in the community, Respondents made housing unavailable in violation of 42 U.S.C. § 3604(a).
25. By conditioning occupancy in Lakeside Village on the absence of children under age 18, Respondents discriminated against families with children in the terms, conditions, or privileges of the sale or rental of a dwelling in violation of 42 U.S.C. § 3604(b).
26. By issuing the Association minutes, the April 25, 2006 letter, the amended CC&Rs and speaking to prospective buyers about the occupancy restrictions, Respondents made, printed, or published or caused to be made, printed or published statements that indicated a limitation, preference, or discrimination based on familial status, in violation of 42 U.S.C. § 3604(c).
27. Respondents misrepresented the availability of housing in the community by telling prospective purchasers that the community was restricted to persons 55 years and older and that children under the age of 18 were prohibited, when the community did not qualify for the housing for older persons exemption, in violation of 42 U.S.C. § 3604(d).
28. Respondent Castle Management interfered with Complainant Leong's exercise of her right to sell or rent her property when it told prospective purchasers about the purported occupancy restrictions, in violation of 42 U.S.C. § 3617.
29. At all times relevant, Lakeside Village was not exempt housing for older persons, as defined by 42 U.S.C. § 3607(b)(2)(C); 24 C.F.R. §§ 100.304-307.
30. Because of Respondent's discriminatory conduct, Complainant has suffered actual damages, including lost sales and rentals. Complainant has also experienced emotional distress, including anxiety, depression, and stress.
31. Respondent's discriminatory conduct denied rental and housing ownership opportunities to families with children and deprived Lakeside Village residents of the opportunity to live in a non-segregated community.

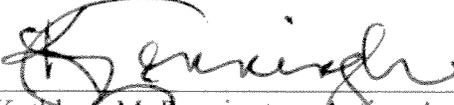
### III. CONCLUSION

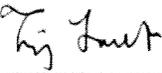
WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents Lakeside Village Homeowners Association and Castle Management and Consulting, LLC, with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a)-(d) and 3617 and prays that an Order be issued that:

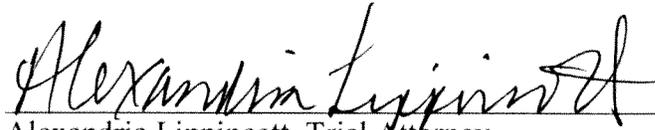
1. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, 42 U.S.C. §§ 3604(a)-(d) and 3617.
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from discriminating because of familial status against any person, in violation of the Fair Housing Act;
3. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed or aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Act;
4. Awards such damages as will fully compensate Complainant, including damages for emotional distress, pursuant to 42 U.S.C. § 3612(g)(3); and
5. Assesses a civil penalty of \$16,000 against each Respondent for violating the Act, pursuant to 42 U.S.C. § 3612(g)(3); 24 C.F.R. § 180.671.

The Secretary of HUD further prays for such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 3rd day of May 2011.

  
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Kathleen M. Pennington, Acting Associate General  
Counsel for Fair Housing

  
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Timothy C. Lambert, Deputy Assistant General Counsel  
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