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 aggrieved tenants And applicants of Summerhill Apartments, Charging Party, v. Rita Lovejoy; Summerhill Place, LLC; and GRAN, Inc., Respondents.	)	**FHEO No.:** 10-08-0323-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On June 6, 2008, the Assistant Secretary for Fair Housing and Equal Opportunity (hereinafter referred to as "FHEO") of the United States Department of Housing and Urban Development (hereinafter referred to as "HUD" or the "Department"), on behalf of the Secretary of HUD, filed a verified complaint with HUD, alleging that Summerhill Apartments, Summerhill Place, LLC, GRAN, Inc., and Rita Lovejoy, discriminated because of race, national origin and familial status in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619 ("Act").

The Act authorizes issuance of a Charge of Discrimination 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, 24 C.F.R. §§ 103.400(a)(2)(i), who has redelegated to the Regional Counsel, 73 Fed. Reg. 68441, 68442 (Nov. 18, 2008), 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 Director for Fair Housing and Equal Opportunity, Region X, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the complaint and the attached determination of reasonable cause, the Regional Counsel for Region X charges Respondents with violations of the Act, specifically, 42 U.S.C. § 3604(a), (b), (c), and (d). The following support this Charge of Discrimination.

1. It is unlawful to refuse to sell or rent after the making of 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, familial status, or national origin. 42 U.S.C. § 3064(a).

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 therewith, because of race, color, familial status, or national origin. 42 U.S.C. § 3604(b).

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 a dwelling that indicates any preference, limitation, or discrimination based on race, color, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c).

4. It is unlawful to represent to any person because of race, color, familial status, or national origin 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).

5. The term "familial status" is defined in the Act as one or more individuals (who have not attained the age of 18 years) being domiciled with (1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. 42 U.S.C. § 3602(k).

6. Kim Kendrick was the Assistant Secretary for Fair Housing and Equal Opportunity at the United States Department of Housing and Urban Development from October, 2005, through 2008. Pursuant to the authority granted to the Secretary under 42 U.S.C. § 3610(a), the Assistant Secretary for Fair Housing and Equal Opportunity, on behalf of the Secretary of the United States Department of Housing and Urban Development, filed the HUD complaint that gave rise to this Charge alleging discrimination because of race, familial status and national origin.

7. The subject property, Summerhill Apartments ("Summerhill Apts"), consists of five buildings with a total of five three-bedroom/two-bath apartments, 10 two-bedroom/two-bath apartments, 82 two-bedroom/one-bath apartments and 171 one-bedroom/one-bath apartments. The complex is located at 10415 SE 174th Street, Renton, Washington 98055 and has an outdoor-pool, sauna, billiard room, fitness center, laundry facility and meeting room. The subject property is a dwelling as defined by the Act, 42 U.S.C. § 3602(b).

8. Respondent Summerhill Place, LLC ("Summerhill Place"), owns Summerhill Apts.

9. Respondent GRAN, Inc. ("GRAN"), has managed Summerhill Apts since 2002.

10. Respondent Rita Lovejoy ("Lovejoy") is white and has been the Resident Manager at the subject property since 1998 and was hired by GRAN when the company took over property management services at Summerhill Apts. Respondent Lovejoy was authorized to act as the management agent at Summerhill Apts for Respondents Summerhill Place and GRAN. In her capacity as Resident Manager, Respondent Lovejoy handled the day-to-day operations by Summerhill Apts, including, but not limited to, answering inquiries of prospective applicants, showing apartments to prospective applicants, pre-screening applicants, assigning apartments to new tenants, and approving and assigning maintenance requests of tenants.

11. In the period from April 23, 2007, through January 24, 2008, at the request of the King County Office of Civil Rights ("KCOCR"), the Fair Housing Center of Washington ("FHCW") conducted a series of fair housing tests of Summerhill Apts. Three of the tests focused on the protected classes of race, national origin, and familial status and involved Respondent Lovejoy.

12. On April 23, 2007, FHCW dispatched two testers, a black female ("B/F") and a white female ("W/F") to Summerhill Apts. The B/F tester arrived at 12:30 p.m. The W/F tester arrived at 1:20 p.m. Both testers were initially met by Respondent Lovejoy.

