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, Charging Party, v. Gerard Joyce, Katie Joyce, Danny Joyce, Normandy Holdings, LLC, Lofts at the Mill, LP, and Lofts GP, LLC, Respondents.	)	**FHEO No.: 00-07-0014-8**

CHARGE OF DISCRIMINATION

I. JURISDICTION

On July 19, 2007, Complainant Kim Kendrick, (hereinafter referred to as "Complainant"), Assistant Secretary for Fair Housing and Equal Opportunity (hereinafter referred to as "FHEO") at the U.S. Department of Housing and Urban Development, (hereinafter referred to as "HUD" or the "Department"), filed a verified complaint with HUD, alleging that Gerard Joyce, Katie Joyce, Danny Joyce, and Normandy Holdings, LLC (hereinafter referred to as ("Respondents"), violated the Fair Housing Act as amended in 1988, 42 U.S.C. §3601, *et seq.*, (hereinafter referred to as the "Act"), by discriminating against the general public because of familial status. The original complaint was later amended on March 17, 2008, to add as respondents Lofts at the Mill, L.P. and Lofts GP, LLC, which are the limited partnership owner and sole general partner of the Lofts at the Mill, respectively.

The Act authorizes the issuance of a charge of discrimination 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) the authority to issue a charge of discrimination, following a determination of reasonable cause by the Assistant Secretary for Fair

Housing and Equal Opportunity, or his or her designee. This authority has been redelegated to the Assistant General Counsel for Fair Housing Enforcement. (67 Fed.Reg. 44234).

The Office of Systemic Investigations, 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 has authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATION IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the aforementioned Determination of Reasonable Cause, Respondents Gerard Joyce, Katie Joyce, Danny Joyce, Normandy Holding, LLC, Lofts at the Mill, LP, and Lofts GP LLC, discriminated against the general public, because of familial status in violation of Section 804(a) and (c) of the Act as follows:

1. It is unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or 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 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).

3. Complainant, Kim Kendrick, is the Assistant Secretary for Fair Housing and Equal Opportunity at the U.S. Department of Housing and Urban Development. Pursuant to the authority granted to the Assistant Secretary under 42 U.S.C. §3610, Complainant Kendrick, on behalf of the Secretary of the U.S. Department of Housing and Urban Development, filed a HUD complainant alleging discrimination because of familial status.

4. The subject property, *Lofts at the Mill*, (hereinafter referred to as "The Mill"), is located at 800 James Avenue, Scranton, Pennsylvania 18510-1551. The subject property is a converted warehouse that at the time the complaint was filed consisted of approximately 74 residential apartment units.

5. Respondent Gerard "Jerry" Joyce is the owner of *The Mill* and the manager of Normandy Holdings, LLC.

6. Respondent Katie Joyce, the daughter of Respondent Gerard Joyce, is the registered leasing agent for *The Mill*. In her capacity as leasing agent, Respondent Katie Joyce receives phone and email inquiries and usually answers the inquiries when persons are seeking housing at *The Mill*.

7. Respondent Danny Joyce, the son of Respondent Gerard Joyce, is the property manager at *The Mill.*

8. Respondent Normandy Holdings, LLC, is a limited liability company created in the Commonwealth of Pennsylvania. Respondent Normandy Holdings, LLC, is the management company for *The Mill.* Respondent Gerard Joyce is listed on the Certificate of Organization as the sole member of Normandy Holdings, LLC.

9. Respondent Lofts at the Mill, LP, is a limited liability partnership whose purpose is to acquire, own, hold, lease, maintain and operate real estate at 700, 800, and 900 James Avenue, Scranton, PA.

10. Respondent Lofts GP, LLC, a limited liability company, is the sole general partner of Lofts at the Mill, LP. Respondent Gerard Joyce is the sole member for Lofts GP, LLC.

11. On or about July 28, 2004, Respondent Gerard Joyce submitted an application to the City of Scranton Zoning Hearing Board for a Special Exception to convert the subject property into residential units. At a hearing on August 11, 2004, neighbors to the subject property expressed concern that converting the subject property to residential units would create noise and parking problems.

12. Respondent Gerard Joyce agreed to market the residential units as a community where "all residential tenants will be at least 21 years of age." Thereafter, the City of Scranton Zoning Hearing Board granted Respondent Gerard Joyce's Special Exception request subject to the condition that "all residential tenants will be at least 21 years of age **or children of the tenant**."(emphasis added).

