

**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)	
the Housing Discrimination Project, Inc.,)	
)	
Charging Party,)	
)	
v.)	HUD ALJ No.
)	FHEO No. 01-11-0347-8
Craig Robbins,)	
)	
Respondent)	
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CHARGE OF DISCRIMINATION

I. **JURISDICTION**

On June 8, 2011, the Complainant Housing Discrimination Project, Inc., filed a complaint with the United States Department of Housing and Urban Development ("HUD") alleging that the Respondent, Craig Robbins, discriminated on the basis of familial status in violation of the Fair Housing Act ("the Act"). 42 U.S.C. § 3601-3619.

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)-(2). The Secretary of HUD has delegated to the Assistant Secretary for Fair Housing and Equal Opportunity the authority to make such a determination; and to the General Counsel the authority to issue such a charge of discrimination. The General Counsel has redelegated to the Regional Counsel the authority to issue such a charge.

By Determination of Reasonable Cause dated September 22, 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 Respondent with violating the Act as follows:

A. LEGAL AUTHORITY

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 to otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60.
2. It is unlawful to make, print, or publish, or cause to be 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, religion, sex, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75; 24 C.F.R. § 100.80.
3. "Familial status" is defined as "one or more individuals (who have not attained the age of eighteen (18) years) being domiciled with... a parent or another person having legal custody of such individual or individuals. 42 U.S.C. § 3602(k)(1); 24 C.F.R. § 100.20.
4. HUD has issued guidance concerning lead-based paint hazard control activities and the requirements of the Fair Housing Act. The guidance provides that "[i]f a unit which has not undergone lead hazard control treatments is available and the family chooses to live in the unit, the housing provider must advise the family of the condition of the unit, but may not decline to allow the family to occupy the unit because the family has children." HUD Memorandum, *Requirements Concerning Lead-Based Paint and the Fair Housing Act* (August 1, 1997).

B. PARTIES AND SUBJECT PROPERTY

5. At all times relevant to this action, Respondent Craig Robbins ("Respondent") was the owner of a three-family dwelling located at 11 Walden Street, Springfield, Massachusetts ("subject property"). The subject property contains a one-bedroom apartment unit located on the third floor.
6. The subject property is not occupied by Respondent, who resides at 32 Villa Street, Longmeadow, Massachusetts. Thus, the subject property is not within the Act's exemption for owner-occupied buildings with no more than four units. 42 U.S.C. § 3603(b); 24 C.F.R. § 100.10(c).

7. The subject property is not “housing for older persons” as defined by 42 U.S.C. § 3607(b). Accordingly, Respondent is not entitled to an exemption from the Act’s prohibition against familial status discrimination.
8. Complainant Housing Discrimination Project, Inc. (“HDP”) is a non-profit corporation located at 57 Suffolk Street, Holyoke, Massachusetts. HDP’s mission is to combat housing discrimination and promote fair housing practices in Central and Western Massachusetts. As part of its mission, HDP performs fair housing tests to uncover evidence of housing discrimination.

C. FACTUAL ALLEGATIONS

9. On May 21, 2010, Respondent posted an advertisement in the “Western Massachusetts” section of the Craigslist website (www.craigslist.org) captioned:

\$775/1br – UTILITIES INCL. for Working singles/College Grad/...FREE MONTH RENT (F. Park...Walden St. Home) (map)

10. The Craigslist advertisement went on to describe the one-bedroom apartment available for rent in relevant part as follows:

THIS IS A GREAT OPPORTUNITY FOR AN INDIVIDUAL TO GET INTO A SPACIOUS APARTMENT WITH ALL UTILITIES INCLUDED...THERE IS AN ADDITIONAL LARGE ROOM FOR OFFICE SPACE, DEN...WE ARE LOOKING FOR QUIET AND RESPECTFUL PERSONS ONLY TO APPLY...

11. The contact information provided at the bottom of the advertisement was the following: “CALL FOR MORE INFO. CALL 413-575-4487.”
12. HDP staff read this Craigslist advertisement and in response arranged for four trained fair housing testers to call the listed phone number to ask about the apartment available for rent. The four testers called 413-575-4487 at various times over the following weeks.
13. On June 2, 2010, the first fair housing tester (“Tester 1”), a 45-year-old female with a 5-year-old daughter and a 6-month-old son, called Respondent about renting the subject property. When Tester 1 told Respondent that she would be living in the unit with her 5-year-old daughter and 6-month-old son, Respondent replied that he could not show her the apartment because he did not have a “lead free certificate” for the house.
14. Tester 1 then asked Respondent if he would be willing to obtain a lead paint certificate. Respondent replied no “because it would cost too much to make that happen.” Despite Respondent’s refusal, Tester 1 asked Respondent if he would show him the apartment anyway and again Respondent replied no.

