

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 the Fair	:	
Housing Council of Suburban	:	
Philadelphia,	:	
	:	
Charging Party,	:	
	:	
v.	:	FHEO No. 03-09-0205-8
	:	
Joseph Trabaccone, Leslie Wood,	:	
Katherine Lohre, Mark B. Cohn, and	:	ALJ No.
Linda Cohn,	:	
	:	
Respondents	:	
	:	

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**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

The Fair Housing Council of Suburban Philadelphia (“FHCSF” or “Complainant”) submitted a timely complaint with the United States Department of Housing and Urban Development (“HUD”) on February 17, 2009, alleging that Joseph Trabaccone, Leslie Wood<sup>1</sup> and Katherine Lohre<sup>2</sup> (“Respondents”) committed a discriminatory housing practice on the basis of familial status in violation of the Fair Housing Act, 42 U.S.C. §§ 3601-19 (“the Act”). The complaint was amended on April 2, 2009, April 29, 2009, and June 3, 2009.<sup>3</sup>

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<sup>1</sup> The complaint was amended on April 2, 2009, to identify “Leslie” (last name unknown at the time) as the landlord of the property.

<sup>2</sup> The complaint was amended on April 2 2009, to identify “Catherine” (last name unknown at the time) as the individual who posted the discriminatory advertisement, the landlord’s representative of the property and a Respondent.

<sup>3</sup> The April 29, 2009 amendment identifies the full names of Respondents Wood and Lohre. The amendment identifies Respondent Wood as “owner and landlord” and identifies the address of Respondent Lohre. On June 3, 2009, the complaint was amended a third time to correct the spelling of Respondent Lohre’s first name as “Katherine.”

The Act authorizes the issuance of a charge of discrimination (“Charge”) on behalf of an aggrieved person 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) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who retains and redelegates this authority 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 Fair Housing and Equal Opportunity Director for Region III has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and, therefore, has authorized the issuance of this charge of discrimination.

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

Based on HUD’s investigation of the allegations contained in the aforementioned complaint and as set forth in the aforementioned Determination of Reasonable Cause, Respondents are charged with discriminating against the Complainants based on familial status in violation of 42 U.S.C. §§ 3604(a) and (c).

### ***A. Statutory and Regulatory Provisions***

1. It is unlawful to refuse to rent or negotiate for rental or otherwise make unavailable or deny a dwelling to any person because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a) and (b) (2009).
2. It is unlawful to make statements with respect to the rental of a dwelling that indicate any preference, limitation or discrimination based on familial status, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a), (b) and (c) (2009).
3. “Familial status” means one or more individuals under the age of eighteen (18) being domiciled with a parent or legal guardian. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20 (2009).

### ***B. Parties and Properties***

1. At all times pertinent to this Charge, FHSCP is a private, non-profit organization working to promote freedom of residence. The organization’s stated mission is to educate and advocate for equal access to quality, affordable housing for all persons without regard to race, color, religion, national origin, disability, gender and familial status, in Southeast Pennsylvania.

2. At all times pertinent to this Charge, Respondent Joseph Trabaccone owned the property at 134 N. 21st Street, Philadelphia, Pennsylvania (“subject property”). When interviewed by a HUD investigator, Respondent Trabaccone said that for tax purposes, he and Respondent Leslie Wood co-own the property in a “tax partnership.” Respondent Trabaccone lives in Park City, Utah.
3. At all times pertinent to this Charge, Respondent Wood lives in one of the units in the subject property and manages the day-to-day operations of all of the units in the building.
4. The subject property consists of a building containing six (6) condominium units that are rented out, located at 134 N. 21st Street, Philadelphia, Pennsylvania.
5. At all times pertinent to the Charge, Respondent Katherine Lohre and her husband lived in the property 134 N. 21<sup>st</sup> Street property in Unit #2F (“subject property”). Respondent Lohre and her husband moved in to the property in 2004 and moved out on September 22, 2008. Respondent Lohre gave birth to a baby approximately eight (8) months before they moved out.
6. At all times pertinent to this Charge, Respondent Lohre was an agent of Respondents Trabaccone and Wood.