13. Both of the testers described in the preceding paragraph asked to see a one or two bedroom apartment and gave an availability date of May 1, 2007, but each said she could be flexible to June 1, 2007. Respondent Lovejoy told the B/F tester that nothing was immediately available and gave her an availability date of late May or early June. However, Respondent Lovejoy told the W/F tester that both one bedroom and two bedroom apartments were available at the beginning May and that one unit had brand new carpet.

14. Respondent Lovejoy initially told the B/F tester that all of the apartments were being renovated or cleaned and there was nothing to show. Respondent Lovejoy further attempted to discourage the B/F tester from viewing an apartment by telling her that they normally do not show apartments to people unless they are ready to rent. Respondent Lovejoy did not make similar discouraging comments to the W/F tester, and instead she told the W/F tester to be prepared to put a holding deposit down if she liked the apartment she was shown.

15. Respondent Lovejoy discouraged the B/F tester by describing more limits regarding the use of the property with the B/F tester than the W/F tester. Both testers were told that they would receive two parking spaces, but only the B/F tester was told that guests were not allowed to park for over twelve hours. Respondent Lovejoy told the B/F tester that Summerhill Apts was very strict and there were no parties, loud music, skateboarding, or loud radios. Respondent Lovejoy told the B/F Tester that if kids want to play outside they had better go to a park and that all tenants are told this up front.

16. Both testers were told that water, sewer and garbage collection were included in the rent. Both testers were quoted the same rent and screening fee. However, only the B/F tester was told that the screening included a credit check and a criminal history check. Also, only the B/F tester was informed that she would need to provide a landlord history and references.

17. Respondent Lovejoy also treated the B/F and W/F testers differently after they viewed the apartments. Respondent Lovejoy told the B/F tester, who stated she wanted to rent an apartment, that the property was inhabited mostly by seniors and Indian professionals (that is, those from or tracing their heritage from the country India). When the W/F tester said she liked the apartment but the kitchen was a bit small, Respondent Lovejoy proceeded to highlight the amenities of the complex and told the W/F tester to look around at other apartments and notice the people; that she doesn't have "those kind of people around here;" that it is a quiet complex; and that responsible people live there.

18. On June 25, 2007, FHCW conducted a three-party test of Summerhill Apts. It dispatched three testers, a black male ("B/M"), an Hispanic female ("H/F"), and a white male ("W/M"). The B/M tester arrived at 9:45 a.m., the H/F tester arrived at 10:30 a.m., and the W/M tester arrived at 12:00 p.m. All three testers were initially met by Respondent Lovejoy and each asked to see a two bedroom, one bathroom apartment. Respondent Lovejoy had a maintenance person show the B/M and H/F testers apartment 1206. However, Respondent Lovejoy showed the W/M tester apartment 1204.

19. Respondent Lovejoy quoted different rental rates and fees to all three testers described in the preceding paragraph. The B/M tester was told $900 per month, the H/F tester $875 per month and the W/M tester $860 per month. Respondent Lovejoy told the H/F and W/M testers that water and sewer were included in the rent but did not mention this benefit to the B/M tester. With regard to the application fee, Respondent Lovejoy told the B/M tester that it was $35 per applicant; she told the H/F tester it was $25; but she did not mention any application fee to the W/M tester.

20. Respondent Lovejoy provided different information regarding rental qualifications to all three testers. Before the B/M tester was shown an apartment, Respondent Lovejoy told him that to get a two bedroom apartment his credit would have to be "squeaky" clean and, if it was not, he should not bother to even apply. Respondent Lovejoy also emphasized to the B/M tester that Respondents run a credit check and a strict criminal background check. She did not mention any such check to the H/F tester; but she did tell the W/M tester that there would be a credit check and criminal history check.

