

**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 Lewarna B. Williams,	)	
	)	
Charging Party,	)	
	)	
v.	)	<b>FHEO No. 04-08-0425-8</b>
	)	
Fountainview Apartments, Inc., James W. Stevens and Mildred Chastain,	)	
	)	
Respondents.	)	
	)	

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about February 8, 2008, Lewarna Williams (Complainant), an aggrieved person, filed a verified complaint (HUD Complaint) with the U.S. Department of Housing and Urban Development (HUD) alleging that Fountainview Apartments, Inc., James W. Stevens and Mildred Chastain<sup>1</sup> (Respondents) violated the Fair Housing Act, as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act or Fair Housing Act) by discriminating against her because of race, color and/or familial status in violation of 42 U.S.C. §§ 3604(a), (b), (c) and (d).<sup>2</sup>

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 redelegated 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 the Office of Fair Housing and Equal Opportunity (FHEO) or her designee. The Assistant Secretary for FHEO has determined that reasonable cause exists to believe that

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<sup>1</sup> Early in HUD's investigation, Respondent Chastain was only listed as an "unidentified" respondent in the initial complaint. She was later identified by her employer.

<sup>2</sup> On or about February 22, 2008, FHEO amended the HUD Complaint to add an allegation of a violation of 42 U.S.C. § 3604(c) and it was served on February 25, 2008.

discriminatory housing practices have occurred in this case because of race, color, and familial status and has authorized the issuance of this Charge of Discrimination.

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

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondents Fountainview Apartments, Inc., James W. Stevens and Mildred Chastain are charged with discriminating against Complainant Lewarna B. Williams, an "aggrieved person" as defined by 42 U.S.C. § 3602(i), because of race, color and/or familial status in violation of 42 U.S.C. §§ 3604(a)-(d) as follows:

### **A. Legal Authority**

1. It is unlawful to discriminate in the rental of a dwelling or to otherwise make unavailable or deny a dwelling to any renter because of race, color and/or familial status of that renter. 42 U.S.C. § 3604(a).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color and/or familial status. 42 U.S.C. § 3604(b).
3. 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 rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color and/or familial status. 42 U.S.C. § 3604(c).
4. It is unlawful to represent to any person because of race, color and/or familial status, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available. 42 U.S.C. § 3604(d).

### **B. Parties and Subject Property**

5. At the time the HUD Complaint was filed, Complainant was a fifty-four year old African American (Black) female with a disability.<sup>3</sup> Complainant has been a retired state employee since 2003.
6. "Fountain View Apartments" (or the subject property) are located at 910 South Volusia Avenue, Orange City, Volusia County, Florida, 32763-3589 and is comprised of four buildings.<sup>4</sup> Three of the buildings contain several single family dwellings. 42 U.S.C. § 3602(b). The apartments at the subject property vary in size from efficiencies to two-bedroom units.

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<sup>3</sup> Complainant receives a pension and disability benefits from the Social Security Administration.

<sup>4</sup> One of the buildings was a motel at one time before it was converted to multifamily dwellings. Some of Respondents' records still list the property as "Fountainview Apartments and Motel." Respondents' records list both long and short term residents.

7. The first of the four buildings is a two-story structure with single family dwellings; the second building is a one-story building where the subject property's leasing office and Respondent Fountainview Apartments, Inc.'s office, and the private residence of Respondent James W. Stevens (Stevens) are located. The third building is a three-story building that also has several single family dwellings. The fourth building is commercial property consisting of spaces rented by private individuals.

8. At all times relevant to this Charge, Respondent Stevens, a single fifty-nine year old Caucasian (White) male, was an owner of the subject property and has been since 1982. Respondent Stevens lives in Unit 1 and works at the subject property. Respondent Stevens also managed the subject property.

9. At all times relevant to this Charge, Respondent Fountainview Apartments, Inc., a Florida profit corporation, owned and operated Fountain View Apartments which consists of 42 dwelling units. Respondent Stevens is the sole Officer and Director of Respondent Fountainview Apartments, Inc. and he controls, manages and operates all activity related to the rental of dwellings at Fountain View Apartments. Respondent Fountainview Apartments, Inc. has the same principal business and mailing address as the subject property.

10. At all times relevant to this Charge, Respondent Fountainview Apartments, Inc. and Respondent Stevens owned, operated and managed the rental of dwellings at Fountain View Apartments<sup>5</sup> and other business ventures from the subject property.