**C. *Factual Allegations***

1. Sometime prior to August 19, 2008, Respondents Trabaccone and Wood agreed to allow Respondent Lohre to end her lease early as long as she found a replacement tenant.
2. At all times pertinent to this Charge, Respondents Trabaccone and Wood authorized Respondent Lohre to advertise and interview potential tenants for the subject property. In a signed letter to HUD dated May 3, 2009, Respondents Wood and Trabaccone confirmed that they had an agreement with Lohre and her husband that they were responsible for finding someone to rent the unit, including advertising and interviewing potential tenants.
3. Respondent Lohre drafted a proposed advertisement for the subject property and showed the text of an advertisement to Respondent Wood before posting the advertisement on *craigslist.com*. Respondent Wood approved the text of the advertisement.<sup>4</sup>

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<sup>4</sup> Respondents Wood and Trabaccone deny telling Respondent Lohre to post an advertisement on *craigslist.com* with discriminatory language.

4. On August 19, 2008, Respondent Lohre posted an advertisement (“subject advertisement”), as approved by Respondent Wood, for a one-bedroom apartment on *craigslist.com* that read as follows:

Sunny, 2nd floor front, one bedroom apartment located in an 150 year old, completely restored brownstone in the Logan Circle section of Philadelphia (one block from the Franklin Institute and the Benjamin Franklin Parkway). Unit has hardwood and ceramic tile floors, A/C, dishwasher, garbage disposal, gas heating and cooking, large storage bin and washer and dryer in basement. Plenty of closet space with above storage as well. High ceilings and large rooftop deck, and many other amenities. There are six units in the building occupied by professional, quiet, and friendly tenants. Tenant pays utilities (gas and electric). No dogs or children. Two cats allowed with a \$75 non-refundable security deposit PER cat. \$50 non-refundable credit check is required. First month’s rent due upon signing of lease, last month’s rent and security deposit due before moving in. To set up appointment to see unit call.....215-514-6285 if calling after 6pm, leave message. 134 N. 21st Street, Philadelphia.

5. At all times pertinent to the Charge, Respondent Lohre’s cell phone number was the telephone number listed in the subject advertisement.
6. On August 20, 2008, Fair Housing Council of Suburban Philadelphia (FHCSF) viewed the above advertisement on *craigslist.com*, posted on August 19, 2008 by Respondent Lohre. FHCSF noted that the advertisement contained the discriminatory phrase “no...children.”
7. On August 20, 2008, the FHCSF Test Coordinator called the telephone number provided in the advertisement and emailed the provided email address to determine whether the apartment was still vacant. On the same date, Respondent Lohre returned the call and said that the apartment was still available.
8. On August 20, 2008, the FHCSF Test Coordinator assigned two testers to call and inquire about the apartment. Tester #1, who represented herself as a single female with a child and a yearly income of \$65,000 per year, was to mention the advertisement and the “no children” language. Tester #2 represented himself as a married man who sought housing for his wife and himself, with a combined income of \$62,000 per year.
9. On August 20, 2008, Tester #1 called the number provided on the subject advertisement, which was later identified as Respondent Lohre’s cell phone number, to inquire about the one-bedroom unit for rent. A woman answered

the phone and said that the unit was still available. Tester #1 acknowledged the “no children” language in the advertisement and informed the woman that she had a four-year-old child. Tester #1 asked if she could see the apartment and the woman said, “The landlord lives above us and will not approve it.” Tester #1 asked if she could speak to the landlord regarding the “no children” policy, and the woman said that the landlord would not budge on the issue of children. The woman said that when she moved in, she was told that no children were allowed. The woman said that the reason her family was moving and had bought a house was because they had just had a baby. Upon information and belief, the woman was Respondent Katherine Lohre.

