

**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 )  
Trudy Shields and )  
Christopher Shields, )  
 )  
Charging Party, )  
 )  
v. )  
 )  
West Side Homes, Inc., )  
Carol Ann Frogley and )  
Larry Frogley, )  
 )  
Respondents. )  
\_\_\_\_\_ )

FHEO No.: 07-07-0907-8

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about September 28, 2007, Complainant Trudy Shields filed a verified complaint with the U.S. Department of Housing and Urban Development (HUD) on behalf of herself and her minor child, Christopher Shields, an aggrieved person, alleging Respondents committed discriminatory housing practices based on familial status and disability in violation of Sections 3604(a) and 3604(f)<sup>1</sup> of the Fair Housing Act as amended in 1988, 42 U.S.C. §§ 3601 *et seq.* (2008) (the "Act"). On or about May 14, 2008, the complaint was amended to allege Respondents Carol Ann Frogley, Larry Frogley, and West Side Homes, Inc., committed discriminatory housing practices by refusing to rent to Complainant and making discriminatory statements based on familial status in violation of Sections 3604(a) and 3604(c) of the Act.<sup>2</sup>

The Act authorizes the issuance of a Charge of Discrimination (Charge) 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)

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<sup>1</sup> The allegations under Section 3604(f) of the Act were removed when the complaint was amended.

<sup>2</sup> In the Determination issued contemporaneously with this Charge, HUD concluded there was no reasonable cause to conclude that Respondents violated Section 3604(a) of the Act by refusing to rent to Complainant because the investigation failed to establish that Complainant was qualified to rent a unit at the subject property.

(2008). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121 (Mar. 30, 1989)), who has redelegated to the Regional Counsel (67 Fed. Reg. 44234 (Jul. 1, 2002)), the authority to issue such a Charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) or her designee.

By Determination of Reasonable Cause of September 8, 2008, the FHEO Region VII Director, on behalf of the Assistant Secretary for FHEO, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred based on familial status and has authorized and directed 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 Complainant based on familial status in violation of 42 U.S.C. § 3604(c) as follows:

### **A. Applicable Federal Law**

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 that indicates 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 (2008).
2. Pursuant to the Act, "familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another person having legal custody of such individual or individuals. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20 (2008).

### **B. Factual Background**

3. Complainant Trudy Shields is a 39 year-old disabled single mother of two sons who has resided at her mobile home in Oswego, Kansas for approximately 15 years. At all times relevant to this Charge, Complainant's younger son, Aggrieved Person Christopher Shields, who is under the age of 18, resided with her.
4. At all times relevant to this Charge, Complainant, an amputee, was seeking more accessible and affordable housing for herself and her son in Oswego, Kansas.
5. The subject property, West Side Homes, is a 40-unit apartment complex located at 1201 4<sup>th</sup> Avenue in Oswego, Kansas that was built with funding from the USDA Rural Development Section 515 Program.
6. At all times relevant to this Charge, Respondent West Side Homes, Inc., a non-profit corporation controlled by a Board of Directors, owned the subject property.

7. Pursuant to the USDA eligibility criteria under the Section 515 Program, an applicant must qualify as an elderly household, defined as at least 62 years old, or a disabled household to be eligible for housing. A sign outside of the subject property identifies West Side Homes, Inc. as "Senior Age Housing," however, nonelderly persons, including children under age 18, are eligible for occupancy if they are a member of an elderly or disabled household.
8. At all times relevant to this Charge, Respondent Carol Ann Frogley, also known as Jerg Frogley, was the management agent for the subject property and has held the position since 1993. Respondent Carol Frogley was hired by and has been retained by the Board of Directors of Respondent West Side Homes, Inc.
9. The management office for the subject property is located in Frogley's Gun and Pawn Shop ("Gun Shop"), a business located at 407 Commercial Street in Oswego, Kansas, operated by Respondents Larry and Carol Frogley. At all times relevant to this Charge, the Gun Shop was the sole location where an interested applicant could obtain an application for West Side Homes.
10. At all times relevant to this Charge, Respondent Larry Frogley, an agent for Respondents Carol Frogley and West Side Homes, Inc. and a member of the Board of Directors of West Side Homes, Inc., regularly provided applications for West Side Homes to prospective applicants at the Gun Shop, took messages regarding the subject property when his wife was unavailable, and on occasion, received completed applications for the subject property.
11. After Complainant's leg was amputated at the end of February 2006, Complainant began searching for subsidized rental housing in Oswego.
12. Sometime between March and June 2006, Complainant visited the Gun Shop to obtain a housing application for West Side Homes. Respondent Larry Frogley told Complainant that West Side Homes is not for children. Complainant, upset about being told she was ineligible, did not submit a housing application at this time because of Respondent Larry Frogley's statements.
13. After her 2006 visit to the Gun Shop, Complainant and her younger son continued to reside in her mobile home but she still hoped to sell her home and move into accessible subsidized housing in Oswego.
14. In approximately early summer 2007, Complainant learned that disabled persons were eligible to live at the subject property and decided to again pursue tenancy at West Side Homes, one of the few subsidized housing options in Oswego.
15. In approximately late June or early July 2007, Complainant again went to the Gun Shop to obtain an application for West Side Homes. When Complainant asked Respondent Larry Frogley for an application, he started to reach for one but stopped and asked her

