

UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States )  
Department of Housing and Urban )  
Development, on behalf of )  
██████████ )  
Charging Party, )  
v. )  
Mary Ann Jensen, )  
Timothy Johnston and Lauri Johnston )  
Richert d/b/a Windstone Properties, )  
Respondents. )

HUD ALJ No.  
FHEO No. 05-10-0160-8

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about October 27, 2009, Complainant ██████████ (“Complainant”) filed a verified complaint with the United States Department of Housing and Urban Development (the “HUD Complaint”), alleging that Respondents Mary Ann Jensen and Timothy J. Johnston and Lauri Johnston Richert, individually and d/b/a Windstone Properties, violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601, *et seq.* (the “Act”), by discriminating based on national origin (Hispanic).

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) and (2). The Secretary has delegated to the General Counsel (76 Fed.Reg. 42462), who has redelegated to the Regional Counsel (76 Fed.Reg. 42465), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Regional Director for the Office of Fair Housing and Equal Opportunity Region V, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on national origin, and has authorized and directed the issuance of this Charge of Discrimination.<sup>1</sup>

<sup>1</sup> The Department simultaneously issued a finding of no reasonable cause with respect to Complainant’s allegations that Respondents additionally violated Sections 3604(b) and 3617 of the Act.

## II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondents Mary Ann Jensen, Timothy Johnston and Lauri Johnston Richert, individually and d/b/a Windstone Properties, (collectively referred to as "Respondents"), are charged with discriminating against Complainant [REDACTED], an aggrieved person as defined by 42 U.S.C. §3602(i), based on national origin, in violation of Section 3604(c) of the Act as follows:

### A. Legal Authority

1. 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 sale or rental of a dwelling unit that indicates any preference, limitation, or discrimination based on 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.

### B. Parties and Subject Property

2. Complainant [REDACTED] is a Mexican-American. Complainant resides at [REDACTED] Albert Lea, Minnesota, 56007 with her husband, [REDACTED]. At all times relevant to this Charge, Complainant was married to [REDACTED], who is Mexican.
3. The subject property is the Rainbow Terrace Mobile Home Park located at [REDACTED] Albert Lea, Minnesota ("subject property"). Tenants of the subject property own their own trailers or rent a trailer from trailer owners, but rent the lot from Respondents Timothy J. Johnston and Lauri Johnston Richert, d/b/a Windstone properties.
4. At all times relevant to this Charge, Respondents Timothy J. Johnston and Lauri Johnston Richert owned and managed the subject property. On information and belief, Respondents Johnston and Johnston Richert managed the subject mobile home park through a sole proprietorship, using the assumed name, Windstone Properties. Their principal place of business is located at 2045 Wabasha Avenue, St. Charles, Minnesota 55972.
5. At all times relevant to this Charge, Mary Ann Jensen was employed by Respondents Johnston and Johnston Richert as the onsite property manager of the subject property, where she also resided, and was responsible for the day-to-day operations of the subject property, including dealing with tenants and prospective tenants.

### C. Factual Allegations

6. On or about March 9, 2009, Complainant [REDACTED] began moving her belongings into a manufactured home at [REDACTED] Albert Lea, Minnesota, 56007 [REDACTED].

[REDACTED], which is located on the subject property. At the time she began moving her belongings into the mobile home, Complainant had not yet consummated the purchase of the mobile home or applied for rental at the subject property.

