

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	)	
	)	
Angela Scherer and Brian Scherer,	)	
	)	HUD ALJ No.
Charging Party,	)	FHEO No. 05-08-0787-8
	)	
v.	)	
	)	
Wayne County Housing Authority,	)	
Jill Masterson and Danna Sutton,	)	
	)	
Respondents.	)	

**CHARGE OF DISCRIMINATION**

I. JURISDICTION

On or about March 31, 2008, Complainant Angela Scherer filed a verified complaint with the United States Department of Housing and Urban Development ("HUD" or "the Department") alleging that Respondent Wayne County Housing Authority ("WCHA") violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the "Act"), by discriminating based on race, specifically, in violation of 42 U.S.C. § 3604(c). On June 25, 2008, the complaint was amended to add Brian Scherer as a Complainant and to add a 42 U.S.C. § 3617 allegation. The amended complaint also added Jill Masterson ("Respondent Masterson") as a respondent, individually and as the executive director of Respondent WCHA, in addition to naming Danna Sutton ("Respondent Sutton") as a respondent, individually and as the assistant director of Respondent WCHA.

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 (54 Fed.Reg. 13121), who has retained and re-delegated to the Regional Counsel (73 Fed.Reg. 68442) 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 Office of Fair Housing and Equal Opportunity Region V Director, 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 race, and has authorized and directed the issuance of this Charge of Discrimination.<sup>1</sup>

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

Based on HUD's investigation of the allegations contained in the aforementioned complaint and Determination of Reasonable Cause and No Reasonable Cause, Respondents WCHA, Masterson and Sutton are charged with discriminating against Complainants Brian and Angela Scherer, aggrieved persons as defined by 42 U.S.C. § 3602(i), based on race in violation of 42 U.S.C. § 3604(c) and § 3617 of the Act as follows:

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 race, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c).
2. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 3603, 3604, 3605, or 3606. 42 U.S.C. § 3617.
3. At all times relevant to this Charge, Complainants Angela and Brian Scherer, husband and wife (collectively "Complainants"), both white, owned a single-family, three-bedroom, two-bath rental home located at 310 S.E. 3<sup>rd</sup> Street, Fairfield,<sup>2</sup> Wayne County, Illinois ("subject property").
4. Respondent WCHA is a public housing authority that receives Federal financial assistance through an Annual Contributions Contract with HUD. Respondent WCHA uses this funding, in part, to finance public housing units and its Section 8 Housing Choice Voucher program.
5. At all times relevant to this Charge, Respondent Masterson, who is white, was employed as the executive director of Respondent WCHA. Respondent Masterson's responsibilities as the executive director included overseeing staff,

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<sup>1</sup> The Determination also found no reasonable cause to believe that Respondents discriminated against Complainants in violation of § 3617 when Respondents allegedly decreased the voucher holder's Section 8 voucher and allegedly required Complainants to reduce the rental amount for the subject property due to the voucher holder's race.

<sup>2</sup> According to the 2000 U.S. Census Data, the city of Fairfield had a population of 5,421 persons, only 5 or 0.1% of whom were black, while 98% were identified as white.

managing programs, and handling various general administrative duties such as answering phones and greeting clients.

6. At all times relevant to this Charge, Respondent Sutton, who is white, was employed as the assistant director of Respondent WCHA. Respondent Sutton's responsibilities as the assistant director included administrative duties, inspecting housing properties, and completing rental calculations for Section 8 voucher holders.
7. On or about March 1, 2008, Complainants placed an advertisement for rental in the *Wayne County Press*, a local newspaper in Wayne County, Illinois for the subject property. Upon information and belief, the advertised monthly rent was \$425.
8. On or about March 7, 2008, a prospective applicant for the subject property, Valecia Evers ("Evers"), visited Respondent WCHA's office and completed an application for the Section 8 Housing Choice Voucher program. Evers was relocating from St. Louis to Wayne County to be closer to her family. Evers and her five children are African-American.<sup>3</sup>
9. On or about March 12, 2008, Evers contacted Complainants expressing an interest in renting the subject property for her family.<sup>4</sup> During the telephone conversation, Evers informed Complainant Angela Scherer that she had a Section 8 voucher approved from Respondent WCHA for approximately \$300. Complainant Angela Scherer informed Evers that she and her husband would consider accepting the voucher, but that they needed to contact Respondent WCHA for more information about the program as Complainants had not previously participated in the voucher program.
10. On or about March 14, 2008, Evers received a program voucher certificate from Respondent WCHA for a three-bedroom rental. Based on Evers' self-reported income, Respondent WCHA manually calculated Evers' income and qualified her for a \$112 voucher.
11. Shortly after March 14, 2008, Complainant Brian Scherer contacted Respondent WCHA for information related to the Section 8 voucher program and spoke to Respondent Masterson.
12. During the course of the March 14, 2008 telephone conversation, Complainant Brian Scherer informed Respondent Masterson of Evers' inquiry about renting the subject property. In response, Respondent Masterson confirmed that Evers was,

