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], and two minor children,	)	
Charging Party,	)	**FHEO No.** 04-08-0238-8/6
v.	)	
Robert Cairns and Katerina Cairns,	)	
Respondents.	)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On December 6, 2007, [redacted] (Complainant) filed a verified complaint (HUD complaint) with the U.S. Department of Housing and Urban Development (HUD) and, on July 12, 2010, [redacted], an adult aggrieved person, signed the HUD complaint.[1] The HUD complaint alleged that Robert Cairns and Katerina Cairns (Respondents) violated the Fair Housing Act, as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by making housing unavailable, making discriminatory statements and engaging in harassment, interference, coercion and/or intimidation in connection with the rental of a dwelling because of race and/or color in violation of 42 U.S.C. §3604 (a), (c) and 42 U.S.C. § 3617.

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 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 the Office of Fair Housing and Equal Opportunity (FHEO) or his designee. 73 Fed. Reg. 68441, 68442 (Nov. 18, 2008).

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[1] On May 15, 2009, the complaint was amended to add claims under Subsection 3604(a) for discriminatory refusal to rent, Subsection 3604(c) for discriminatory statements and Section 3617 for harassment, interference, coercion and/or intimidation. On February 3, 2010, the complaint was amended to add Eva Reale and Jamila Davis as Respondents. On September 30, 2010, a No Cause Determination was issued with regard to the violation of Subsection 3604 (b), Respondents Eva Reale and Jamila Davis on all violations and with regard to all violations based on familial status.

The FHEO Region IV Director, on behalf of the Assistant Secretary for FHEO, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred because of race and/or color, and has authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF THE ALLEGATIONS THAT SUPPORT THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondents Robert Cairns and Katerina Cairns are charged with discriminating against Complainant [redacted] and her three children, all aggrieved persons, as defined by 42 U.S.C. § 3602(i), because of race and/or color in violation of 42 U.S.C. § 3604 (a), (c) and 42 U.S.C. § 3617, as follows:

1. It is unlawful to refuse to rent or sell after the making of a bona fide offer, or to refuse to negotiate for the rental or sale of, or to otherwise make unavailable or deny, a dwelling to any person because of race and/or color. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(b)(5) (2008).

2. 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 rental or sale of a dwelling that indicates any preference, limitation, or discrimination based on race and/or color or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a), (c)(1) and (c)(2).

3. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected under sections 803, 804, 805 or 806 of this title. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b), (c)(1) and (c)(2).

4. Complainant and her family, which includes her adult son [redacted] and her two minor children, are Black.

5. At all times relevant to this Charge, Complainant's three children resided with her. At the time of the filing of the HUD complaint, their ages were 11, 15 and 16.

6. Respondent Robert Cairns and Respondent Katerina Cairns are both White and are husband and wife.

7. Respondents Robert and Katerina Cairns are co-owners of the single family three-bedroom home located at 11331 Southwind Lake Drive, Gibsonton, Florida (the subject property). The subject property is a "dwelling" as defined by 42 U.S.C. § 3602(b) and 24 C.F.R. § 100.20.

8. At all times relevant to this Charge, in addition to the subject property, Respondents Robert and Katerina Cairns owned several other single-family homes. At least five (5)

homes were listed with and/or rented through the Tampa Housing Authority (THA) for rental to Housing Choice Voucher Program participants.

9. Respondents operate, manage and make decisions regarding their rental properties. Respondent Robert Cairns negotiates the leases and Respondent Katerina Cairns enforces the leases, oversees maintenance and deals with tenant issues.

10. At all times relevant to this Charge, Complainant was a verified participant in the Housing Choice Voucher program administered by the THA.

11. In late June 2007, Complainant went to the THA Section 8 Office to find a three (3) bedroom home to rent using her Housing Choice Voucher. After browsing the THA listings, Complainant selected the subject property.

12. On or about July 2, 2007, Complainant contacted Respondent Robert Cairns to inquire as to whether the home was still available for rent. He told her that the home was still available, and they scheduled an appointment for Complainant to view the home.

13. Approximately a week later, Complainant and Respondent Robert Cairns met at the subject property. Complainant expressed interest in renting the home. Respondent Robert Cairns asked Complainant when she wanted to move. Complainant told him that she would want to move at the end of July or in early August 2007.

14. On or about July 30, 2007, Complainant met with Respondent Robert Cairns at the subject property to sign the lease and obtain a set of keys. The lease was executed and it indicated that Complainant was responsible for an $1143 security deposit, $1143 rent per month, and a $25 HOA fee per month. Although the lease also stated that the deposit would be paid simultaneously with the execution of the lease, no money was exchanged at that time.

15. Aside from the lease, Complainant and Respondent Robert Cairns verbally agreed that Complainant would pay $575 toward the rent and $575 toward the security deposit on August 4, 2007.

16. Respondent Robert Cairns stated to HUD investigators that it was his routine practice to allow residents to pay partial rent and deposit when necessary because he understood that a lot of his residents were struggling financially.

17. On August 2, 2007, Complainant and her three (3) children moved into the subject property.

18. On August 3, 2007, Complainant received a telephone call from Respondent Robert Cairns reminding her to meet him at the subject property on August 4, 2007 at 11:00 a.m. to pay the rent and the deposit. Complainant told Respondent Robert Cairns that she would have someone meet him there at 1:00 p.m. Respondent Robert Cairns agreed.

19. On August 4, 2007, at approximately 11:00 a.m., Complainant received a call from Respondent Robert Cairns stating that he was sitting in front of the house but no one was there. Complainant, who was at work, reminded Respondent Robert Cairns that they had previously agreed that someone would be meeting him at 1:00 p.m. with the payment.

