

**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 Advocates, Incorporated,	)	
	)	
Charging Party,	)	
	)	HUDALJ No.:
v.	)	FHEO No.: 05-09-1428-8
	)	
Kathy Parker and Deryl Gibson	)	
	)	
Respondents.	)	

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**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about June 18, 2009, Complainant Housing Advocates, Incorporated (“Complainant HAI”) filed a verified complaint with the United States Department of Housing and Urban Development (the “HUD Complaint”), alleging that Respondents Kathy Parker and Deryl Gibson (“Respondents”), violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the “Act”), by discriminating based on national origin, specifically, in violation of 42 U.S.C. § 3604(a), (c) and (d). On or about March 11, 2010, the complaint was amended to add Carmen Cedeno (“Cedeno”) as an aggrieved person, and to remove 42 U.S.C. § 3604(d) as an allegation from the complaint.

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 national origin, and has authorized and directed the issuance of this Charge of Discrimination (“Charge”).

## **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 and No Reasonable Cause,<sup>1</sup> Respondents Kathy Parker and Deryl Gibson are charged with discriminating against Complainant Housing Advocates, Incorporated, and Carmen Cedeno, a *bona fide* applicant and tester, both aggrieved persons as defined by 42 U.S.C. §3602(i), based on national origin, in violation of 42 U.S.C. §3604(a) and (c) as follows:

1. It is unlawful to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of national origin. 42 U.S.C. § 3604(a).
2. 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 national origin, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. §3604(c).
3. Complainant HAI is a non-profit corporation in Ohio that was formed in order to promote equal housing opportunities throughout Ohio so that all persons, regardless of race, religion, gender, national origin, familial status, or disability, can secure and afford housing in the neighborhood of their choice. In furtherance of this purpose, Complainant engages in activities to identify barriers to fair housing, provides education and outreach programs, engages in litigation, and conducts research and enforcement actions.
4. At all times relevant to this Charge, Carmen Cedeno, a Hispanic female, was a participant of the Section 8 Housing Choice Voucher Program (“Section 8 program”) administered by the Cuyahoga Metropolitan Housing Authority (“CMHA”). At all times relevant to this Charge, Cedeno, who had a Section 8 voucher for a two-bedroom apartment, resided in a two-bedroom apartment in North Olmstead, Ohio with her grandchildren, who were then ages 4 and 16.
5. At all times relevant to this Charge, Respondent Kathy Parker and her business partner, Respondent Deryl Gibson, both African-American, owned the property located at 4473 Parkton Drive in Warrensville Heights, Ohio (“subject property”).<sup>2</sup>

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<sup>1</sup> The HUD Determination found no reasonable cause as it relates to Complainant’s steering allegation in violation of § 3604(a).

<sup>2</sup> Upon information and belief, Respondents also own the following residential properties: (1) 1182-1184 Bender Avenue, East Cleveland, Ohio 44112; (2) 1142 Addison Road, Cleveland, Ohio 44103; (3) 19619 Preston Road, Warrensville Heights, Ohio 44128; (4) 19914 Longbrook Road, Warrensville Heights, Ohio 44128; and (5) 15603 Glendale Avenue, Cleveland, Ohio 44128.

The subject property is a single family home, consisting of three bedrooms. Upon information and belief, Respondents are responsible for the management and daily operation of the subject property.

6. Upon information and belief, Respondent Kathy Parker received her real estate license in the state of Ohio in or around March 1990. As a licensed realtor, in April of 2007, Respondent Parker received Civil Rights training as part of her continuing education requirements.
7. In 2008, Complainant HAI coordinated a housing investigation program which included testing of the Cleveland metropolitan rental market. The purpose of the investigative program was to determine whether housing providers, who advertised Section 8-approved housing, were engaging in discriminatory practices against minorities.
8. As part of its investigation program, Complainant HAI held a tester training session in or around the spring or early summer of 2008. As part of its housing enforcement efforts, Complainant HAI conducts fair housing “tests” to determine whether housing providers engage in discriminatory housing practices.
9. Cedeno attended the tester training conducted by Complainant HAI staff in the spring or early summer of 2008. Cedeno attended the training in order to obtain training as a tester. Complainant HAI’s testing program focused on the rental practices of housing providers who advertised Section 8-approved housing.
10. At the time Cedeno attended HAI’s tester training, Cedeno was interested in moving from her North Olmstead apartment to a larger Section 8-approved rental unit with her grandchildren. Cedeno was interested in relocating on or before July 1, 2008, in order to accommodate her family’s needs and to move closer to relatives.
11. In June 2008, Complainant HAI provided Cedeno with a list of available rentals that included Section 8-approved rental housing. Complainant HAI instructed Cedeno to review the list and to select the advertisements that interested her. Cedeno was instructed to contact the person listed in the advertisements she selected in order to schedule an appointment. Cedeno selected three advertisements, one of which included the subject property.
12. On or about June 18, 2008, Cedeno contacted the phone number listed for the subject property and left a message. Subsequently, Cedeno received a phone call from Respondent Parker and an appointment to view the subject property was scheduled for the following evening.
13. On or about June 19, 2008, Cedeno and her grandchild<sup>3</sup> arrived for the scheduled appointment. Cedeno met with Respondent Parker who greeted her and introduced

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<sup>3</sup> Cedeno’s adult daughter remained in the vehicle and did not tour the subject property with Cedeno.

her briefly to Respondent Gibson, who remained outside and did not tour the property with Ceden0 and Respondent Parker.