21. Respondent Lovejoy discouraged the B/M tester but not the W/M tester. She told the B/M tester that she did not tolerate any nonsense, such as drug dealing, partying, or people coming in and out of the property at all times of the day and night, or children running on the property. Respondent Lovejoy told the B/M tester there was no weed smoking on the balcony, that there was no warning and this was the warning. As the B/M tester was leaving Respondent Lovejoy told him that he was one of the good ones because he wears his pants up on his buttocks. For the W/M tester, Respondent Lovejoy instead highlighted benefits of Summerhill Apts such as the low rental rates, two free parking spaces, a quiet neighborhood, and suggested how he would love it here, and how huge the main bedroom is.

22. On November 5, 2007, FHCW conducted a paired, telephonic test of Summerhill Apts involving a female familial status ("F/S") tester, who was assigned to represent that she lived with her husband and two daughters, and a female control ("C") tester, who was assigned to represent that she lived only with her husband. The F/S tester called at 1:05 pm and the C tester called at 3:32 pm; both testers spoke with Respondent Lovejoy.

23. During the test conducted by FHCW, Respondent Lovejoy made statements to the F/S tester to discourage families with children from renting. Respondent Lovejoy asked both testers how many people would be living in the unit. Respondent Lovejoy told the C tester that she does not allow any loud stereos or loud parties and if they were looking for a nice place, she doesn't have any of that going on. Respondent Lovejoy told the F/S tester that Summerhill Apts. are very strict and there are no parties and, additionally, that there is no ball playing, skateboarding or bike riding in the complex and that there are no areas for anyone to play in the complex or outside of the complex. Respondent Lovejoy stated that there is a clubhouse, but children cannot use it. Respondent Lovejoy said there are a lot of kids at the complex, but their parents take them to parks or they play videogames inside.

24. In March, 2008, KCOCR provided the above-referenced testing information, along with other documents, to the Department. A Secretary-initiated investigation was conducted.

25. From at least 2004 to 2008 Respondent Lovejoy had a practice of treating Hispanics differently when they inquired about renting at Summerhill Apts. During that time, Respondent Lovejoy would question Hispanic applicants about their backgrounds, especially if they had an accent or spoke broken English. Additionally, Respondent Lovejoy questioned Hispanic applicants to determine whether they were legal immigrants or had illegally purchased a social security card. Respondent Lovejoy did not ask white or black applicants whether they had a social security card.

26. On May 11, 2007, an Assistant Manager of Summerhill Apts. answered a telephone inquiry from a prospective applicant named Miguel. When the telephone call ended, Respondent Lovejoy inquired if the Assistant Manager had asked the caller if he bought his social security card. The Assistant Manager replied that she thought this was a form of discrimination but Respondent Lovejoy insisted it was okay because she had spoken to Respondent GRAN. The Assistant Manager contacted Respondent GRAN about asking such questions and was told it "wasn't illegal, but it was stupid," and she did not have to do it.

27. Between on or about September, 2007, and July, 2008, Respondent Lovejoy prohibited another Assistant Manager from speaking Spanish to two Hispanic applicants in the rental office. When Respondent Lovejoy heard the Assistant Manager speaking in Spanish she said, "No, no, no. None of that shit. We speak English here." Respondent Lovejoy also discussed with the Assistant Manager whether it was possible to determine if a Social Security card or "Green card" was "false."

28. From at least 2007 to 2008 Respondent Lovejoy had a practice of stating different qualifying standards for black prospective applicants when they inquired about renting at Summerhill Apts. Respondent Lovejoy would ask white prospective applicants if they had good credit, but she would ask black prospective applicants if they had "pristine" credit and stated that Summerhill Apts had very strict credit standards and she did not want the applicant to waste his/her money on the application fee if they would not qualify.

29. From at least 2004 to 2008 Respondent Lovejoy had a practice of discouraging prospective applicants based on familial status when they inquired about renting at Summerhill Apts. Respondent Lovejoy lived in Building 5 and instructed two Assistant Managers not to show available units in Building 5 to applicants with children. Respondent Lovejoy did not allow children to play in common areas and routinely told prospective applicants that there was nowhere for children to play and that they would have to go to a park instead.