20. Respondent Robert Cairns then stated that if no one arrived on her behalf in the next ten (10) to fifteen (15) minutes, he would change the locks; he then hung up the phone.

21. Within the next few minutes, Respondent Robert Cairns entered the subject property and awoke Complainant's three minor children. He told them to leave immediately. In the meantime Respondent Katerina Cairns waited nearby in their parked vehicle. As ordered, the children left the home, still wearing their night clothes.

22. After demanding that the Complainant's three children leave the subject property, Respondent Robert Cairns changed every entry lock on the home.

23. Complainant's husband, from whom Complainant was separated, arrived at the property at 12:30 p.m. to pay the rent and deposit to Respondent Robert Cairns on Complainant's behalf.

24. Upon arrival, Complainant's husband attempted to give the money to Respondent Robert Cairns, but he refused to accept the payment.

25. After Respondent Cairns refused to take the payment, Complainant's husband asked Respondent Cairns where the children were. Respondent Robert Cairns first said that he did not know and then he told Complainant's husband that he had told the children to go over to the neighbor's house.

26. Complainant's husband drove around the area to search for the three minor children. After driving around for a while, he spotted the children sitting under the I-75 Bridge overpass, about a quarter of a mile away from the subject property.

27. It was approximately 2:00 p.m. when he found the children. The children had been under the overpass for approximately two and a half to three hours. Complainant's husband told HUD investigators that they appeared to be in shock and exhausted. The children were still in their night clothes and visibly upset. One child was crying.

28. After Complainant's husband picked up the children, he picked Complainant up from work.

29. Complainant then called the Hillsborough County Police Department in an attempt to regain access to the subject property. Complainant, her husband, and Complainant's three children returned to the subject property at approximately 6:00 p.m.

30. Upon arrival, the police officer called Respondents and told Respondent Robert Cairns that he could not evict Complainant without going through proper court action. The

police officer stated he was not on the telephone longer than one (1) minute, when Respondent Katerina Cairns started speaking to him. She stated that the locks were changed because the Complainant had not paid the rent. The police officer told her that she did not have the authority to change the locks without a court ordered eviction. Respondent Katerina Cairns then said, "Let me talk to that [redacted]." The police officer responded that her language was not appropriate, and she said, "[redacted] you, you son of a [redacted]."

31. Complainant was handed the phone and Respondent Katerina Cairns said, "I can't believe you [redacted] called the police on me. You [redacted] make me sick. I just want you [redacted] out of my house."

32. The phone conversation between Respondents and the police officer and Respondents and Complainant was witnessed by one of Complainant's neighbors and the Project Manager of the subject property's subdivision.

33. During that conversation, Respondent Robert Cairns indicated that he would return to the subject property on the following day, August 5, 2007, to grant access to the home. Despite calling Respondent Robert Cairns several times on that date, Respondent Robert Cairns never answered or returned any of Complainant's telephone calls.

34. Complainant and her children stayed in a hotel from August 4, 2007 until August 6, 2007.

35. On August 6, 2007 Respondent Katerina Cairns contacted Complainant. Respondents accepted payment from Complainant and she and her children were allowed access to the subject property.

36. Complainant and her three (3) children have suffered significant damages, including, but not limited to, economic loss, substantial inconvenience, loss of a housing opportunity, embarrassment and humiliation as a result of Respondents' discriminatory conduct.

37. When Respondent Robert Cairns entered the subject property and forced Complainant's three children to vacate the subject property, he violated 42 U.S.C. §3604(a). Respondent Katerina Cairns is jointly and severally liable for his violation of the Act.

38. By changing the locks on the doors and denying Complainant entry, Respondents violated 42 U.S.C. §3604(a). Respondent are jointly and severally liable for this violation of the Act.

39. When Respondent Katerina Cairns told the police officer, "Let me talk to that [redacted]," or words to that effect, in reference to Complainant and her rental of the subject property, Respondent Katerina Cairns violated 42 U.S.C § 3604 (c). Respondent Robert Cairns is jointly and severally liable for her violation of the Act.

40. When Respondent Katerina Cairns told Complainant, "I can't believe you [redacted] called the police on me. You [redacted] make me sick. I just want you [redacted] out of my house." or

words to that effect, Respondent Katerina Cairns violated 42 U.S.C. § 3604 (c). Respondent Robert Cairns is jointly and severally liable for her violation of the Act.

41. Respondents Robert Cairns' and Katerina Cairns' actions and statements made in connection therewith, as described in paragraphs 20-31 above, harassed, intimidated, threatened, and coerced Complainant and her family and interfered with their use and enjoyment of housing, in violation of 42 U.S.C. § 3617. Respondents are jointly and severally liable for this violation of the Act.

III. CONCLUSION

Wherefore, the Secretary of HUD, through the Office of General Counsel and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondent Robert Cairns and Respondent Katerina Cairns with engaging in discriminatory housing practices as set forth above, and prays that an order be issued that:

A. Declares that Respondents' discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;

B. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating against any person because of race, color, sex, national origin, familial status, religion, sex and/or disability in any aspect of the rental, sale, occupancy, use or enjoyment of a dwelling;

C. Awards such monetary damages as will fully compensate Complainant, [redacted] and Complainant's two minor children for their economic losses, including but not limited to, all out-of-pocket expenses, emotional and physical distress, loss of a housing opportunity, embarrassment, humiliation, substantial inconvenience and any and all other damages caused by Respondents' discriminatory conduct;

D. Pursuant to 42 U.S.C. § 3612(g)(3), assesses a civil penalty against each Respondent for each violation of the Act; and

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

Respectfully submitted,

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