7. On or about March 9, 2009, Complainant, and her sister, [REDACTED] met with Respondent Jensen regarding renting the lot space on which the [REDACTED] home was located. Respondent Jensen informed Complainant that she needed to submit a rental application. Respondent Jensen told Complainant the rent for the lot was \$235.00 per month, and also informed her of other related fees.
8. While Complainant and her sister were meeting with Respondent Jensen on March 9, 2009, Complainant's husband, [REDACTED] waited in his pickup truck, nearby, and in view of Respondent Jensen. Seeing [REDACTED] Respondent Jensen asked Complainant if the man in the truck was her husband, to which Complainant responded affirmatively. Respondent Jensen then asked Complainant if her husband was "Mexican from Mexico," or similar words to that effect, to which Complainant also responded affirmatively. In reply, Respondent Jensen stated that she had "enough of them" at the subject property and did "not want any more," or similar words to that effect.
9. During the same March 9, 2009 conversation, Respondent Jensen asked Complainant if she had a Social Security card and was born in the United States, to which she replied affirmatively. Respondent Jensen next asked if Complainant and her husband smoked and drank. Respondent Jensen further commented that she did "not want any Mexicans or wetbacks" because "they are too much trouble," or similar words to that effect. Respondent Jensen then told Complainant and her sister about a Mexican family at the subject property, on information and belief, the [REDACTED] family, who she described as drinkers, smokers and "no good wetbacks," or similar words to that effect. Respondent Jensen also expressed her opinion that Mexicans "are drunks" and commented that Mexicans were "causing trouble and whooping and hollering on the weekends," or similar words to that effect.
10. In an interview with a HUD investigator, Respondent Jensen admits that she inquired as to whether Complainant's husband was an "illegal alien" and that she told Complainant that she did not want any more "illegal aliens" at the subject property. Respondent Jensen also admitted that she asked Complainant whether she and her husband smoked or drank. Further, Respondent Jensen acknowledged informing Complainant about problems that were going on at the subject property. Specifically, she advised that the police had been coming by more frequently because of stabbings and trouble between neighbors. During this interview, Respondent Jensen commented to the HUD investigator that "the Spanish people do have parties on the weekends."
11. On or about March 14, 2009, Respondent Jensen allowed Complainant and her husband to move their belongings into the trailer at the subject property, but she told them they could not reside there until their application was officially accepted.

12. On or about March 16, 2009, Complainant provided Respondent Jensen with the first and last month's rent, a security deposit, and other fees related to her tenancy. Respondent Jensen told Complainant that she would hold her money orders until her application was accepted. Respondents also required that Complainant submit tax returns. On or about March 21, 2009, Complainant submitted portions of five years of tax returns.
13. On or about March 23, 2009, Respondents ordered a tenant screening report of Complainant and her husband using a service called ASP Screening. On information and belief, Respondents did not immediately receive the results of that tenant screening.
14. On March 23, 2009, Complainant signed a Real Estate Purchase contract for the [REDACTED]
15. On or about March 26, 2009, Respondent Jensen contacted Complainant's sister, [REDACTED] and told her that Complainant's application was accepted and that Complainant and her husband could begin to reside at the subject property. On information and belief, Respondent Jensen accepted Complainant prior to obtaining the results of Complainant's ASP tenant screening report.
16. On or about March 27, 2009, Complainant and Respondents signed the Manufactured Home Lot Lease Agreement.
17. On or about March 29 or 30, 2009, Respondent Jensen knocked on Complainant's door and angrily informed her that the results of the ASP screening report were not good. Respondent Jensen told Complainant that she knew Complainant's husband was "no good." Respondent Jensen went on to say that "all [REDACTED] are no good" and that her husband was a "wetback." Respondent Jensen used profanity and accused Complainant of lying to her about her past rental history.
18. Complainant told Respondent Jensen that she had not lied to her and requested to review the screening report. Respondent Jensen notified Complainant that she did not have the screening report with her but would get a copy for Complainant to review. She further informed Complainant that Respondents Johnston wanted her and her husband out of the subject property.
19. In an interview with a HUD investigator, Respondent Jensen admitted going to see Complainant at the subject property when the background check came in because she felt Complainant had lied to her and she was angry with Complainant.
20. On or about the evening of April 3, 2009, Complainant and her sister met with Respondent Jensen to review the applicant screening report.<sup>2</sup> Upon reviewing the report, Complainant advised Respondent Jensen that the report was not accurate for

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<sup>2</sup> The applicant screening report indicated a history of evictions, and bad credit in connection with both Complainant and her husband.

either her or her husband. Complainant claimed that someone had stolen her identity. In response, Respondent Jensen accused Complainant of lying.

