

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 )		
_____ )		
Housing Opportunities Made Equal, )		
_____ )		
Charging Party, )	FHEO No. 02-09-0793	
_____ )		
v. )		
_____ )		
Frank Guido, )		
Respondent. )		
_____ )		

**CHARGE OF DISCRIMINATION**

**JURISDICTION**

On June 22, 2009, Housing Opportunities Made Equal (“Complainant” or “HOME”), a fair housing advocacy and counseling organization, filed a verified complaint with the United States Department of Housing and Urban Development (“HUD”). In its complaint, HOME alleges that Frank Guido (“Respondent”) made statements with respect to a rental property indicating a preference, limitation, or discrimination on the basis of familial status, in violation of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601 *et seq.* (“Act”).

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)-(2). The Secretary has delegated to the General Counsel (24 C.F.R. §§ 103.400 (a)(2)(i), 103.405), who has re-delegated to the Regional Counsel (73 Fed. Reg. 68441, 68442) (Nov. 18, 2008), the authority to issue such a Charge, following a determination of reasonable cause.

The Director of the Office of Fair Housing and Equal Opportunity (“FHEO”) for the New York/New Jersey Region, on behalf of the Assistant Secretary for FHEO, has authorized this Charge because he has determined after investigation that reasonable cause exists to believe that a discriminatory housing practice has occurred. HUD’s efforts to conciliate the complaints were unsuccessful. See 42 U.S.C. § 3610(b).

#### **LEGAL AUTHORITY IN SUPPORT OF CHARGE**

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 that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 CFR § 100.75.

#### **PARTIES**

2. Complainant HOME is a non-profit corporation located at 700 Main Street, Buffalo, New York, 14202. HOME is dedicated to providing equal housing opportunities to all persons without regard to race, color, religion, sex, handicap, familial status or national origin. HOME engages testers to conduct fair housing testing, which is a simulation of housing transactions to evaluate compliance with the Act.
3. Respondent Frank Guido is the owner of a house, containing two dwelling units or apartments, located at 26 Richmond Avenue, Buffalo, New York. The subject

apartment (“Apartment”) is located in this house and is a “dwelling” as defined by the Act. Respondent resides in the other apartment.

#### **FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE**

4. In or about January 2009, Respondent placed a notice on Craigslist, a web-based service featuring online classified advertisements, to rent the Apartment which stated the following:

\$750/3br - Large House in Final Stage of Renovation (Richmond)  
Looking for a unique individual or couple for a spacious 3,000+ sqft home in final stages of renovation. 3 bedrooms, 1.5 baths, huge living room and dining room, sitting room off the main bedroom. Kitchen to be completed with basics available now (sink, stove, fridge). \$750 plus utilities. Non smoker please. Email with questions or call 861-2154.

5. HOME arranged for two testers to respond to Respondent’s advertisement.
6. Tester 1 posed as a prospective tenant with two children.
7. On January 27, 2009, Tester 1 spoke to Respondent by telephone and stated that she was searching for a three bedroom apartment. Respondent gave her the Apartment’s address.
8. Tester 1 asked Respondent what was meant by the term “unique individual” in the Craigslist advertisement. Respondent stated that he was looking for “the right person or couple” as tenants.
9. After Tester 1 informed Respondent that she had two children, Respondent replied that the Apartment was “not conducive to a family.” Respondent explained that the Apartment was under renovation and was “not a good environment for a family” because it gets dusty and dirty. After Tester 1 indicated that her children could tolerate a little dirt, Respondent repeated, “Like I said, I’m looking for an individual. Goodbye.”

10. Tester 2 posed as a prospective tenant with no children.
11. Tester 2 also spoke to Respondent on January 27, 2009. Respondent asked Tester 2 if she had read the Craigslist advertisement and told her that the Apartment was being renovated. Tester 2 then made an appointment to view the Apartment.
12. When Tester 2 met with the Respondent on January 31, 2009, he asked her “who is the apartment for?” She told him that it was for herself, her husband, and her mother-in-law. Respondent said he would have to think about it; however, when Tester 2 offered that she did not have any children, Respondent said “okay,” and stated that \$750 would be required plus the first month’s rent.
13. Respondent’s discriminatory advertisement and discriminatory statements made to the Testers have caused harm to HOME by, among other things, interfering with its efforts and programs intended to bring about equality of opportunity in housing and forcing it to devote scarce resources to identify and counteract Respondent’s unlawful housing practices thereby diverting time and money from its other functions and goals.

#### **FAIR HOUSING ACT VIOLATIONS**

14. As described above, Respondent made statements with respect to the rental of a dwelling that indicated a preference, limitation, or discrimination based on familial status in violation of 42 U.S.C. § 3604(c).

#### **CONCLUSION**

**WHEREFORE**, the Secretary of HUD, through the Office of General Counsel and pursuant to 42 U.S.C. § 3610(g) (2) (A), hereby charges Respondent with engaging in a

discriminatory housing practice in violation of 42 U.S.C. § 3604 (c) and prays that an order be issued that:

1. Declares that Respondent's discriminatory housing statements violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondent, his agent, employees, and successors, and all other persons in active concert or participation with him, from making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or 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;
3. Awards such damages pursuant to 42 U.S.C. § 3612(g) (3) as will fully compensate Complainant for damages caused by Respondent's discriminatory conduct;
4. Assesses a civil penalty against Respondent for violation of the Act; and
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g) (3).

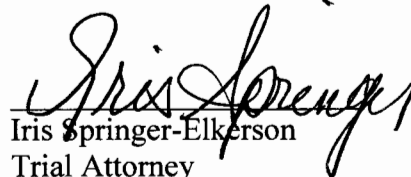
Respectfully submitted,



John J. Cahill  
Regional Counsel for  
New York/New Jersey



Henry Schoenfeld  
Associate Regional Counsel



Iris Springer-Elkerson  
Trial Attorney

Office of Regional Counsel  
U.S. Department of Housing and  
Urban Development  
26 Federal Plaza, Room 3500  
New York, New York 10278-0068  
(212) 542-7208

Date: September 29, 2009