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 [redacted], [redacted], and [redacted],	)	
Charging Party	)	
v.	)	HUD ALJ No.
	)	FHEO No. 01-11-0029-8
Robert Gerow and Gladys Davis,	)	
Respondents.	)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On October 22, 2010, [redacted] ("Complainant"), along with her minor children, [redacted] and [redacted], filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Robert Gerow ("Respondent Gerow") discriminated in violation of the Fair Housing Act ("the Act"). 42 U.S.C. Sections 3601-3619. During investigation, the complaint was amended to include Gladys Davis ("Respondent Davis") as a Respondent.

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 May 24, 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 upon 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 Respondents Robert Gerow and Gladys Davis with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any renter because of their familial status. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a).

2. It is unlawful for any person to make any statement with regard to the sale or rental of the dwelling that indicates any preference, limitation, or discrimination based on familial status. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).

B. PARTIES AND SUBJECT PROPERTY

3. The subject property is located at 10 Bank Street, Lebanon, New Hampshire.

4. The subject property consists of an upstairs unit in a five-unit unit building. The building includes two ground-level commercial spaces and three residential apartments on the second floor.

5. At all times relevant to the action, Respondent Robert Gerow was the owner of the subject property and operated a chiropractic office in one of the commercial spaces.

6. At all times relevant to this action, Respondent Gerow did not reside at the subject property.

7. At all times relevant to this action, Respondent Gladys Davis was the secretary/receptionist employed by Respondent Gerow at his chiropractic office.

8. At all times relevant to this action, Complainant [redacted] was the mother of two minor children, Complainants [redacted] and [redacted], and was seeking an apartment for her family.

C. FACTUAL ALLEGATIONS

9. In September 2010, Respondent Gerow placed an advertisement in the Valley News seeking a renter for Unit #4, the residential apartment above Respondent Gerow's chiropractic office at the subject property. The advertisement contained Respondent Gerow's office telephone number.

10. Respondent Gerow instructed Respondent Davis to ask any callers enquiring about the apartment whether they had children and how many persons would occupy the apartment. Respondent Gerow instructed Respondent Davis that the first question was necessary because Respondent Gerow did not want children to occupy the apartment.

11. As requested by Respondent Gerow, Respondent Davis stated to multiple callers that Respondent Gerow did not wish to rent to children.

12. Complainant read this advertisement on or around October 5, 2010, and called the number given in the advertisement.

13. Complainant spoke to Respondent Davis and expressed an interest in the advertised apartment.

14. When asked by Respondent Davis whether Complainant had children, Complainant responded in the affirmative.

15. Respondent Davis stated that Respondent Gerow did not want to rent to families with children.

16. After Respondent Davis stated that the restriction was imposed because of the apartment's location above Respondent Gerow's business, the conversation concluded.

17. Complainant called again later that day and spoke to Respondent Gerow.

18. Complainant told Respondent Gerow that the restriction against families with children violates the Fair Housing Act.

19. Respondent Gerow stated that his restriction on families with children was legal because of the location of his office. When Complainant contested this, Respondent Gerow told her to "turn him in[,]" and hung up.

D. FAIR HOUSING ACT VIOLATIONS

20. Respondent Gerow's actions and statements violated Section 804(a) of the Act by constituting a refusal to rent and a refusal to negotiate over the rental of a property, and by making housing unavailable based upon familial status. 42 U.S.C.§ 3604(a); 24 C.F.R. § 100.70(a-c).

21. Respondent Gerow's statements to the Complainant and Respondent Davis 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(a).

22. Respondent Davis's statements and actions violated Section 804(a) of the Act by making housing unavailable based upon familial status. 42 U.S.C.§ 3604(a); 24 C.F.R. § 100.70(a-c).

23. Respondent Davis's statements to the Complainant and others 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(a).

24. Respondent Gerow is also vicariously liable for each of Respondent Davis's violations of Section 804(a) and 804(c) as Respondent Davis was acting as Respondent Gerow's agent upon his express instructions.

25. As a result of the Respondents' conduct, Complainants have suffered damages, including but not limited to emotional distress and loss of housing opportunity.

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 Gerow and Respondent Davis with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a) and U.S.C. § 3604(c) 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, as amended, 42 U.S.C. Sections 3601-3619;

2. Enjoins the Respondents from further violations of Sections 804(a) and 804(c) of the Act;

3. Awards such damages as will fully compensate Complainants for their economic loss and emotional distress caused by the Respondents discriminatory conduct;

4. Awards a civil penalty against Respondents for each violation of the Act pursuant to 42 U.S.C. Section 3612(g)(3);

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

Respectfully submitted,

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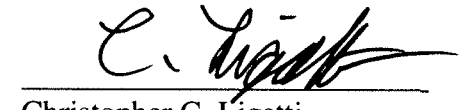

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Date: 5/24/11