11. At all times relevant to this Charge, Respondent Fountainview Apartments, Inc. and Respondent Stevens had several Caucasian (White) female employees and/or agents, who reported directly to Respondent Stevens. All of these employees worked with and for Respondent Stevens at the subject property. These employees and/or agents include Respondent Chastain. Respondent Stevens worked with and managed these employees and paid their salaries.

12. At all times relevant to this Charge, Mildred Chastain (Chastain), a seventy-two year old Caucasian (White) female, was employed by and acted as an agent for Respondents Stevens and the other Respondents, as the on-site manager at the subject property.

13. At all times relevant to this Charge, Respondent Chastain was authorized by Respondent Fountainview Apartments, Inc. and Respondent Stevens to act on their behalf, subject to their control and with her consent. Respondent Chastain handled the rental of the dwellings and many of the other day-to-day operations at the subject property and still works there.

14. At all times relevant to this Charge, Respondent Chastain's duties at the subject property included talking to prospective applicants, taking and handling rental

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<sup>5</sup> During HUD's investigation, Respondent Stevens stated that this is a "family run" business he took over after his parents died.

applications, and explaining leasing and move-in procedures. Respondent Chastain managed and maintained the subject property with Respondent Stevens and in his absence. Respondent Chastain signed leases as the "Landlord," revised rental applications, handled rent payments, explained rental requirements, scheduled maintenance, and showed units to applicants. Respondent Chastain has been employed by Respondent Stevens for approximately twenty-two years.

15. Respondents Fountainview Apartments, Inc., Stevens and Chastain are "persons" in the business of renting dwellings. 42 U.S.C. § 3603(b)(2). None of the Respondents are exempt from any provisions of the Act.

### C. Other Factual Allegations

16. Prior to December 12, 2007, Complainant sold her single family home and was seeking a one-bedroom apartment to rent and move into sometime early in January 2008. She planned to live alone although she has adult sons and often picks up and takes care of her grandson. Complainant planned to use her pension and disability benefits and other available resources to pay rent and any fees and costs associated with renting an apartment.

17. On or about December 12, 2007, Complainant, her minor grandson (who is African American)(Black) and an adult female family friend (who is also African American)(Black) drove to the subject property because Complainant saw a vacancy sign posted indicating one bedroom apartments were available. They stopped to check on the availability of an apartment for Complainant.

18. On or about December 12, 2007, Respondents had one bedroom and other size units available for rent.

19. Before Complainant, her grandson, and family friend entered the rental office of the subject property, Complainant's friend saw a Caucasian (White) male, who was standing outside of the building, enter the door to what was marked as an adjoining air conditioner and heater repair business.

20. When Complainant, her grandson, and family friend entered the rental office of the subject property, they saw an "elderly" Caucasian (White) woman standing in front of a door in an adjoining office and heard her speaking to a male adult who Complainant could not see at that time.

21. During HUD's investigation, Complainant and her friend stated that they identified Respondent Stevens, from a news broadcast they saw, as the man they saw on December 12, 2007 standing outside of the rental office when they arrived and who went inside of the building while they were at the subject property.

22. Once Complainant was inside the rental office and Respondent Chastain looked at Complainant, she asked if she could help Complainant. Complainant asked Respondent

Chastain if there were any apartments available, how much it would take for her to move in and the monthly rent. Respondent Chastain told Complainant it would take about \$1600 to \$1800 to move in. Complainant stated that the amount was within her budget. Respondent Chastain told her no units were available.

23. During HUD's investigation, Respondent Chastain was identified by Complainant, her grandson, and her friend as the elderly white woman that Complainant spoke to in the subject property's rental office on December 12, 2007 and Respondent Stevens was also identified by Complainant's friend as the male Respondent Chastain was speaking to when they were in the rental office.

24. While in the rental office at the subject property, Complainant observed a large erasable white board with what appeared to be the subject property's layout on it. It also had colored letters and other markings that indicated the location of units that were listed as "occupied" or "rented." Complainant's friend and grandson also saw the white board but did not speak while Complainant inquired about a unit for rent.

25. Complainant then asked Respondent Chastain if she could have an application to fill out and leave for the next available unit. Respondent Chastain told Complainant she could have an application and gave one to her but told her that she needed to take it with her because she did not know when a unit would become available. At that time, Complainant also picked up the property rules and regulations from a counter in the leasing office.

