

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 [REDACTED])
Coles and her minor child,)
)
Charging Party,)
)
)
v.)
)
Mary Callaway, Hollyhand Companies, Inc., and)
Addison Way, Ltd.,)
)
Respondents.)

ALJ No. _____
FHEO Case Number
04-08-1357-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about July 18, 2008, [REDACTED] ("Complainant") filed a Fair Housing Act ("Act"), 42 U.S.C. §§ 3601-19, complaint with the United States Department of Housing and Urban Development ("HUD"). Complainant alleged that Mary Callaway, property manager of Cloverdale Apartments, located in Selma, Alabama, violated the Act when she retaliated against her for filing a fair housing complaint, thereby interfering in her exercise and enjoyment of fair housing rights and protections, in violation of 42 U.S.C. § 3617. On or about November 4, 2010, the complaint was amended to name Hollyhand Companies, Inc. ("Hollyhand") as a respondent. On November 19, 2010, the complaint was amended to include Addison Way, Ltd. ("Addison Way") as a respondent. Efforts at conciliating this complaint were unsuccessful.

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. § 103.405). The General Counsel has redelegated the authority to the Associate General Counsel for Fair Housing, who retained and further redelegated the authority to the Assistant General Counsel for Fair Housing Enforcement. 76 Fed. Reg. 42465 (July 18, 2011).

The Regional Director of the Office of Fair Housing and Equal Opportunity for Region IV, 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 and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THE CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause and No Reasonable Cause, filed herewith, Respondents are charged with violating the Act as described below.

1. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any fair housing right or protection. 42 U.S.C. § 3617. This includes retaliating against a person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Fair Housing Act. 24 C.F.R. § 100.400(c)(5).
2. Complainant [REDACTED] has two minor children. Complainant and her older child are aggrieved persons as defined by the Act. Her younger child was born after the events this Charge concerns. Complainant resides at [REDACTED] Selma, AL 36701.
3. During all times relevant to this Charge of Discrimination, Respondent Mary Callaway was the property manager of Cloverdale Apartments, which is now known as Addison Way Apartments ("Cloverdale"), located at 1300 Cloverdale Road, Selma, AL 36701. Mary Callaway was employed by Hollyhand. Her responsibilities included maintaining rent rolls, collecting rent payments, preparing lease violation notices, and other day-to-day activities of property management. Respondent Callaway resides at 227 County Road 931, Selma, AL 36701.
4. Respondent Hollyhand is the managing agent for Cloverdale Apartments. Hollyhand's registered address is 221 Greensboro Avenue, Tuscaloosa, AL 35401. The company's office address is 527-B Main Avenue, Northport, AL 35476.
5. Respondent Addison Way owns Cloverdale Apartments. The registered address for Addison Way is 600 Azalea Road, Mobile, AL 36609.
6. Complainant resided at Cloverdale from on or about December 1, 2005 until she vacated her apartment in May of 2007. Complainant was a Section 8 Housing Choice Voucher recipient when she resided at Cloverdale.

