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 [redacted] Charging Party,	)	FHEO Nos. 01-15-0405-8 01-15-0415-8
v.	)	
John DeRaffele, Respondent.	)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On July 13, 2015, [redacted] ("Complainants") filed a complaint with the Massachusetts Commission Against Discrimination ("MCAD") alleging that John DeRaffele ("Respondent") discriminated against them in violation of the Fair Housing Act ("the Act"). 42 U.S.C. §§ 3601-3619. Complainants filed a second complaint on July 23, 2015, which was amended on February 19, 2016, in order to add a claim of discrimination that occurred on July 30, 2015.

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 designee. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed.Reg. 42,463, 42,465 (July 18, 2011).

By Determination of Reasonable Cause dated April ___, 2016, the Regional Director of the 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 and directed 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 upon HUD's investigation of the allegations contained in the aforementioned complaints and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondent with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to refuse to rent after the making of a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny, a dwelling to any person because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(3), 100.70(b).

2. It is unlawful to make, print, or publish, or cause to be made, printed, or published any notice or statement, with respect to the rental of a dwelling, that indicates any preference, limitation, or discrimination based on familial status and sex, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a), (b), and (c)(2).

3. 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, including representing that covenants or other deed, trust or lease provisions which purport to restrict the rental of dwellings because of familial status preclude the rental of a dwelling to a person. 42 U.S.C. § 3604(d); 24 C.F.R. § 100.80(b)(2).

4. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or 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 803, 804, 805, or 806 of the Act. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b), (c)(5).

5. "Familial status" means one or more individuals, (who have not attained the age of 18 years) being domiciled with a parent or other person having legal control of such individual. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.

6. Pursuant to the Act, an "aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

7. Pursuant to the Act, "dwelling" means any building, structure, or portion thereof which is occupied as, or designated or intended for occupancy as a residence by one or more families. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

B. PARTIES AND SUBJECT PROPERTY

8. The property at which the discriminatory housing practices occurred is located at [redacted] in Springfield, Massachusetts ("subject property").

9. The subject property constitutes a dwelling within the meaning of 42 U.S.C. § 3602(b) and does not qualify for any exemptions under the Act.

10. Complainants [redacted] live with their son, [redacted] who was two-years old at the time of the unlawful discrimination.

11. Complainants resided at the subject property from April until September of 2015.

12. Complainants are "aggrieved persons" as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

13. Respondent is the owner and lessor of the subject property.

C. FACTUAL ALLEGATIONS

14. Complainant [redacted] mother, [redacted] rented an apartment at the subject property from Respondent beginning in November of 2011.

15. [redacted] lease includes a rider stating that the subject property "doesn't have Lead Certificates as of 1/1/09 and Children under (6) years old are not allowed to reside in the premises." The lease rider also requires [redacted] to acknowledge that at no time will she have children under 6 years old reside at subject property; that no one is pregnant in the family and if someone becomes pregnant they will vacate the premises prior to birth of the child; that babysitting and daycare are not permitted at the subject property; and that she has full awareness of lead paint laws of Massachusetts and she will not attempt to circumvent those laws.

16. Respondent presented leases with identical provisions to other tenants at the subject property.

17. Complainants moved into [redacted] apartment in April of 2015.

18. Complainant [redacted] called Respondent at a phone number posted on a sign outside the subject property on or about July 8, 2015.

19. During the July 8, 2015 phone conversation, Complainant [redacted] inquired about renting a vacant apartment at the subject property. Respondent asked Complainant [redacted] who would be living at the apartment. When Complainant [redacted] replied that he would live there with his wife, who was pregnant, and his two-year old son, Respondent stated that Complainants could not rent the property because it

was not lead certified as required by Massachusetts state law of all properties in which a child under the age of six resides.

20. On July 13, 2015, Complainants filed a complaint of discrimination with MCAD regarding the July 8, 2015 telephone conversation. A copy of the complaint was served upon Respondent on or about July 17, 2015.

21. On July 22, 2015, [redacted] received, via certified mail, a handwritten letter signed by Respondent informing her that she was in violation of her lease because she had three unauthorized occupants in her apartment and warning her that she had ten days to cure the violation before eviction proceedings would commence.

22. Complainants filed a second complaint with MCAD on July 23, 2015, alleging that Respondent's letter to [redacted] constituted impermissible retaliation.

23. [redacted] and Complainants received a certified letter on July 30, 2015, from attorney Brian Shea on behalf of Respondent instructing them to vacate the premises by September 1, 2015, or face eviction.

24. Complainants moved from the subject property in September of 2015 and the vacant apartment at the subject property was rented to a woman and her adult son in November of 2015.

25. As a result of Respondent's discriminatory and retaliatory actions, Complainants have suffered damages including but not limited to emotional distress, inconvenience, and frustration.

D. FAIR HOUSING ACT VIOLATIONS

26. Respondent violated the Act by discriminating against Complainants on the basis of familial status by refusing to rent or negotiate for the rental of an apartment at the subject property when he spoke with Complainant [redacted] on or about July 8, 2015. 42 U.S.C. § 3604(a), 24 C.F.R. §§ 100.50(b)(3), 100.70(b).

27. Respondent violated the Act by including in his lease discriminatory provisions prohibiting children under the age of six from residing in the subject property and requiring pregnant women to vacate the subject property before giving birth, thus expressing a preference or limitation based on familial status and sex. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a), (b), and (c)(2).

28. Respondent violated the Act by discriminating against Complainants on the basis of familial status by falsely representing to Complainant [redacted] that state law prohibited him from renting Complainants an apartment at the subject property. 42 U.S.C. § 3604(d); 24 C.F.R. § 100.80(b)(2).

29. Respondent violated the Act by retaliating against Complainants when he threatened to evict them from the subject property after they filed fair housing complaints with MCAD on July 13 and 23, 2015. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b), (c)(5).

III. CONCLUSION

WHEREFORE, the Secretary of HUD, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a), (c), (d), and 3617 and prays that an order be issued that:

A. Declares that the discriminatory housing practices of Respondent as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§3601-3619;

B. Enjoins Respondent and his agents, employees, and successors, and all other persons in active concert with him, from further violations of 42 U.S.C. §§ 3604(a), (c), (d), and 3617;

C. Awards such damages as will fully compensate Complainants for their emotional distress, inconvenience, and frustration caused by Respondent's actions in violation of 42 U.S.C. §§ 3604(a), (c), (d), and 3617;

D. Assesses a $16,000 civil penalty against Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3); and

E. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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Date:_____