14. During the tour of the subject property, Respondent Parker questioned Ceden0 about her employment status, income, and the number and ages of any children who would occupy the subject property. Ceden0 replied by stating that she was unemployed, collected Social Security and that she had two children living with her who, at the time, were ages 4 and 16. Upon information and belief, Ceden0's Section 8 voucher status was not discussed during the showing of the subject property.
15. During the tour of the subject property, Ceden0 asked Respondent Parker for a rental application because she was interested in renting the unit. In response, Respondent Parker asked where Ceden0 resided. Ceden0 answered "North Olmstead," to which Respondent Parker replied by asking, "Why do you want to live in a black neighborhood?" or similar words to that effect. In response, Ceden0 explained that she was interested in renting the subject property because she had relatives who lived in the neighborhood. Respondent Parker then remarked that it was not a "good idea" for her to rent to Ceden0 because Ceden0 "might not feel comfortable in the area," or similar words to that effect.
16. At the conclusion of the tour, Ceden0 thanked Respondent Parker for showing her the property and again expressed an interest in renting the property. Respondent Parker commented that she would have to "think" about renting to Ceden0 and that she would call Ceden0 if she decided to rent to her. Respondent Parker also added that she would continue to show the property to prospective applicants in the meantime.
17. Although Ceden0 expressed her interest in renting the property, Respondent Parker did not provide Ceden0 with a rental application, did not confirm her contact information and did not ever call Ceden0 at a later date regarding the rental of the subject property.
18. As a result of Ceden0's experience with Respondent Parker, Complainant HAI conducted a matched test of the subject property using a white American female tester with characteristics similar to Ceden0.
19. On or about June 23, 2008, a tester, posing as a 52 year-old, white American female with two children, and a three-bedroom Section 8 voucher ("Tester"), called the telephone number printed in the rental advertisement for the subject property. An unidentified female answered the phone and instructed the Tester to call back later. After a few unsuccessful attempts to contact Respondent Parker, on or about June 28, 2008, the Tester received a voicemail message from a woman who identified herself as "Kathy Parker." In the message, Respondent Parker indicated that she would be showing the subject property the following day between the hours of 3:00 p.m. and 4:00 p.m. On or about June 29, 2008, the Tester called Respondent Parker and left a message confirming that she would be at the property at the appointed time that day.

20. On or about June 29, 2008, the Tester arrived at the subject property and met with Respondent Parker, who shook her hand. During the tour of the subject property, Respondent Parker questioned the Tester regarding her employment status and about who would be residing in the unit. In response, the Tester explained that she was unemployed and had two children, her 13 year-old daughter and three year-old grandson. At some point during the inspection of the property, Respondent Parker quoted the Tester a rent of \$950 per month and stated that they check references.
21. During the course of the test, Respondent Parker informed the Tester that she was looking for someone to keep the property clean and to keep traffic to a minimum as the neighbors would likely complain. At the conclusion of the tour, the Tester asked Respondent Parker for an application. Respondent Parker indicated that she did not have an application with her, but would provide the Tester with an application the following day. As Respondent Parker escorted the Tester outside, Respondent Parker asked the Tester what she thought of the subject property. In response, the Tester stated that although she had looked at other rentals, she was still undecided.
22. As the two walked towards their vehicles, Respondent Parker verified the Tester's phone number. The Tester explained that she would contact Respondent Parker once she had made a decision, to which Respondent Parker replied, "Please do." The Tester thanked Respondent Parker for her time; Respondent Parker replied, "God bless you."
23. On or about July 12, 2008, the subject property was rented to an African-American female Section 8 voucher holder with two children, a 12 year-old daughter and a 9 year-old son.
24. In response to a data request made during the HUD investigation, Respondents were only able to produce leases from African-American tenants. Respondents were unable to document having rented any of their properties to anyone other than African-Americans.
25. During an October 16, 2009 interview with a HUD investigator, Respondent Parker stated that she could not recall whether Respondents have ever provided a rental application to a non-African-American applicant. She then stated that Respondents have never had a non-African-American prospective tenant submit an application, even though she also told the HUD investigator that she had previously rented to a Hispanic male, whom she called, "Jose" and a white female. She could not recall Jose's last name or any part of the white female's name and could produce no applications or leases for said tenants.
26. During the October 16, 2009 HUD interview, Parker admitted that, in the past, she has asked prospective tenants who are not African-American "why do you want to move to a black neighborhood?" She stated that she asks this question to ascertain the "longevity" of a non-African-American's potential tenancy in a "black"

community. Respondent Parker told the HUD investigator that she had “problems” with races other than African-Americans when the dominant race of the community is African-American. Respondent Parker stated that if she asked this question of Cedeno it was to determine if she was a “fly-by-night” situation.