10. On August 20 and 21, 2008, Tester #2 called the phone number listed on the subject advertisement to inquire about the apartment. Tester #2 was unsuccessful but left a message in a voicemail box with a woman’s voice. On the morning of August 22, 2008, Tester #2 received a return call from a woman, who identified herself as “Katherine,” regarding the apartment listed in the *craigslist.com* advertisement. Later in the day, Tester #2 called and spoke with “Katherine,” who was later identified as Respondent Lohre. Lohre inquired as to Tester #2’s occupation. Tester #2 said that he worked for the University of Pennsylvania and that his wife worked for the Philadelphia Corporation for Aging. Lohre commented they sounded like the perfect tenants for the owner. Lohre asked whether Tester #2 would be living there with his wife, to which he responded affirmatively. Tester #2 asked about the possibility of viewing the unit and was given several possible dates.
11. As a result of the conversations recorded in paragraph 2, in advertising and interviewing tenants for the subject property, Respondent Lohre was acting as the agent for Respondents Wood and Trabaccone.
12. Respondent Lohre and her husband moved out of the property on September 22, 2008. Respondent Lohre had a baby approximately eight (8) months before they moved out.
13. In a statement to the HUD investigator, Respondent Lohre said that she and her husband moved out when she had the baby. In a signed letter to HUD dated May 3, 2009, Respondents Wood and Trabaccone confirmed that the reason Respondent Lohre and her husband moved out of the apartment was because they had had a child.
14. In a HUD interview, Respondent Wood said that a prior tenant had also been pregnant and moved out.
15. Respondent Wood told the HUD investigator that in the fifteen years she had been managing the building, Respondent Lohre and her husband were the only tenants with a child to live in the subject property.

16. After Respondent Lohre and her family moved out, the subject property was rented to a single woman without children.
17. There are no families with children currently living in the subject property.

### **Fair Housing Act Violations**

1. By initially refusing to rent or negotiate for the rental of the subject property to Tester #1 and ultimately discouraging her from renting it, Respondents discriminated in the rental of a dwelling because of Tester #1's familial status in violation of 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60 (2009).
2. By informing the Complainant that they do not rent to families with children Respondents discriminated against the Complainant by making statements that indicated a preference, limitation, or discrimination against families with children or an intention to make such a preference, limitation or discrimination with respect to the sale or rental of a dwelling, in violation of 42 U.S.C. § 3604(c); 24 C.F.R. § 100.65 (2009).
3. As a result of Respondents' discriminatory statement, Complainant suffered frustration of its mission due to diversion of resources normally devoted to educational, counseling and referral services, in investigating the matter. Resources were diverted to atypical activities including, but not limited to, use of staff time in investigating and preparing investigative documents, planning the test and the contracting, training and debriefing of testers.

### **III. CONCLUSION**

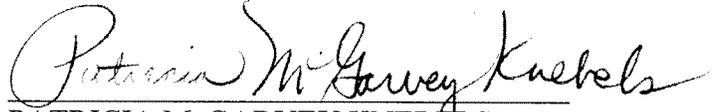
WHEREFORE, the Secretary of HUD, through the Office of Regional Counsel for the Philadelphia Regional Office, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a) and (c), and prays that an order be issued that:

1. Declares that Respondents' discriminatory housing practice, as set forth above, violates the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;
2. Pursuant to 42 U.S.C. § 3612(g)(3), enjoins Respondents and all other persons in active concert or participation with them, from discriminating against any person based on familial status in any aspect of a rental transaction;
3. Pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(a)(1), assesses a civil penalty against each Respondent for each violation of the Act;

4. Pursuant to 42 U.S.C. § 3612(g)(3), awards such damages as will fully compensate FHCSF for the diversion of its resources and out-of-pocket expenses devoted to investigating the matter and frustration of its organizational mission.

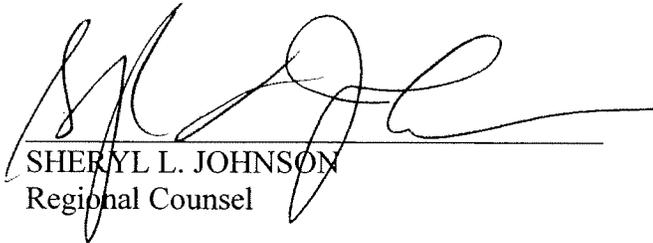
The Secretary further prays for such additional relief as may be appropriate.

Respectfully submitted,



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Trial Attorney



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