21. On April 3, 2009, right after her meeting with Respondent Jensen, Complainant filed a police report with the Albert Lea police department, alleging that she was the victim of identity theft. The police report recorded that Complainant alleged that she had learned of the identity theft when Respondents checked her credit report in connection with her attempt to rent from them; and that she further alleged that she had evictions on her record for apartments she claimed never to have rented.
22. After reviewing Complainant's negative credit report, Respondent Johnston directed Respondent Jensen to demand an additional \$1000 security deposit from Complainant if she wished to live at the subject property. When Complainant refused to pay the additional security deposit, he next demanded that Complainant produce three cosigners in order to rent the subject property, in lieu of paying the additional security deposit. In fact, Respondent Jensen informed Complainant that she and her husband needed to pay an additional \$1,000 security deposit or needed two cosigners in order to rent.
23. Complainant and her husband refused to pay an additional security deposit or obtain cosigners to rent at the subject property, on the belief that they were discriminatory conditions.
24. During an interview with a HUD investigator, a Hispanic female resident at the subject property stated that tenants constantly complained about Respondent Jensen because she did "not like Mexicans" and treated them negatively. Specifically, the tenant indicated that Respondent Jensen would "throw [slam] the door" on Mexican tenants.
25. The same Hispanic tenant recounted for the HUD investigator an occasion when a Hispanic tenant left a pile of wood outside on the subject property. Seeing the pile of wood left out, the tenant, in the company of her husband, recalled hearing Respondent Jensen say, "these wetbacks are always leaving their trash around," or similar words to that effect. The tenant recalled her husband confronting Respondent Jensen, stating that Respondent Jensen should not say something so offensive about his culture. In response, the tenant recalled Respondent Jensen stating, "yeah, but you are a legal resident, and they're not" or similar words to that effect. The tenant reported that her husband replied that Respondent Jensen should still refrain from saying offensive statements about Mexicans.

#### D. Legal Allegations

26. Respondent Mary Ann Jensen violated Section 3604(c) of the Act when, in the course of discussing rental of the subject property, she used the word "wetback" in reference to Complainant's husband; asked if Complainant's husband was "Mexican or from Mexico;" stated that she did not want Mexicans or "wetbacks" living at the subject

property because they were "too much trouble;" stated that Mexicans were "drunks;" stated that "all [redacted] are no good;" and made other negatively charged statements indicating a preference, limitation or discrimination against Hispanics and Complainant because of her and her husband's Hispanic national origin.

27. Respondents Timothy J. Johnston and Lauri Johnston Richert violated Section 3604(c) of the Act when their agent, Respondent Jensen, made discriminatory statements to Complainant about her and her husband's Hispanic national origin.
28. As a result of Respondents' discriminatory conduct, Complainant suffered actual damages, including emotional distress. Complainant alleges that she felt like Respondent Jensen was "putting down" Mexicans. Complainant alleges that her statements made her concerned about renting from Respondents. Complainant asserted that Respondent Jensen was not looking at her and her husband "as people, but as Mexicans" and assuming they were "not good." She was "shocked" by Respondent Jensen's statements. Respondent Jensen's statements made Complainant feel "bad" and "belittled." She felt she needed to prove that she and her husband were "good people."
29. Complainant also recalled feeling like she was "a kid again" when she experienced discrimination because she was one of the only Mexicans in school. She felt like an "outcast," like no one wanted to associate with her.
30. Complainant alleges that during and after the interaction with Respondent Jensen her stomach felt upset, she felt "nervous" and "intimidated" by Respondent Jensen. The incident caused stress in her marriage. Complainant and her husband argued about their decision to move back to Complainant's home town, where the subject property is located. She reported experiencing stress, pain in her whole body and a desire not to get out of bed. Complainant saw a doctor in response to these symptoms.

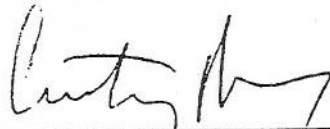
### III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to Section 42 U.S.C. §3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §3604(c) of the Act, and prays that an order be issued that:

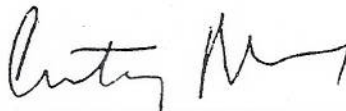
1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. §3601, *et seq.*;
2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, from discriminating on the basis of national origin against any person in any aspect of the purchase or rental of a dwelling;

3. Awards such damages as will fully compensate Complainant, an aggrieved person, for her actual damages caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. §3604(c);
4. Awards a \$16,000 civil penalty against each Respondent for his or her violation of the Act committed pursuant to 42 U.S.C. §3612(g)(3) and 24 C.F.R. §180.671; and
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. §3612(g)(3).

Respectfully submitted,

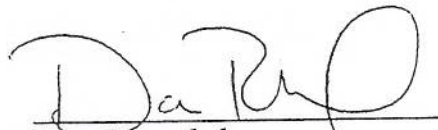


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