

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)	
Chicago Lawyers' Committee For Civil)	
Rights Under Law,)	
)	HUD ALJ No.
Charging Party,)	FHEO Nos. 05-07-0423-8
)	
v.)	
)	
Cesar A. Lopez,)	
)	
Respondent.)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about January 17, 2007, Complainant Chicago Lawyers' Committee for Civil Rights Under Law ("Complainant CLC") filed a verified complaint with the United States Department of Housing and Urban Development (the "HUD Complaint"), alleging that Respondent Cesar Lopez ("Respondent") violated the Fair Housing Act as amended in 1988, 42 U.S.C. §3601 *et seq.* (the "Act"), by advertising in a discriminatory manner in violation of 42 U.S.C. §3604. The complaint was originally referred to the Illinois Department of Human Rights ("IDHR") pursuant to Section 810(f) of the Act. However, on January 25, 2007, IDHR waived the case back to HUD for investigation. On December 5, 2007, the complaint was amended.¹

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 redelegate to the Regional Counsel (67 Fed.Reg. 44234), 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.

¹ The complaint was amended to "provide all parties with an accurate copy of the original signed complaint as filed with the U.S. Department of Housing and Urban Development."

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 familial status and sex (male), and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondent Cesar Lopez is charged with discriminating against Complainant Chicago Lawyers' Committee for Civil Rights Under Law, an aggrieved person as defined by 42 U.S.C. §3602(i), based on familial status and sex (male) in violation of 42 U.S.C. §3604(c) 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, color, religion, sex, "handicap," familial status, or national origin, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. §3604(c); see also 24 C.F.R. §100.75.
2. The subject property is also governed by a local fair housing ordinance. The CHICAGO MUNICIPAL CODE, Ch.5-8-010, et seq., ("Chicago Code") prohibits discrimination in housing on the basis of parental status and sex. Parental status is defined as "the status of living with one or more dependent minor or disabled children." CHICAGO MUNICIPAL CODE, §2-160-010(h). It is a prohibited housing practice for an owner or agent to make a discriminatory statement of any kind relating to the rental or leasing of any residential real property within the city of Chicago because of parental status or sex. See CHICAGO MUNICIPAL CODE, Ch.5-8-030(B). Moreover, owner-occupied properties are not exempt under the Chicago Code. See CHICAGO MUNICIPAL CODE, Ch.5-8-050.²
3. At all times relevant to this Charge, Respondent Cesar Lopez was the sole owner and manager of the property located at 3135 North Monitcello Avenue, Chicago, Illinois 60618 ("subject property").
4. The subject property is a three-story, multi-family dwelling. On information and belief, Respondent resides on the second and third floor units and leases the first floor and garden units.
5. Complainant CLC is a not-for-profit Illinois corporation that promotes open housing in the Chicago metropolitan region. Its programs and activities include operating a Fair Housing Center and Legal Action Program.

² Because the advertisement posted on craigslist.org is illegal under the Chicago Code, it is not entitled to First Amendment protection.

6. Justin Massa is Complainant's Fair Housing Testing and Outreach Coordinator. As a result of complaints received by Complainant, Mr. Massa regularly monitors websites advertising Chicago-area rental housing listings for discriminatory advertisements.
7. In or around January 24, 2006, Justin Massa conducted a search for discriminatory housing advertisements on craigslist.org. As part of this search, Mr. Massa viewed and saved a rental advertisement for the subject property posted by Respondent on craigslist.org in or around January 21, 2006. The advertisement also contained pictures of the subject property. The advertisement read as follows:

"I am the landlord not a roommate. Two blocks from CTA BlueLine Belmont. Located North of Logan Square. I pay gas and electric. One month security deposit required. I am the landlord looking for tenants for this newly finished garden apartment. Great Apartment for single person. Cable and phone line ready. Quiet house and street. Street permit parking \$25 year. Owner occupied building. Privacy fenced backyard. Two blocks from I-90/94 Belmont & Kimball exit and the CTA Blue line, Bankone, Washington Mutual Bank, LaSalle Bank, Walgreens, Jewel-Osco, Dominick's, McDonald's, Burger King, Taco Bell, KFC, Dunkin' Doughnuts, Baskin-Robbins all in walking distance. Many retail stores in walking distance. No Dogs.

I prefer young college students or single females. I prefer to rent this apartment to someone who will be living alone. Again I will not be living with you. I live on the second floor.

31XX Monticello at Belmont & Central Park
This is in or around Belmont Blue Line"

8. On or around November 20, 2006, Justin Massa printed out the advertisement in order to determine the potential respondent, as the advertisement listed only a partial address --31XX Monticello-- and no other identifiable information aside from reference number 127166619 provided by craigslist.org. Mr. Massa conducted a search of all homes on the 3100 block of North Monticello on the Cook County Assessor's website. Based on his search, Mr. Massa concluded that 3135 North Monticello was the only house on the Cook County Assessor's website that matched the photos posted in the craigslist.org advertisement.
9. Mr. Massa recorded the Property Index Number ("PIN") associated with 3135 North Monticello. The PIN was listed as 13-26-107-014-0000. He then entered the PIN on the Cook County Treasurer's Office website to obtain the tax records associated with the subject property. The tax records showed the property owner's name to be Cesar A. Lopez, and that the tax bill was sent to Respondent at the subject property.
10. On January 17, 2007, Complainant filed its fair housing complaint against Respondent with HUD.