26. The application form Respondent Chastain gave to Complainant had the words: "ADULTS ONLY" written in the spot that required the number of children. The Respondents knew this limitation was on the form.

27. Because Complainant was uncomfortable with what she heard and saw in the rental office at the subject property on December 12, 2007, she escorted her friend and grandson out the door and left the office. Outside the office, Complainant's friend advised Complainant that she had been discriminated against in violation of the Fair Housing Act and told her that they should go back in. They did not go back in but after they drove away, they drove back to the subject property and copied the telephone number on the marquee.

28. Complainant's friend called the telephone number around 4:38 p.m., about ten minutes after they left the subject property for the second time.

29. Complainant's friend believed that the female who answered her call was the same person they had just spoken to in the rental office at the subject property, Respondent Chastain. When the female answered, Complainant's friend did not identify herself or indicate that she had just been at the property.

30. During the telephone call to the subject property, Complainant's friend asked the woman who answered about unit availability, and the woman told her that there were

units available and provided the rental rates. The woman also scheduled an appointment for viewing the units the following Saturday around noon.<sup>6</sup>

31. Later that evening, Complainant tried to fill out the application for the subject property and because she was still upset about what had occurred when she tried to rent a unit, she contacted a local television station's "problem solvers" hotline to report what happened at the subject property when she attempted to rent an apartment. Complainant was later interviewed by Channel 6, a local television news station.

32. Sometime between December 2007 and February 2008, the local television news station Complainant contacted conducted its own "undercover" investigation regarding Complainant's attempt to rent an apartment at the subject property. During its investigation, the local television news station used African American (Black) and Caucasian (White) employees, a series of instructions and questions and a hidden camera.

33. In January 2008, during its investigation, the local television news station had some of its employees travel to the subject property, enter the rental office and inquire about available units for rent. During HUD's investigation, the local television station's employees who participated in the investigation were interviewed and stated that they identified Respondent Chastain as the woman they spoke to when they inquired about available units at the subject property and Respondent Stevens as the man one of the reporters spoke to after they confronted Respondent Chastain at the subject property.

34. During HUD's investigation, the employees who were interviewed indicated that during one visit, an African American (Black) employee was sent into the rental office. As this employee tried to enter the office he saw a Black male exit. When the Black employee entered the office it was empty. He called out for assistance and Respondent Chastain asked: "What do you want now?" The employee explained that he had just walked in for the first time, and he asked her if she had any available units. Respondent Chastain stated "no." He asked if he could see a unit and Respondent Chastain stated that she had nothing to show. The Black employee asked her for an application; she gave one to him and he left.

35. During HUD's investigation, the employees who were interviewed indicated that shortly after the first Black employee of the local news station visited the rental office, a White employee was sent into the office. The White employee asked Respondent Chastain if she either had a one bedroom or efficiency available and if he could see them. Respondent Chastain stated "yes" and took him to see two units.

36. During HUD's investigation, Respondent Chastain stated that she showed the white employee Units 5 and 14. Respondent Chastain explained the rental process to him, gave him the rental rates, took him to view apartments and allowed him to video the interior of a unit. When the White employee asked about the ethnic breakdown of the property, Respondent Chastain stated: "... they were all White people who lived in the apartment complex and they didn't allow any other breeds." Respondent Chastain

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<sup>7</sup> Complainant's friend did not keep that appointment.

offered him an application and a Fountain View business card and told him her name was "Mildred."

37. During HUD's investigation, the employees interviewed stated that on the local television station's second visit to the subject property to complete its investigation, two additional African American (Black) employees, one male and one female entered the rental office which was empty at that time. They observed the white erasable board indicating both occupied and vacant units. Respondent Chastain came into the office and asked if she could help them. The Black female asked if a one bedroom or efficiency was available. Respondent Chastain told them no, she would not have any until mid-February. The black female asked if she could see an apartment. Respondent Chastain stated "no" and told her that someone was moving in that afternoon and there were none to show. Respondent Chastain offered the Black female an application and the employees left.