7. On or about January 27, 2006, while she was a tenant at Cloverdale, Complainant filed a fair housing complaint with HUD ("January 2006 complaint") against the Selma Housing Authority ("SHA") and Cloverdale's management, including current Respondent Mary Callaway, alleging that these actors discriminated against her on the basis of race, in violation of the Fair Housing Act, 42 U.S.C. § 3604(b).
8. On or about May 4, 2007, the Selma Housing Authority terminated Complainant's rental assistance and she vacated her unit at Cloverdale. By letter dated May 4, 2007, SHA specified the following reasons for the termination of Complainant's voucher: (1) Complainant requested but did not attend an appointment that would enable her to port her voucher to Georgia; (2) Complainant did not report new out-of-state employment within the required period; and (3) as Complainant worked out-of-state and her unit remained unoccupied during the week, "HUD will not allow [SHA] to pay rent on a unit that is only occupied two or three days a week."
9. On or about July 12, 2007, HUD sent to Respondent Callaway by certified mail a copy of the January 2006 complaint and an explanatory letter from that included a notice that section 818 of the Fair Housing Act prohibits interference with or retaliation against Complainant for having exercised rights protected by the Fair Housing Act.
10. In March of 2008, Complainant applied for an apartment at Chanticleer Apartments ("Chanticleer"), located at 1200 Woodrow Avenue, Selma, Alabama. In her "Application for Admission and Rental Assistance" and in response to a section titled "Previous Rental History," Complainant listed "Cloverdale Apartments" on "Cloverdale Rd." as her "present landlord," and stated that she had lived in the property for two years. Complainant did not list any other landlord names or addresses in this section.
11. In March of 2008, as part of its tenant application process, Chanticleer's property manager, Diane Kaldor, sent a form to Cloverdale, requesting a landlord reference ("landlord reference form") regarding Complainant.
12. Respondent Callaway completed Chanticleer's landlord reference form for Complainant. In response to the question whether Respondent Callaway would rent to Complainant again in the future, Respondent Callaway wrote that she would not, stating as her reason, "a conflict between myself, Selma Housing Authority (sic) Section 8 Program." As additional commentary, Respondent Callaway wrote, in reference to Complainant, "[t]enant and tenant's mother claimed she was discriminated against, which she was not." Respondent Callaway signed and dated the landlord reference form March 19, 2008.
13. At the time Respondent Callaway completed the landlord reference form, HUD's investigation of Complainant's January 2006 complaint was on-going.

14. After receiving the completed landlord reference form from Respondent Callaway on or about March 19, 2008, Diane Kaldor decided not to rent an apartment at Chanticleer to Complainant.
15. In a document dated April 16, 2008, entitled "Alternative Rejection Letter," Diane Kaldor informed Complainant that her application for residency at Chanticleer was rejected. An "X" marked the reason for rejection: "We have received an unsatisfactory reference from a previous landlord."
16. After she was rejected for housing by Chanticleer, Complainant continued residing with family members, with whom she had begun to reside after SHA terminated her rental assistance.
17. HUD concluded its investigation of Complainant's January 2006 complaint on or about September 26, 2009 and issued a determination of "No Reasonable Cause."
18. Respondent Callaway was Respondent Hollyhand's employee and agent in the management of Cloverdale Apartments.
19. Respondent Hollyhand is the management agent for Respondent Addison Way.
20. By retaliating against Complainant for filing a fair housing complaint, as described above, Respondents interfered with Complainant's exercise and enjoyment of rights and protections available under the Fair Housing Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(c)(5).
21. Because of Respondents' discriminatory conduct, Complainant has suffered actual damages, including out of pocket expenses and emotional distress damages, including humiliation, anxiety and stress. Complainant lost a viable housing opportunity because of Respondents' conduct.

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), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3617 and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate Section 818 of the Fair Housing Act;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed or aided

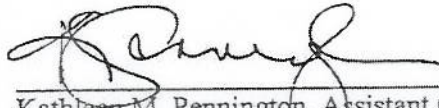
or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Act;

3. Awards such damages as will fully compensate Complainant, including out of pocket expenses and damages for emotional distress, pursuant to 42 U.S.C. § 3612(g)(3); and
4. Assesses a civil penalty of \$16,000 against each Respondent for violating the Act, pursuant to 42 U.S.C. § 3612(g)(3); 24 C.F.R. § 180.671.

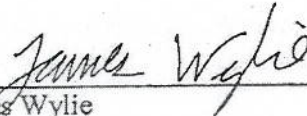
The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 29th day of April, 2012,

Jeanine M. Worden
Associate General Counsel for Fair Housing



Kathleen M. Pennington, Assistant General Counsel
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CERTIFICATE OF SERVICE

I hereby certify on this 25th day of April, 2012, that a copy of the foregoing "Charge of Discrimination," "Determination of Reasonable Cause," and "Important Notice" in FHEO Case No. 04-08-1357-8 were served on the following parties in the manner indicated:

Interagency Mail and Electronic Transmission of PDF Document

Docket Clerk
Office of Administrative Law Judge/OHA
Room B-133

Alj.alj@hud.gov

UPS – Overnight Delivery, Signature Required

Complainant:

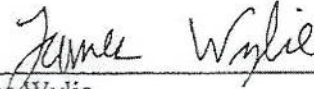
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