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<sup>3</sup> Evers also filed a housing discrimination complaint with HUD against the named Respondents. Complainant voluntarily withdrew her HUD complaint, with resolution, effective December 10, 2008.

<sup>4</sup> According to the 2000 U.S. Census Data, the subject property was located in a neighborhood that had a population of 688 persons; only 1 or 0.1% was identified as black, while 669 were identified as white.

in fact, an eligible voucher holder, and stated that Respondent WCHA would have to conduct a mandatory housing inspection of the subject property if he chose to rent to Evers.<sup>5</sup> During the conversation, Respondent Masterson also said, "I don't know if you know this, but they're black and from St. Louis. We've had problems with the whole family. You may not want them in your home," or similar words to that effect. Complainant Brian Scherer replied, "I don't care, as long as I get paid," or similar words to that effect. Respondent Masterson continued to explain the voucher program to Complainant Brian Scherer, after which the call ended.

13. Respondent Masterson acknowledged during the investigation that she informed Complainant Brian Scherer that Evers was from St. Louis, but not that Evers was black.
14. Sometime between March 14, 2008, and March 23, 2008, Complainant Angela Scherer telephoned Respondent WCHA to schedule the housing inspection for the subject property and spoke to a woman later identified as Respondent Sutton. During the course of the conversation, Respondent Sutton informed Complainant Angela Scherer that Respondent WCHA would not place a voucher holder in a rental property charging \$425 in rent. Instead, Complainant Angela Scherer was advised that \$300 a month would be the maximum rent that Respondent WCHA would allow. Before the call ended, a housing inspection of the subject property was scheduled for March 24, 2008.
15. On or about March 24, 2008, Respondent Sutton arrived for the scheduled housing inspection appointment and met with Complainant Angela Scherer. Before the inspection started, Respondent Sutton said to Complainant Angela Scherer, "We really can't tell you who you can or can't let in your house, but I have friends in the neighborhood and I wouldn't want a black family living next to me," or similar words to that effect. Taken aback, Complainant Angela Scherer asked Respondent Sutton if she was "racist," and strongly advised her that such statements were unacceptable. Complainant Angela Scherer also admonished her, "You're in a government position and you need to watch what you say," or similar words to that effect. Respondent Sutton dismissively replied, "Well, a bunch of her family is already here and we've had problems with them. I can't promise you that we're going to be able to get her in here," or similar words to that effect. Later, during the inspection, Respondent Sutton told Complainant Angela Scherer, "Why don't you just sell the home to a nice family," or similar words to that effect. In response, Complainant Angela Scherer stated, "No, we'll rent it," or similar words to that effect.

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<sup>5</sup> Pursuant to HUD program regulations, rental units must meet basic housing quality standards ("HQS") before assistance can be paid by a public housing authority on behalf of a prospective applicant. As a result, housing authorities, such as Respondent WCHA, must conduct housing inspections of rental units to determine compliance with HQS.