30. From at least 2004 to 2008 Respondent Lovejoy had a practice of discouraging prospective applicants based on race, color and/or national origin when they inquired about renting at Summerhill Apts. Respondent Lovejoy instructed two Assistant Managers not to show available units in Building 5 to black or Indian families because she believed they ruin the apartments and she did not want to smell their cooking.

31. Respondent Lovejoy also insisted that her staff show minority applicants apartments with older carpets, countertops and appliances or other undesirable features. Respondent Lovejoy stated that she would prefer not to rent an apartment with new carpet or appliances to an Indian tenant because the apartment would be ruined in a year. Respondent Lovejoy also delayed or failed to authorize maintenance in apartments rented to Indians.

32. From at least 2004 to 2008 Respondent Lovejoy had a practice of delaying or failing to authorize maintenance requested by residents of Summerhill Apts based on race, color and/or national origin. For example, Respondent Lovejoy refused to replace a stove in an apartment because the residents were Indian. Respondent Lovejoy made statements that Indians destroy apartments and, on at least three occasions, has been overheard saying that people from India live on dirt floors and cook over an open flame. If an Indian resident reported a problem with an appliance, Respondent Lovejoy would tell the resident to go back to India if he/she could not use the appliances properly. One staff member reported hearing Respondent Lovejoy comment to an Indian tenant, "For God's sake you come from a country with no running water and cook over an open flame."

33. From at least 2004 to 2008 Respondent Lovejoy had a practice of steering residents of Summerhill Apts based on race, color, national origin and/or familial status. Respondent

Lovejoy was responsible for assigning vacant apartments to new tenants, including those in Building 5 where she lived. The tenant composition of Building 5, where Respondent Lovejoy resided, did not reflect the overall tenant population. Building 5's tenants were nearly 72% white, whereas the tenant populations in the other four buildings range from 31-46% white. Building 5's tenants were 2% Indian whereas the tenant population of the other four buildings had between 35-53% Indian.

34. As described in paragraphs 13 – 33 above, Respondents committed unlawful discrimination by attempting to discourage potential applicants from applying to rent apartments based on the applicants' race, color, national origin, and familial status, and by steering potential applicants to specific buildings based on their national origin and familial status, as set forth above, thereby making apartments at Summerhill Apts unavailable based on protected class status, in violation of 42 U.S.C. § 3604(a), 24 C.F.R. §§ 100.60 and 100.70.

35. Respondents further committed unlawful discrimination in the terms, conditions, or privileges of rental of a dwelling, and in the provision of services and facilities in connection therewith, by quoting different rental rates and fees and failing or delaying apartment maintenance or repairs on the basis of race or national origin, and restricting the use of the clubhouse based on familial status, in violation of 42 U.S.C. § 3604(b), 24 C.F.R. § 100.65.

36. Respondents further committed unlawful discrimination by making, or causing to be made, oral statements with respect to the rental of apartments at Summerhill Apts that indicate a limitation or discrimination based on race, color, national origin, and familial status, in violation of 42 U.S.C. § 3604(c), 24 C.F.R. § 100.75, including, but not limited to, such statements as telling the B/M tester that "he was one of the good ones because he wears his pants up on his buttocks;" telling an Assistant Manager, "No, no, no. None of that shit. We speak English here;" and commenting to an Indian tenant, "For God's sake you come from a country with no running water and cook over an open flame."

37. Respondents further committed unlawful discrimination by providing false or inaccurate information regarding the availability of dwellings for rental at Summerhill Apts based on race, color, national origin and familial status in violation of 42 U.S.C. § 3604(d); 24 C.F.R. §100.80.

III. CONCLUSION

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

1. Declares that the discriminatory housing practices of Respondents as set forth above violate §§ 3604(a), (b), (c) and (d) of the Fair Housing Act, as amended in 1988;

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 race, familial status or national origin against any person in any aspect of the rental of a dwelling or provision of services in connection therewith;

3. Directs Respondents to establish a victim's compensation fund to compensate applicants, potential applicants, and residents who were injured by Respondents' discriminatory actions;

4. Imposes a civil penalty $16,000 against each individual Respondent for each individual violation committed; and

5. Provides for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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Date: April 1, 2010