

**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] and their two)
minor children)
Charging Party,)
v.)
Gene Baker and Linda Nell C. Baker)
Respondents.)
_____)

ALJ No. _____

FHEO No. 04-17-6573-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

[REDACTED] (“Complainants”) timely filed a complaint with the U.S. Department of Housing and Urban Development (the “Department” or “HUD”) on or about December 30, 2016, alleging that Gene Baker and Linda C. Nell Baker (collectively, “Respondents”) refused to rent to Complainants and their two (2) minor children and made discriminatory statements because of race and color, in violation of the Fair Housing Act (the “Act”), 42 U.S.C. §§ 3601-3619. The complaint was last amended on March 2, 2018.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons 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 re-delegated to the Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause by the Assistant Secretary of Fair Housing and Equal Opportunity or his or her designee. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Regional Director of the Office of Fair Housing and Equal Opportunity for Region IV has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred and has authorized the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause, Respondents are hereby charged with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to refuse to rent or negotiate to rent or otherwise make unavailable or deny a dwelling to any person because of race or color. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a).
2. Discrimination under 42 U.S.C. § 3604(a) includes evicting tenants or otherwise terminating their tenancy because of their race or color. 24 C.F.R. § 100.60(b)(5).
3. It is unlawful to make statements or publish advertisements with respect to the rental of a dwelling that indicate any preference, limitation or discrimination based on race 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).
4. The Act defines an "aggrieved person" as any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i)(1); 24 C.F.R. § 100.20.
5. The Act defines "dwelling" as any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

B. PARTIES AND SUBJECT PROPERTY

6. Complainant [REDACTED] is African-American. Complainant [REDACTED] identifies as Hispanic and was perceived by Respondent Gene Baker as White. Complainants have two (2) minor children. At the time of the alleged discrimination, the minor children were seven (7) years old and five (5) years old. Complainants and their two (2) minor children are "aggrieved persons" as defined by the Act.
7. At all times pertinent to this Charge, Respondent Linda Nell C. Baker (White) owned the property located at [REDACTED] Belden, Mississippi 38826 ("Subject Property").
8. The Subject Property is an approximately 1 ¼-acre parcel of land with seven (7) lots, each with water and utility hook-ups for trailers.

9. At all times pertinent to this Charge, Respondent Gene Baker (White), husband of Respondent Linda Nell C. Baker, managed the rental of the trailer lots on the Subject Property.

C. FACTUAL ALLEGATIONS

10. On February 27, 2016, after learning about the availability of a lot on the Subject Property from a family friend, Complainant [REDACTED] inquired with Respondent Gene Baker about renting a lot on the Subject Property for Complainants' trailer. Respondent Gene Baker agreed to rent a lot to Complainants at a monthly rate of \$275.
11. On February 28, 2016, Complainants, along with their two (2) minor children, moved their trailer to the Subject Property.
12. On February 28, 2016, Complainant [REDACTED] paid Respondent Gene Baker \$275.00 for the first month's rent. Respondent Gene Baker provided a receipt to Complainant stating, "Rent per month: \$275." The receipt contained the names of Respondent Gene Baker and Complainant [REDACTED] (under her previous name, [REDACTED]) and the receipt was marked "paid."
13. On February 29, 2016, Respondent Gene Baker called Complainant [REDACTED] and demanded that Complainants remove their trailer from the Subject Property.
14. During the phone call, Respondent Gene Baker stated that Complainants must vacate the Subject Property because "white and black shacking" was problematic for his community, his church, and his mother-in-law. Complainant [REDACTED] advised Respondent Gene Baker that they were not "shacking," they were married, to which Respondent Gene Baker replied that it was the "same thing."
15. During the phone call, Respondent Gene Baker said to Complainant [REDACTED] "You didn't tell me you were married to a black man," and stated that Complainant [REDACTED] "didn't sound like the type to be into a black man."
16. During the phone call, Complainant [REDACTED] asked Respondent Gene Baker to reconsider his demand to vacate but he refused.
17. On or about March 5, 2016, Complainants removed their trailer from the Subject Property.
18. On or about March 5, 2016, Respondent Gene Baker returned the first month's rent in the amount of \$275 to Complainants.
19. On or about April 2, 2016, Complainant [REDACTED] spoke with reporter [REDACTED] of the Clarion-Ledger newspaper and advised Mr. [REDACTED] that Complainants had been asked to vacate the Subject Property because of race.

20. On or about April 2, 2016, reporter [REDACTED] spoke with Respondent Gene Baker. During the phone call, Respondent Gene Baker told Mr. [REDACTED] that he had asked Complainants to vacate the Subject Property because Complainant [REDACTED] was Black and Complainant [REDACTED] was White, stating that his neighbors did not approve of an interracial family.
21. As a result of Respondents' discriminatory conduct, Complainants and their minor children suffered actual damages, including lost housing opportunity, emotional distress, and out of pocket expenses.

D. FAIR HOUSING ACT VIOLATIONS

22. By terminating Complainants' tenancy because of race and color, Respondents violated 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a) and (b)(5).
23. By informing Complainants that Respondents were terminating Complainants' tenancy because of race and color, Respondents discriminated against Complainants by making statements that indicated a preference, limitation, or discrimination based on race and color or an intention to make such a preference, limitation or discrimination with respect to the sale or rental of a dwelling, in violation of 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation 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 the Act, 42 U.S.C. § 3601, *et seq.*;
2. Enjoins Respondents and all other persons in active concert or participation with them, from discriminating against any person based on race and color in any aspect of a rental transaction pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(ii);
3. Awards such damages as will fully compensate Complainants for the actual damages caused by Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(i);
4. Awards a civil penalty against each Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(b)(3)(iii);
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3);

6. Awards such damages as will fully compensate Complainants for the emotional distress and financial costs associated with Respondents' discriminatory conduct; and
7. Mandates Respondents, their agents, employees, successors, and all other persons in active concert or participation with them, to attend training that addresses the Act's prohibitions against race and color discrimination.

Respectfully submitted,

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