how many people were in her family. Complainant responded only two, herself and one son because her older son had moved out. Respondent Larry Frogley informed her that the subject property is for senior citizens and not for families with children or words to that effect. Complainant did not argue with him but stared at him until he handed her the application. When he handed her the application, Respondent Larry Frogley looked Complainant directly in the eye and told her there were not any children at West Side Homes and there never had been. Complainant then took the application and left the Gun Shop.

16. Respondent Larry Frogley, who knew Complainant was disabled and had a child under age 18, admitted telling the Complainant the property was a senior citizen complex and that there had never been any children at the property.
17. Respondent Carol Frogley admitted her husband may have thought that children should not live at the property, but she acknowledged children could live there if their parent(s) or grandparent(s) is qualified.
18. As a result of Respondents' discriminatory statements, Complainant and her minor son suffered damages, including emotional distress and inconvenience.

**C. Fair Housing Act Violations**

19. By telling Complainant the subject property was for senior citizens, not for families with children and that children did not live there, Respondent Larry Frogley, agent for Respondents Carol Frogley and West Side Homes, Inc., unlawfully made discriminatory statements indicating a preference against families with children with respect to the rental of a dwelling in violation of 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75 (2008).

**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. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(c), and prays that an order be issued that:

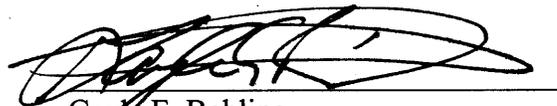
1. Declares that the discriminatory housing practice of the Respondents, as set forth above, violates the Act, 42 U.S.C. §§ 3601 *et seq.* (2008);
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of familial status against any person in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant Shields and aggrieved person, Christopher Shields, for their damages caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3612(g)(3) (2008); and

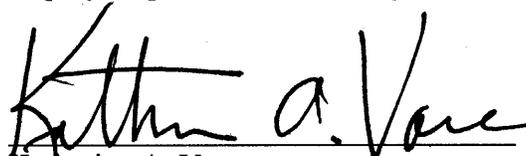
4. Awards a \$7,000 civil penalty against each Respondent, for each violation of the Act that they are found to have committed pursuant to 42 U.S.C. § 3612(g)(3) (2008).

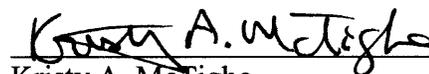
The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) (2008).

Respectfully submitted,

  
\_\_\_\_\_  
Thomas J. Coleman  
Regional Counsel, Region VII

  
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Gayle E. Bohling  
Deputy Regional Counsel, Region VII

  
\_\_\_\_\_  
Katherine A. Varney  
Associate Regional Counsel, Region VII

  
\_\_\_\_\_  
Kristy A. McTighe  
Attorney-Advisor, Region VII  
U.S. Department of Housing and  
Urban Development  
Gateway Tower II  
400 State Avenue  
Kansas City, KS 66101-2406  
Telephone: (913) 551-5466  
Fax: (913) 551-5857

Date: 9/9/08

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing "Charge of Discrimination," "Notice," and "Determination" in Shields v. Frogley, et al., FHEO No. 07-07-0907-8 were sent to the following individuals in the manner indicated:

**By UPS Next Day Air:**

Trudy Shields  
124 Indiana Street  
Oswego, KS 67356

Christopher Shields  
c/o Trudy Shields  
124 Indiana Street  
Oswego, KS 67356

Larry Frogley  
West Side Homes, Inc.  
407 Commercial Street  
Oswego, KS 67356

Carol Ann Frogley, Management Agent  
West Side Homes, Inc.  
407 Commercial Street  
Oswego, KS 67356

West Side Homes, Inc.  
c/o Jerg Frogley, Resident Agent  
407 Commercial Street  
Oswego, KS 67356

Chief Docket Clerk  
Office of Administrative Law Judges  
Office of Hearings and Administrative Appeals  
409 3<sup>rd</sup> St., SW, Suite 201  
Washington, DC 20024  
FAX (202) 619-7304

on this 9<sup>th</sup> day of September, 2008.

*Mary Lynn Monson*

Mary Lynn Monson, Paralegal Specialist  
U.S. Department of Housing

and Urban Development

Gateway Tower II

400 State Avenue

Kansas City, KS 66101-2406

(913) 551-5481