16. At the conclusion of the March 24, 2008 inspection, Respondent Sutton informed Complainant Angela Scherer that she found a number of deficient items<sup>6</sup> that needed to be repaired before Evers could move in. Complainant Angela Scherer took handwritten notes for each of the deficient items noted by Respondent Sutton so that Complainants could make the necessary repairs. Respondent Sutton further informed Complainant Angela Scherer that repairs would have to be completed and the subject property re-inspected.
17. Respondent admits that Complainant Angela Scherer became angry with her during the inspection and accused her of being "racist." During the investigation, Respondent Sutton stated that she had no problems with minorities because she has "Mexican neighbors" and "coloreds" as friends.
18. On or about March 25, 2008, Respondent Masterson phoned Complainants to schedule a re-inspection of the subject property. During the telephone conversation, Respondent Masterson informed Complainant Angela Scherer that Respondent WCHA would pay \$112 towards Evers' rent, and that Evers was responsible for the remaining balance of \$188. A re-inspection was scheduled for March 27, 2008.
19. Before ending the March 25, 2008 telephone call, Complainant Angela Scherer informed Respondent Masterson that something about the entire process "seemed wrong," and told Respondent Masterson that she was going to call HUD to report Respondents.
20. On or about March 26, 2008, Complainant Angela Scherer called HUD's Office of Public and Indian Housing in Chicago, spoke with Director Steven Meiss ("Meiss") and informed him of Respondents' discriminatory conduct. Respondent Masterson admits that Meiss subsequently called her. Meiss later called Complainant Angela Scherer to inform her that Respondent Masterson denied allegations of discrimination. Complainant Angela Scherer expressed her desire to file a housing discrimination complaint and Meiss directed her to HUD's Office of Fair Housing and Equal Opportunity.
21. Complainants were unable to make all the required repairs prior to the scheduled March 27, 2008 re-inspection. As a result, a re-inspection of the subject property was rescheduled for April 2, 2008.
22. On or about April 2, 2008, Complainant Brian Scherer met with Respondents Masterson and Sutton for the re-inspection. The subject property passed upon re-inspection.

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<sup>6</sup> Among some of the noted inspection deficiencies, the inspection report included the following: (1) new handrails needed at the front and back steps, (2) peeling paint on the front steps, (3) pipe on pop-off valve needed, (4) missing carbon monoxide detector, and (5) outlet cover needed.

23. On or about April 23, 2008, Evers met with Complainants to view the subject property. Later that same day, Complainants and Evers went to Respondent WCHA to complete the Housing Assistance Payment Contract ("HAP Contract") and lease for the subject property. The HAP Contract provided that the amount of the housing assistance payment by Respondent WCHA to Complainants was \$113.<sup>7</sup> Evers was responsible for \$187 of the total contract rent of \$300 for the subject property.
24. During the April 23, 2008 meeting, Respondent Masterson asked Evers, "You sure you want to move in there? They're not finished painting and it smells like dog," or similar words to that effect. Nevertheless, Evers moved into the subject property that same day.
25. Respondent Sutton acknowledged during the HUD investigation that the deficiencies revealed during the March 24, 2008 inspection of the subject property were "common" among properties she has inspected in the past. Respondent Sutton admitted that she typically does not fail housing inspections and could not recall a property she had previously failed. Respondent Sutton further admitted that when she observed deficiencies during a housing inspection, it is her practice to pass the housing inspection and verbally inform the housing provider to repair the deficient items. Respondent Masterson confirmed Respondent Sutton's practice of passing housing inspections in spite of evidence of non-compliance with HQS program regulations.
26. Respondent WCHA's records reveal a housing inspection of a unit that was to be occupied by a white voucher holder. That housing inspection, which was conducted by Respondent Sutton, revealed deficiencies similar to those she had observed during the March 24, 2008 inspection of the subject property. Notwithstanding the deficiencies, Respondent Sutton passed the inspection of the unit to be occupied by the white voucher holder.
27. At all times relevant to this Charge, Respondent WCHA's records revealed that of the 47 files reviewed by HUD of current voucher holders, the subject property was the only property that Respondent Sutton failed upon initial inspection.
28. Respondents admitted that Respondent Sutton failed the subject property at the March 24, 2008 housing inspection because Complainant Angela Scherer had "thrown such a fit" and had accused Respondent Sutton of being "racist" during the inspection. Respondents admitted that had Complainant Angela Scherer not reacted in this manner, and had she not threatened to call HUD, Respondent Sutton would have passed the inspection for the subject property.

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<sup>7</sup> Initially, Respondent Sutton manually calculated Evers' initial voucher for \$112; however, Respondent WCHA's computer program later rounded the voucher up to \$113.

