

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

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| Secretary, United States Department of |) | |
| Housing and Urban Development, on behalf of |) | |
| Denver Metro Fair Housing Center, |) | |
| |) | |
| Charging Party, v. |) | |
| |) | |
| David B. Welch, John H. Welch, and Ruth E. |) | OHA No. _____ |
| Welch, |) | |
| |) | FHEO No. 08-19-9091-8 |
| Respondents. |) | |
| |) | |
| |) | |
| |) | |
| _____ |) | |

CHARGE OF DISCRIMINATION

I. JURISDICTION

On March 29, 2019 the complainant, Denver Metro Fair Housing Center (“Complainant”), filed a complaint with the U.S. Department of Housing and Urban Development (“HUD”) alleging that Respondents John H. Welch (“Respondent J. Welch”), David B. Welch (“Respondent D. Welch”), and Ruth Welch (“Respondent R. Welch”), (collectively “Respondents”), discriminated against families with children in violation of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* (the “Act”). The Complaint was amended on April 25, 2019 to add Respondent D. Welch as an additional owner, Respondent R. Welch as the owner’s agent, and to correct the subject property’s address.

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 that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405), who has re-delegated the authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Regional Director for Fair Housing and Equal Opportunity, Region VIII, on behalf of the Assistant Secretary, 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, Respondents are hereby charged with violating the Act as follows.

A. Legal Authority

1. It is unlawful to refuse to rent after the making of a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any person because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.50(b)(1), (3); 24 C.F.R. § 100.60(a).
2. 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 rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.50(b)(4); 24 C.F.R. § 100.75(a).
3. The term "familial status" is defined by the Act as one or more individuals (who have not attained the age of 18 years) being domiciled with a parent or other person having legal custody of such individual or individuals or the designee of such parent or person having custody. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.

B. Parties and Subject Property

4. The property, known as the Westwood Cove Condominiums (the "subject property"), is located at 1412 West Gunnison Avenue, Gunnison, Colorado 81230. The subject property is a "dwelling" within the meaning of the Act. 42 U.S.C. § 3602(b).
5. Respondent J. Welch and Respondent D. Welch are the owners of record; Respondent R. Welch is currently the owner's agent responsible for managing the subject property.
6. At all times relevant to this Charge, Denver Metro Fair Housing Center was the Complainant. According to its published mission statement, Complainant is a non-profit fair housing organization "dedicated to eliminating housing discrimination and promoting housing choice for all people through education, advocacy, and enforcement of fair housing law." Complainant's services include promoting equal access to housing for families with children throughout Colorado, including Gunnison County where the subject property is located.

C. Factual Allegations

7. Respondent R. Welch advertised the subject property's rental vacancies twelve times from May 16, 2018 through May 16, 2019 in the Gunnison County Shopper, a Gunnison, Colorado newspaper.
8. The majority, ten, of the discriminatory advertisements published in the Gunnison County Shopper stated that the subject property was available for a maximum of two people, each over 35 years of age.
9. On April 17, 2019 and April 24, 2019 Respondents' advertisements for the subject property published in the Gunnison County Shopper stated, "1 or 2 people max, both over 40 years of age, no exception."
10. On or about May 16, 2018, Complainant viewed one of the discriminatory advertisements in the Gunnison County Shopper. Complainant also viewed Respondents' website for the subject property, <http://westwoodcove.com> ("Westwood website"), which described the subject property as a "[p]rivate, restricted, adult condominium community." Based on the discriminatory language used in the advertisement and on the Westwood website, Complainant began investigating Respondents.
11. On or about June 8, 2018, a tester employed by Complainant contacted Respondent R. Welch at the number provided in the advertisement. Respondent R. Welch told the tester that the subject property was available to rent. The tester informed Respondent R. Welch that she was 29 years of age. Respondent R. Welch stated she would meet with the tester to further discuss renting the property.
12. On or about June 11, 2018, another tester employed by Complainant contacted Respondent R. Welch at the number provided in the advertisement. The tester informed Respondent R. Welch that the apartment would be for herself and her four-year-old daughter. Respondent R. Welch told the tester the subject property was an older community, that they like to keep the community rules, and she did not think she could bend the rules for her. Respondent R. Welch told the tester she would call her if another potential renter decided not to rent the property. However, the tester and Respondent R. Welch had no further contact.

D. Legal Allegations

13. Respondents' practice of applying an age restriction of 35 or 40 and over at the subject property made unavailable and/or denied dwellings to families with children in violation of 42 U.S.C. § 3604(a).
14. On or about May 16, 2018, May 23, 2018, June 6, 2018, June 13, 2018, July 18, 2018, July 25, 2018, February 6, 2019, February 13, 2019, March 6, 2019, March 13, 2019, April 17, 2019, and April 24, 2019, when Respondents caused an advertisement to be

published that involved the sale or rental of a dwelling unit that indicated a preference to not rent to families with children, Respondents violated 42 U.S.C. § 3604(c).

15. On or about June 11, 2018, when Respondent R. Welch informed a tester with a child that she did not allow families with children to reside at the subject property, Respondents violated 42 U.S.C. § 3604(a).
16. On or about June 11, 2018, when Respondent R. Welch informed a tester with a child that she did not allow families with children to reside at the subject property, Respondents violated 42 U.S.C. § 3604(c).
17. Respondents' published description of the subject property as a "[p]rivate, restricted, adult condominium community" on the Westwood website, <http://westwoodcove.com>, violates 42 U.S.C. § 3604(c).
18. As a result of Respondents' discriminatory conduct, Complainant has suffered damages, including economic loss through diversion of its resources and frustration of its mission to achieve equal housing opportunities. The Respondents' conduct denied rental-housing opportunities to families with children. Complainant incurred damages, including but not limited to, investigation costs, testing costs, and other miscellaneous costs as a direct result of the Respondents' discriminatory conduct and advertisements.
19. As a result of Respondents' discriminatory conduct, Complainant was forced to divert scarce resources to investigate the Respondents' discriminatory advertisements and conduct further testing.
20. As a result of the Respondents' discriminatory conduct, an unknown number of potential tenants with children were discouraged from seeking out this rental opportunity because of the age restrictions in the advertisement placed by the Respondents.

III. CONCLUSION

WHEREFORE, the Secretary of the United States 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 42 U.S.C. § 3604(a) and 3604(c) and requests that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating because of familial status against any person in any aspect of the sale or rental of a dwelling;

3. Awards such damages as will fully compensate Complainant;
4. Assesses 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; and
5. Awards such additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 15th day of August, 2019.

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