15. Before the conversation ended, Tester 1 asked who he was speaking to and Respondent answered "Craig." Respondent ended the call by telling Tester 1 that he would put her name on a list if another apartment opened up.
16. On June 13, 2010, the second fair housing tester ("Tester 2"), a 34-year-old male with 4-month-old son, called Respondent about renting the subject property. Respondent asked Tester 2 his "situation," to which Tester 2 replied that a total of three people would be occupying the apartment. Respondent then asked Tester 2 if he had any children and if so, their ages. When Tester 2 said that he had a baby, Respondent replied that the apartment was not deeded so Respondent would be unable to have any kids occupy the apartment.
17. Tester 2 then asked Respondent if he would be willing to get a lead paint certificate. This request elicited no apparent reply because Tester 2 realized that the phone line had gone dead. Tester 2's subsequent attempts to call Respondent back were unsuccessful.
18. On June 22, 2010, the third fair housing tester ("Tester 3"), a 25-year-old male with a 1-year-old son, called Respondent about renting the subject property, which Tester 3 identified as the 1 bedroom apartment listed on Craigslist for \$775 per month. After a brief conversation about Tester 3's job and current rental situation, Respondent informed Tester 3 that the apartment in fact had two bedrooms. The parties agreed that Respondent would call Tester 3 back to arrange a mutually convenient time to view the apartment. The conversation ended with Tester 3 and Respondent exchanging names; Respondent identified himself as "Craig."
19. On June 23, 2010, Tester 3 again called Respondent to arrange a time to view the apartment. Upon hearing a recorded message, Tester 3 left a voicemail stating that he was still interested in the apartment and wished to see it at Respondent's earliest convenience.
20. On June 24, 2010, Tester 3 received a call from Respondent, who identified himself as "Craig," and who asked if Complainant wished to tour the apartment at 2:30 p.m. that day. Tester 3 agreed and Respondent gave Tester 3 the address for the subject property.
21. On June 24, 2010, Tester 3 arrived at 11 Walden Street, Springfield, and met Respondent, who introduced himself as Craig. Tester 3 and Respondent proceeded to the third floor to view the apartment. Tester 3 confirmed that the apartment had a living room, kitchen, bathroom, as well as two bedrooms.
22. After viewing the apartment, Tester 3 expressed interest in renting the apartment and Respondent handed Tester 3 a rental application and his business card. Tester 3 then told Respondent that he had a 1-year-old son who would probably be living

with him and asked whether the apartment was delead. Respondent replied that the apartment had not been delead and that Tester 3 should have told Respondent about his son over the phone because this whole thing could have been avoided.

23. As the conversation continued, Tester 3 asked Respondent if he would be willing to delead the apartment. Respondent replied no because he would have to redo the entire apartment. Respondent then stated that a child would be fine as long as Tester 3 is “not the kind of parent that just lets your baby [g]naw away at the woodwork.” Shortly thereafter, as Tester 3 prepared to leave, Respondent told Tester 3 that “if you turn out not to be interested, would you let others know about the apartment.” Tester 3 said he would and then drove off.
24. On June 29, 2010, the 4th fair housing tester (“Tester 4”), a 60-year-old woman with custody of her 4-year-old grandson, called Respondent to ask about the subject property. She left a voicemail for Respondent with her cellphone number explaining that she was interested in the apartment advertised on Craigslist.
25. The next day, on June 30, 2010, Tester 4 received a missed call identified through her phone’s caller identification as originating from 413-575-4487. Tester 4 returned the call explaining that she had called the day before about the apartment advertised on Craigslist. Respondent answered and said that he had several apartments available. Tester 4 replied that she was calling about the apartment in the Forest Park area for \$775 per month.
26. Respondent then asked Tester 4 if the apartment was just for her. Tester 4 replied that she had custody of her grandson, but had no trouble sharing a bedroom with him. Respondent replied that the apartment had not been delead and he was afraid to rent to someone with a small child. When Tester 4 asked if he would delead the apartment, Respondent replied that he could not afford the \$10,000 it would cost to delead. Respondent ended the conversation wishing Tester 4 luck with her continued search for an apartment.
27. In a letter to HUD dated June 24, 2011, Respondent admitted that he advertised the subject property on Craigslist and that the unit was not delead.
28. Furthermore, in his June 24, 2011 letter to HUD, Respondent did not deny Complainant’s allegations that Respondent refused to rent to Testers 1, 2, 3, and 4 because the subject property was not delead.

D. FAIR HOUSING ACT VIOLATIONS

29. Respondent’s May 21, 2010 Craigslist advertisement listing the subject property available for rent 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.

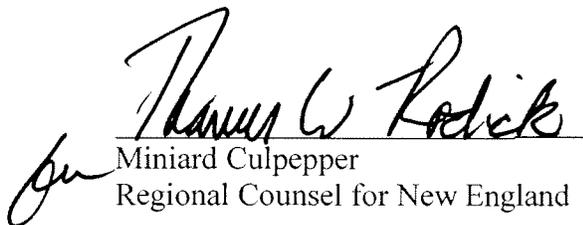
30. Respondent's conduct and statements to Testers 1, 2, 3 and 4 violated Section 804(a) of the Act by refusing to rent, refusing to negotiate to rent, or otherwise making unavailable the subject property to families with children. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60.
31. Respondent's statements to Testers 1, 2, 3 and 4 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; 24 C.F.R. § 100.80.
32. As a result of the Respondent's discriminatory advertisement, conduct, and statements, Complainant suffered damages, including diversion of resources and frustration of purpose.

III. CONCLUSION

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

1. 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;
2. Enjoins the Respondent from further violations of 42 U.S.C. §§ 3604(a) and (c) of the Act;
3. Awards such damages as will fully compensate Complainant for diversion of resources and frustration of purpose;
4. Awards a civil penalty against Respondent for each violation of the Act pursuant to 42 U.S.C. § 3612(g)(3);
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,


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Date: SEP 22 2011

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Determination of Reasonable Cause" and "Charge of Discrimination" and "Important Notice" in 01-11-0347-8 were sent by United Parcel Service overnight delivery this day of September 22, 2011, to the following:

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