29. Complainants did not receive any documentation from Respondents concerning either inspection of the subject property. Complainants made repairs based on Complainant Angela Scherer's handwritten notes.
30. By making the following statements, "We really can't tell you who you can or can't let in your house, but I have friends in the neighborhood and I wouldn't want a black family living next to me," "...[a] bunch of her family is already here and we've had problems with them. I can't promise you that we're going to be able to get her in there" and, "Why don't you just sell the home to a nice family," or similar words to that effect, Respondent Sutton indicated a preference, limitation, or discrimination based on race, or an intention to make such a preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c) of the Fair Housing Act.
31. By making the following statements, "I don't know if you know this, but they're black and from St. Louis. We've had problems with the whole family. You may not want them in your home," or similar words to that effect, Respondent Masterson indicated a preference, limitation, or discrimination based on race, or an intention to make such a preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c) of the Fair Housing Act.
32. By failing the initial March 24, 2008 inspection of the subject property because Complainants intended to rent their home to a black family and because Complainant Angela Scherer called Respondent Sutton a "racist" and indicated that she was going to report the discrimination to HUD, Respondents violated 42 U.S.C. § 3617 by interfering and retaliating against Complainants for exercising or enjoying their right to rent the subject property to an African-American voucher holder, a right granted or protected by § 3604 of the Act.
33. Complainants are aggrieved persons within the meaning of 42 U.S.C. § 3602(i), and, as a result of Respondents' discriminatory conduct as described above, Complainants have suffered damages.
34. As a result of Respondents' discriminatory conduct, Complainants have suffered damages, including, but not limited to, economic loss, emotional distress and inconvenience. Because Complainants had never participated in the Section 8 Housing Choice Voucher program and did not intend to participate in it until after Evers' rental inquiry, Complainants frustrated with the process, upset, troubled and angered by the discriminatory statements made by Respondent WCHA's employees.
35. Specifically, after Respondent Masterson informed Complainant Brian Scherer that Evers was black, he felt attacked and dismissed by Respondent Masterson as if she did not want to have anything to do with him because he was considering renting to a black family. He later felt vulnerable and scared for his tenant, his property, himself and his wife. Complainant Angela Scherer was so angry and

offended by Respondent Sutton's discriminatory statements that she immediately responded by asking Respondent Sutton if she was a "racist." Complainant Angela Scherer was angry because it appeared that by Respondent Sutton's statements to her, Respondent Sutton was in some way trying to protect her friends from having to live near a black family, and also felt as if she now had to justify renting her property to a black family. She later felt concern for her tenant and very protective of her.

36. Not only did Complainants suffer emotional distress, but because the initial housing inspection failed, Complainant Brian Scherer was inconvenienced when he had to travel 90 minutes to and from his current residence to the subject property for the April 2, 2008 re-inspection.

### III. PRAYER FOR RELIEF

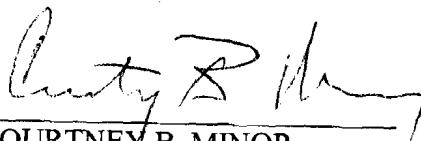
WHEREFORE, the Secretary of Housing and Urban Development, through the Regional Counsel for Region V, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of § 3604(c) and § 3617, and prays that an order be issued 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 and successors and all other persons in active concert or participation with them from discriminating on the basis of race against any person in any aspect of the rental or sale of a dwelling in violation of the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*;
3. Awards such damages as will fully compensate Complainants, aggrieved parties, for their emotional distress, inconvenience and economic loss caused by Respondents' discriminatory conduct in violation of 42 U.S.C. §§ 3604(c) and 3617; and
4. Assesses a civil penalty of sixteen thousand dollars (\$16,000) against each Respondent for each violation of the Fair Housing Act that Respondents have committed pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(a)(1).

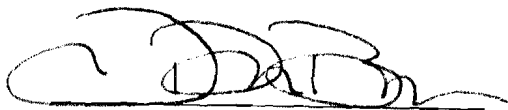
The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).



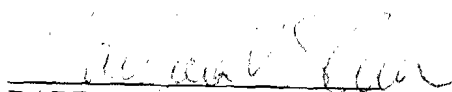
Respectfully submitted,



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