11. On June 18, 2007, in the course of the investigation, Respondent spoke to a HUD Equal Opportunity Specialist (“EOS”) who informed him of a free fair housing training to be held the next day by the Spanish Coalition for Housing Citywide Resource Center – Chicagoland Bilingual Landlord Association in coordination with Complainant.
12. On June 19, 2007, Respondent attended the free training seminar.³ During the seminar, Justin Massa, presented information on fair housing laws, a segment of which addressed internet advertisements. During his presentation, Respondent directed questions to Mr. Massa.
13. After the presentation on June 19, 2007, Respondent approached Mr. Massa and acknowledged that he posted the advertisement referenced in Paragraph 7, above. Respondent admitted that he did not see a problem with the advertisement he posted on craigslist.org and commented that he was just “being honest” because “girls really are cleaner.”
14. During the course of the investigation, the HUD EOS interviewed Zeraida Martinez, one of Respondent’s former tenants. Ms. Martinez explained that she resided in the first floor unit at the subject property with her 2 children from in or around December 2003 until the end of June 2006. Ms. Martinez also recalled that a single male resided in the garden unit when she moved out in June 2006.
15. In response to HUD’s November 7, 2007 data request letter, Respondent admitted that he rented the garden unit to a man from June 1, 2006 through May 31, 2007.
16. Consequently, the garden unit was unoccupied in or around January 2006 when the discriminatory advertisement referenced in Paragraph 7, above, was posted on craigslist.org.
17. During the investigation, two rental advertisements for the first floor and garden units were discovered on an internet website posting residential rentals, roomster.net. The advertisements were similar to those posted on craigslist.org, except for the discriminatory language.
18. Respondent admitted to a HUD EOS that he “may” have posted the advertisement on roomster.net. Respondent failed to call the HUD EOS back to confirm or deny this allegation.
19. Additionally, on or about November 28, 2007, as part of the investigation, the HUD EOS discovered the existence of Respondent’s MySpace.com page, which bears the headline “The Movin’ Cuban” in Chicago, Illinois. According to the MySpace page, Respondent last updated his profile on October 21, 2007. The page displays a picture

³ In fact, Respondent admitted to the EOS on July 2, 2007 that he attended the free training seminar.

of a man on a motorcycle and references the name Cesar numerous times. The profile reads in pertinent part, "I own a building and I'm in need of tennants (sic) to rent my two bedroom first floor apartment. The hardwood floors have recently been refinished and is available for showings (sic). For apartment pics:photos.yahoo.com/MVNQBAN@yahoo.com."

20. The content of Respondent's MySpace page also confirms that (1) a unit was available for rental, (2) Respondent sought to rent out the subject property and (3) he used the internet as a medium to advertise the subject property.
21. Respondent provided MVNQBAN@yahoo.com as one of his e-mail addresses, and admitted that he selected this address himself.⁴ During the investigation, HUD subpoenaed craigslist.org for the personal e-mail address associated with the reference number 127166619 listed in the craigslist.com posting. Craigslist.org provided MVNQBAN@yahoo.com as the e-mail address associated with the posting of the advertisement. Craigslist also included the Poster Internet Protocol address ("IP address") which indicates the computer that was used to submit the post at issue.
22. As a result of Respondent's discriminatory conduct, Complainant CLC has suffered damages, including inconvenience, economic loss through diversion of its resources, and frustration of its mission to promote equal housing opportunities in the Chicago metropolitan area. Complainant CLC was forced to divert some of its scarce resources to investigate Respondent's discriminatory advertisement, conduct factual research into the ownership of the subject property and other properties owned by Respondent, conduct legal research, conduct education and outreach regarding familial status and sex discrimination and recruit and retain legal counsel for its HUD complaint.
23. As a result of Respondent's discriminatory conduct, an unknown number of prospective tenants with children and/or who are male were discouraged from seeking a rental opportunity at the subject property because of the discriminatory language "Great Apartment for single person," and "I prefer young college students or single females. I prefer to rent this apartment to someone who will be living alone," posted in Respondent's craigslist.org advertisement, frustrating Complainant's mission to promote diverse and equal housing in the Chicago metropolitan area.

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 42 U.S.C. §

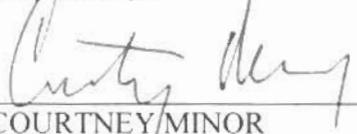
⁴ This combination of letters is presumably a phonetic representation of Complainant's self professed nickname, "The Movin' Cuban."

3610(g)(2)(A) of the Act, hereby charges Respondent with engaging in a discriminatory housing practice in violation of Section 3604(c) of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practice of Respondent, as set forth above, violates the Fair Housing Act, as amended 42 U.S.C. §3601 *et seq.*;
2. Enjoins Respondent, his agents, employees, and successors, and all other persons in active concert or participation with him from discriminating because of familial status and sex against any person in any aspect of the rental or sale of a dwelling;
3. Awards such damages as will fully compensate Complainant CLC, an aggrieved party, for its economic loss, inconvenience, and frustration of mission caused by Respondent's discriminatory conduct pursuant to 42 U.S.C. § 3604(c); and
4. Assesses a civil penalty of eleven thousand dollars (\$11,000) against Respondent for the violation of the Act that Respondent has committed pursuant to 42 U.S.C. §3612(g)(3).

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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