27. Respondent Parker admitted to the HUD investigator that she “probably” told Cedeno that she had to “think about renting to her,” and that she would “show the property in the meantime.” Respondent Parker stated that this is a common statement she makes to rental prospects about whom she is unsure.
28. Respondent Parker admitted to the HUD investigator that it is her practice, when interested in a prospective tenant, to tell the tenant that she does not have an application with her, but to offer to meet the prospective tenant at a later time, typically at the prospective tenant’s home in order to see how the prospective tenant lives.
29. By refusing to negotiate for and/or otherwise make unavailable a dwelling to Cedeno, a *bona fide* prospective applicant and Complainant HAI’s protected tester, Respondents unlawfully denied and/or made housing unavailable based on national origin in violation of 42 U.S.C. § 3604(a).
30. By asking Cedeno, “Why do you want to live in a black neighborhood?” and by informing Cedeno that she “might not feel comfortable in the area,” or similar words to that effect, Respondents engaged in discriminatory conduct by expressing a preference, limitation and/or discrimination based on national origin in violation of 42 U.S.C. § 3604(c).
31. Complainant HAI is an aggrieved person within the meaning of 42 U.S.C. § 3602(i), and as a result of Respondents’ discriminatory conduct as described above, Complainant HAI has suffered frustration of its mission and diversion of its resources away from other fair housing activities including advocacy services, education and outreach, testing, enforcement activities and counseling in order to address Respondents’ discriminatory conduct.
32. As a result of the aforementioned discriminatory conduct, an unknown number of prospective Hispanic tenants were discouraged or refused rental at the subject property or other properties owned and/or managed by Respondents. In addition, Complainant HAI was forced to divert some of its scarce resources to investigate Respondents’ discriminatory conduct by testing the subject property and counseling Carmen Cedeno, a *bona fide* applicant, regarding her fair housing rights.
33. In addition, Respondents’ discriminatory policies frustrated Complainant HAI’s mission and interfered with its ability to ensure that its constituents are able to seek and obtain housing without being subject to discrimination, or seek and obtain housing of their choice regardless of their national origin.

34. Carmen Cedeno, an aggrieved person within the meaning of 42 U.S.C. § 3602(i), suffered damages, including, but not limited to, economic loss, emotional distress, substantial inconvenience, embarrassment, humiliation and the loss of a housing opportunity as a result of Respondents' discriminatory conduct.
35. As a result of the aforementioned discrimination, Cedeno was forced to find another place to live. As a Section 8 voucher holder, Cedeno had difficulties locating a housing provider that would accept her Section 8 voucher. As a result, it took Cedeno approximately five months to locate suitable housing for her family. It was not until December 2008 that Cedeno finally signed a lease and moved into a 3 bedroom duplex which was located in Parma, Ohio.
36. The subject property was superior to the Parma unit as the subject property was a ranch-style, single-family home, had a backyard and a basement which could have been used for recreational purposes. In contrast, the Parma unit was a duplex, with a small backyard and did not have a basement. Additionally, Cedeno, who has trouble using stairs, resided on the second floor of the duplex making it difficult for Cedeno to enter and exit her unit on a daily basis. Moreover, Cedeno had less privacy residing at the Parma unit as she had neighbors who resided below her apartment.
37. The subject property was also ideal for Cedeno as her cousin lived approximately 10 to 15 minutes from the property. This was important to Cedeno because she did not own a vehicle and relied on her cousin for transportation. In contrast, the Parma unit was approximately 40 minutes from her cousin's home which resulted in a substantial inconvenience for Cedeno as she had to take the public transportation.
38. As a result of Respondents' discriminatory conduct, Cedeno also suffered damages in the form of emotional distress as Cedeno became panicked, depressed and suffered a loss of sleep. Further, the discriminatory conduct angered Cedeno, caused her stress and preoccupied her.

### **III. CONCLUSION**

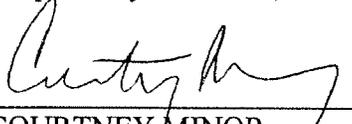
WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to Section 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a) and (c) of the Act, 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 any of them from discriminating because of national origin against any person in any aspect of the purchase or rental of a dwelling;

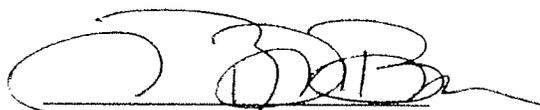
3. Awards such monetary damages as will fully compensate Complainant and Carmen Cedeno, aggrieved persons, for any and all other damages caused by Respondents' discriminatory conduct; and
4. Awards a \$16,000 civil penalty against each Respondent for each violation of the Act committed, pursuant to 42 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).

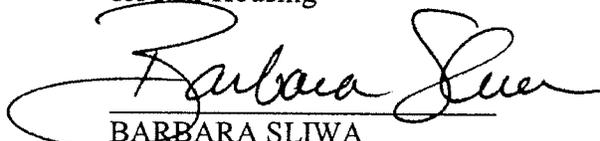
Respectfully submitted,



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