38. During HUD's investigation, the employees interviewed stated that a White employee of the television station entered the rental office at the subject property shortly after the two Black employees left. When he entered the office it was empty and he rang a cowbell for assistance. He also observed the white erasable board with the notes regarding occupied units and vacancies. Respondent Chastain came out of another office while she was talking on the telephone. After she ended her conversation, Respondent Chastain asked him what size unit he needed. The White employee advised her that he was looking for a one bedroom or efficiency. Respondent Chastain told him there were two units available, the furnished one was \$650.00 and the unfurnished was \$600.00. She told him to meet her in the back of the building and showed him two units. The white employee asked her if he could film the inside of the one bedroom unit because he was looking for a unit for his mother and wanted to help her decide. Respondent Chastain stated: "it was fine." He asked additional questions and told her the unit was a nice place; Respondent Chastain advised that there were plenty of elderly living there. When asked about the ethnic mix, Respondent Chastain stated that they had a little of everything. He was also shown a second unit and allowed to videotape it as well.

39. During HUD's investigation, the employees interviewed stated that shortly after the White employee and Respondent Chastain came out of the second unit the White employee signaled for the news crew waiting nearby to continue filming and approach them. Respondent Chastain was asked, on camera, about how she had treated the employees. During that conversation, Respondent Chastain called someone named "Jimmy." A short time later, Respondent Stevens arrived, and he was also filmed speaking to the news crew.

40. In February 2008, the local news station aired television news stories about its investigation of Complainant's allegations and contacts with Respondents Chastain and Stevens and its findings.

41. During HUD's investigation, Respondents Chastain and Stevens stated that the rent for a one bedroom unit was about \$600 and there was an \$800 deposit and a \$35 fee

was required for a credit check. Both also stated that they had yet to actually require or obtain a credit check and Respondents' records confirmed that Respondents had not yet initiated this requirement when the Complainant inquired about renting a unit. Respondent Stevens also admitted that it is his practice to review the rental applications.

42. During HUD's investigation, Complainant was interviewed and provided evidence of her ability to qualify for and pay rent for a unit at the subject property on December 12, 2007. Complainant also provided a copy of the application form she received from Respondent Chastain.

43. During HUD's investigation, Respondent Stevens admitted and the Respondents' records indicated that the Respondents had a number of different kinds of payment arrangements with applicants and residents. Many allowed them to simply pay when they could.

44. During HUD's investigation, Respondents admitted that Unit 21, a one bedroom apartment was available on December 12, 2007.

45. During HUD's investigation, Respondent Chastain admitted that she had written "ADULTS ONLY" on the application form and Respondents' copies of applications completed by applicants and residents from 1998 to January 2008 and maintained in their filing system still had the phrase "ADULTS ONLY" written on them in the space marked for the number of children.

46. During HUD's investigation, Respondent Chastain stated that it was Respondents' intent to be housing for the elderly but Respondents did not know how it worked and they gave up on the idea.

47. The subject property is not and has never been designated by HUD as "housing for older persons"<sup>7</sup> and was not intended for and solely occupied by persons 62 years of age or older or intended and operated for occupancy by persons 55 years of age or older.

48. During HUD's investigation, Respondents admitted that only units in move-in condition are shown to applicants. Respondents also admitted that on December 12, 2007 (*i.e.*, the date on which Complainant Williams visited the subject property), seven one-bedroom units and three efficiencies were available but claimed four of the units were awaiting repairs and three had been committed to other applicants or "snow birds" who liked to reserve units for their return.

49. During HUD's investigation, Respondents admitted that Units 5 and 14 were shown to two Caucasian (White) news station employees who came to the subject property and inquired about renting a one-bedroom or efficiency unit on January 3 and 31, 2008.

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<sup>8</sup> The Fair Housing Act exempts dwellings that are designated as or intended and operated as "housing for older persons" from its prohibitions against familial status discrimination. 42 U.S.C. § 3607(b)(1)-(3) and *see* 24 C.F.R. Part 100, Subpart E, §§ 100.300 *et seq.*

50. During HUD's investigation, Respondents admitted and a review of Respondents' records corroborated that Respondents' rental records and tenant files were incomplete and often unorganized. The records included handwritten receipts for payment of rent and fees and a few tenant files with copies of driver's licenses and social security cards, leases and applications. These files contained no evidence of actual credit checks prior to December 12, 2007.

51. During HUD's investigation, Respondents Stevens and Chastain admitted that credit checks had not been run, leases and/or application forms were not always used, and records were purged and thrown away after it was determined that there were too many files. Respondent Chastain also stated that the information regarding the status of the availability of units is all kept in her head and she writes out a monthly list. As of March 2008, the white erasable board with markings regarding rented and occupied units was still posted in the office.