13. On or about September 14, 2004, The (Scranton) Times-Tribune newspaper published an article based on an interview with Respondent Gerard Joyce. The article stated, "Mr. Joyce maintains he would only rent to graduate students and that there is a market for upscale loft and suite apartments in what he described as an 'adult community.'" In the article, Mr. Joyce further stipulates, "tenants would be at least age 21."

14. On April 21, 2005, April 28, 2005, and May 5, 2005, an advertisement for the subject property appeared in the Aquinas, the student newspaper at the University of Scranton. The ad stated "New York Style Loft Apartments With Soaring 20' ceilings and 16' windows For Adults 21 & Over."

15. On or about July 27, 2006, Jeanne Brolan of United Neighborhood Centers noticed a discriminatory advertisement in the online version of the Electric City newspaper regarding *The Mill.*

16. The discriminatory advertisement found in the Electric City newspaper regarding the *The Mill* contained the statement "All occupants must be 21 years or older." Shortly thereafter, Ms. Brolan contacted Electric City concerning the discriminatory advertisement and they agreed to remove the advertisement.

17. On or about August 1, 2006, Ms. Brolan contacted Respondent Danny Joyce to inform him that the advertisement in the Electric City newspaper was discriminatory against families with children, and that such an advertisement is a violation of the Fair Housing Act. Ms. Brolan subsequently mailed a copy of the Fair Housing Act to Respondent Danny Joyce.

18. Respondents published the discriminatory statement on the internet (www.normandyholdings.net, www.loftsatthemill.com, www.apartments.com), as well as in at least two local newspapers and in printed brochures. The discriminatory advertisement also appeared in the Wood Word, the student newspaper at Marywood University, a total of six (6) times. The discriminatory advertisement appeared in three (3) editions in the Fall of 2006 and three (3) editions in the Spring of 2007.

19. Pursuant to a request from HUD's Office of Systemic Investigations, The Fair Housing Council of Montgomery County (FHCMC) conducted four (4) tests, two telephonic and two on-site, between January 16, 2007 and February 17, 2007. During one of the tests, at least one tester was given a brochure of the subject property that contained the statement, "The Mill is an apartment community catering to young professionals and all occupants must be 21 yrs or older."

20. During the tests conducted by FHCMC, Respondent Gerard Joyce made statements calculated to discourage families with children from renting. During the February 2, 2007, test, Respondent Gerard Joyce stated to the tester "I just want to let you know that if you decide to move in, your daughter will be the only child in here" and "OK, just so you know and I was just letting you think about that before committing to this place."

21. During the tests conducted by FHMC, Respondent Katie Joyce made statements calculated to discourage families with children from renting. During the test conducted on February 12, 2007, Respondent Katie Joyce told the tester that there were no other children in the complex, and that she did not know why, but that the complex did not appeal to families.

22. During an on-site interview on March 28, 2007, a HUD investigator retrieved from the Respondents a copy of the flyer containing the discriminatory advertisement. During this visit, Respondent Gerard Joyce acknowledged that no children occupied any of the residential units at the subject property.

23. During the on-site interview on March 28, 2007, Respondent Danny Joyce confirmed that no children currently resided at *The Mill*, and further stated that he personally informed a couple of persons that the fact they had children made them ineligible for tenancy at *The Mill.*

24. During an on-site interview on March 29, 2007, Respondent Katie Joyce acknowledged that no children occupied units at the subject property.

25. From at least April 2005 thru March 2007, Respondents have discriminated in rental because of familial status and made housing unavailable to families with children in violation of 42 U.S.C. §3604(a).

26. From at least April 2005 thru March 2007, Respondents made, printed, or published, or cause to be made, printed, or published statements that indicated a limitation or discrimination based on familial status in violation of 42 U.S.C. §3604(c).

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to Section 810(g)(2)(A) of the Act, hereby charges the Respondents with engaging in a discriminatory housing practice in violation of Sections 804(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 §804(a) and (c) of the Fair Housing Act, as amended in 1988, 42 U.S.C. §3604 (a) and (c);

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 familial status against any person in any aspect of the rental of a dwelling;

3. Awards a civil penalty of $12,000 against each individual Respondent for each individual violation committed pursuant to 42 U.S.C. §3612(g)(3); and

4. Awards additional appropriate relief under 42 U.S.C. §3612(g)(3) in the form of $40,000 to establish a victim identification and compensation fund as well as to fund prospective outreach to families with children in the form of advertising directed at marketing the subject property to families with children.

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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