

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS**

Secretary, United States)	
Department of Housing and Urban)	
Development, on behalf of)	
Greater New Orleans Fair)	
Housing Action Center)	
)	ALJ No.
Charging Party,)	FHEO No. 06-15-0086-8
)	
v.)	
)	
Earmastine Nelson)	
)	
Respondent.)	
_____)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On September 29, 2014, Greater New Orleans Fair Housing Action Center (“Complainant”) timely filed a complaint with the U.S. Department of Housing and Urban Development (“the Department” or “HUD”), alleging Earmastine Nelson (“Respondent Nelson”) and Henecy Johnson were responsible for discriminatory refusal to rent and discriminatory advertising and statements on the basis of familial status, in violation of the Fair Housing Act, 42 U.S.C. §§ 3601 et. seq. (the Act). On or about September 30, 2015, the complaint was amended to remove Henecy Johnson as a named respondent.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (“Charge”) on behalf of aggrieved persons following an investigation and 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 that authority to the General Counsel, who has retained and re-delegated to the authority to the Regional Counsel, the authority to issue such a Charge following determination of reasonable cause. 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Regional Director for the Office of Fair Housing and Equal Opportunity (FHEO) for Region VI, on behalf of the Assistant Secretary for FHEO, 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. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause and No Reasonable Cause, Respondent Earmastine Nelson is hereby charged with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75.
2. The Act defines an "aggrieved person" as any person who claims to have been injured by a discriminatory housing practice or believes that such person will be injured by a discriminatory housing practice that is about to occur. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
3. The Act defines "familial status" 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); 24 C.F.R. § 100.20.

B. PARTIES AND SUBJECT PROPERTY

4. Complainant GNOFHAC is a non-profit, private fair housing rights organization established in 1995 to eradicate housing discrimination throughout the greater New Orleans area through education, investigation, and enforcement activities. Complainant's office is located at 404 S. Jefferson Davis Parkway New Orleans, LA 70119.

5. Complainant is an aggrieved person, as defined by the Act, 42 U.S.C. § 3602(i).
6. Respondent Nelson resides at 9890 E. Wheaton Circle, New Orleans, LA 70127.
7. The property at issue (“Subject Property”) is a two-story single-family home subdivided into two apartments, one upstairs and one downstairs. The Subject Property is located at 8432 Sycamore Place, New Orleans, Louisiana, and is a dwelling, as defined by the Act. *See* 42 U.S.C. § 3602(b).
8. At all times relevant to this Charge, Respondent Nelson owned a one-half property interest in Subject Property and was a usufructuary for the other half, which is owned by the heirs of Henecy Johnson.

C. FACTUAL ALLEGATIONS

9. On or about July 27, 2014, Complainant identified an online advertisement on craigslist.com for the rental of the Subject Property that was posted by Respondent. The posting included the following discriminatory language: “Will accept 2 small children. NO TEENAGERS PLEASE.”
10. On August 7, 2014, Tester “Jesse” (“Tester 1”) contacted Respondent by telephone to inquire about the Subject Property. Tester 1 represented that she was interested in renting the Subject Property and that she had three children, the oldest being 12 years of age.
11. In response, Respondent told Tester 1 that she “didn’t want a bunch of kids. It’s a beautiful apartment. It’s downstairs and they have another tenant upstairs. I didn’t want any teenage kids because of the people that are around the area, homeowners, and the kind of thing that children bring.”
12. On August 8, 2014, Tester “Brad” (“Tester 2”) contacted Respondent by telephone to inquire about the Subject Property. Tester 2 represented that he was interested in renting the Subject Property and that three adults would be living in the unit.
13. In response, Respondent told Tester 2 “I don’t want any children. I don’t want any teenage children. I would be able to accept two small kids where they could be monitored because of the kind of neighborhood it is and where the house is and all of that. You know?”

D. FAIR HOUSING ACT VIOLATIONS

14. As described in paragraph 9 above, Respondent Nelson violated Section 804(c) of the Act when she published an advertisement with respect to the rental of a dwelling that

indicates any preference based on familial status. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a), (b), and (c)(2).

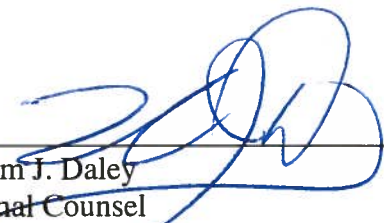
15. As described in paragraphs 10 - 13 above, Respondent Nelson violated Section 804(c) of the Act when she made a statement with respect to the rental of a dwelling that indicates any preference based on familial status. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a), (b), and (c)(2).
16. Because of Respondent's actions, Complainant diverted its resources to identify and counteract discrimination and to provide education and outreach. Moreover, Respondent's discriminatory practices frustrated Complainant's mission by interfering with Complainant's ability to promote integration and ensure equal housing opportunities in the greater New Orleans area.

III. CONCLUSION


WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondent with engaging in discriminatory housing practices in violation of the Act, and requests that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondent, as set forth above, violate § 804(c) of the Act, as amended, 42 U.S.C. § 3601, *et seq.*;
2. Enjoins Respondent, her agents, employees, and successors, and all other persons in active concert or participation with her, from discriminating against any person based on familial status in any aspect of the rental of a dwelling;
3. Mandates Respondent, her agents, employees, successors, and all other persons in active concert or participation with her, to attend training that addresses the Act's prohibitions against familial status discrimination;
4. Awards such damages as will fully compensate Complainant;
5. Awards a civil penalty against Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
6. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

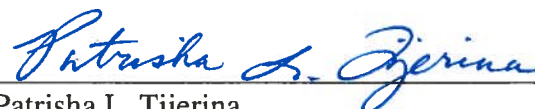
Respectfully submitted on this 30th day of August, 2018,



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