52. Complainant, her grandson and her family friend saw the broadcasts of the local news station's story about Complainant. They all identified Respondents Chastain and Stevens as the individuals they saw at the subject property on December 12, 2007 and they talked about the broadcasts.

53. Complainant, her grandson, and her family friend also listened to the broadcasts by the local television news station and heard about Respondent Chastain's comment referred to in paragraph 36 above: "...they were all White people who lived in the apartment complex and they didn't allow any other breeds." They discussed their experiences and feelings about what happened with Respondent Chastain at the subject property and the news stories with each other, family members and friends.

54. During HUD's investigation, Complainant's friend confirmed that she was upset and angry about what happened on December 12<sup>th</sup> and Complainant's grandson stated that after he saw the news story he felt "bad" for his grandmother and himself.<sup>8</sup> Complainant was also upset that her grandson witnessed what occurred in the rental office.

55. Complainant has suffered significant damages, including, but not limited to, economic loss, including medical expenses and other costs, physical and emotional distress, substantial inconvenience, embarrassment, humiliation, and the loss of a housing opportunity as a result of Respondents' discriminatory conduct.

#### D. Fair Housing Act Violations

56. When Respondent Chastain told Complainant, because of Complainant's race, color and/or familial status, that there were no available apartments, refused to accept her

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<sup>9</sup> HUD and other enforcement agencies continue to investigate allegations of discrimination by the Respondents. Pursuant to the Act, persons later determined to be "aggrieved" may also file complaints within the statutory time period.

rental application, and otherwise engaged in delaying or avoidance tactics after Complainant asked about available units, requested an application, and stated that she could pay the required amount, Respondents violated 42 U.S.C. § 3604(a).

57. When Respondent Chastain failed to provide Complainant and other African American (Black) persons inquiring about the rental of a dwelling, because of their race and/or color, with information about available units and rental rates, and failed to offer to and/or show them available units, Respondents violated 42 U.S.C. § 3604(b).

58. When Respondents, their employees, and agents gave any person inquiring about the rental of a dwelling at the subject property, an application with the statement “Adults Only” on it, Respondents violated 42 U.S.C. §3604(c).

59. When Respondent Chastain told a person inquiring about the rental of a dwelling at the subject property, that with regard to the residents, “they were all White people who lived in the apartment complex and they didn’t allow any other breeds,” Respondent Chastain violated 42 U.S.C. § 3604(c).

60. When Respondent Chastain told Complainant, because of Complainant’s race, color and/or familial status, that there were no available apartments, when in fact there were units available to rent, Respondents violated 42 U.S.C. § 3604(d).

### **III. CONCLUSION**

Wherefore, the Secretary of HUD, through the Office of General Counsel, and pursuant to 42 U.S.C. §§ 3610(g)(2)(A) and (g)(3), hereby charges Respondents with engaging in discriminatory housing practices as set forth above, and prays that an order be issued that:

A. Declares that Respondents’ discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and it’s implementing regulations;

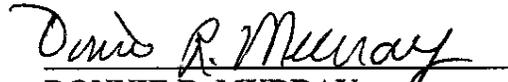
B. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating against any person based on race, color and familial status in any aspect of the rental, sale, occupancy, use or enjoyment of a dwelling;

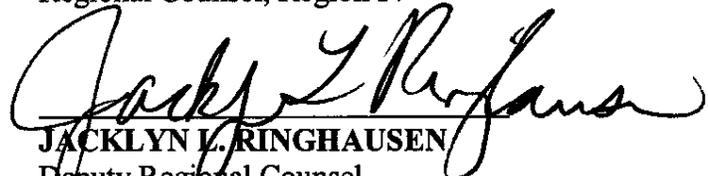
C. Awards such monetary damages as will fully compensate Complainant for her economic losses, including but not limited to, all out-of-pocket and medical expenses for emotional distress, physical distress, substantial embarrassment, humiliation, and inconvenience, the loss of a housing opportunity and any and all other damages caused by the Respondents’ discriminatory conduct;

D. Awards a \$16,000 civil penalty<sup>9</sup> against each of the Respondents for each violation of the Act; and

E. Awards such additional relief as may be appropriate pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

  
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Date: April 28, 2008

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<sup>10</sup> See 24 C.F.R. § 180.670(b)(3) and 24 C.F.R. § 180.671 (a)(1) (2007).