

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	)	
Chicago Lawyers' Committee For Civil	)	
Rights Under Law,	)	
	)	HUD ALJ No.
Charging Party,	)	FHEO Nos. 05-07-0423-8
	)	
v.	)	
	)	
Cesar A. Lopez,	)	
	)	
Respondent.	)	

**CHARGE OF DISCRIMINATION**

I. JURISDICTION

On or about January 17, 2007, Complainant Chicago Lawyers' Committee for Civil Rights Under Law ("Complainant CLC") filed a verified complaint with the United States Department of Housing and Urban Development (the "HUD Complaint"), alleging that Respondent Cesar Lopez ("Respondent") violated the Fair Housing Act as amended in 1988, 42 U.S.C. §3601 *et seq.* (the "Act"), by advertising in a discriminatory manner in violation of 42 U.S.C. §3604. The complaint was originally referred to the Illinois Department of Human Rights ("IDHR") pursuant to Section 810(f) of the Act. However, on January 25, 2007, IDHR waived the case back to HUD for investigation. On December 5, 2007, the complaint was amended.<sup>1</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 redelegate 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 Fair Housing and Equal Opportunity or his or her designee.

---

<sup>1</sup> The complaint was amended to "provide all parties with an accurate copy of the original signed complaint as filed with the U.S. Department of Housing and Urban Development."

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 familial status and sex (male), and has authorized and directed the issuance of this Charge of Discrimination.

## 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, Respondent Cesar Lopez is charged with discriminating against Complainant Chicago Lawyers' Committee for Civil Rights Under Law, an aggrieved person as defined by 42 U.S.C. §3602(i), based on familial status and sex (male) in violation of 42 U.S.C. §3604(c) of the Act as follows:

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 unit 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); see also 24 C.F.R. §100.75.
2. The subject property is also governed by a local fair housing ordinance. The CHICAGO MUNICIPAL CODE, Ch.5-8-010, et seq., ("Chicago Code") prohibits discrimination in housing on the basis of parental status and sex. Parental status is defined as "the status of living with one or more dependent minor or disabled children." CHICAGO MUNICIPAL CODE, §2-160-010(h). It is a prohibited housing practice for an owner or agent to make a discriminatory statement of any kind relating to the rental or leasing of any residential real property within the city of Chicago because of parental status or sex. See CHICAGO MUNICIPAL CODE, Ch.5-8-030(B). Moreover, owner-occupied properties are not exempt under the Chicago Code. See CHICAGO MUNICIPAL CODE, Ch.5-8-050.<sup>2</sup>
3. At all times relevant to this Charge, Respondent Cesar Lopez was the sole owner and manager of the property located at 3135 North Monitcello Avenue, Chicago, Illinois 60618 ("subject property").
4. The subject property is a three-story, multi-family dwelling. On information and belief, Respondent resides on the second and third floor units and leases the first floor and garden units.
5. Complainant CLC is a not-for-profit Illinois corporation that promotes open housing in the Chicago metropolitan region. Its programs and activities include operating a Fair Housing Center and Legal Action Program.

---

<sup>2</sup> Because the advertisement posted on craigslist.org is illegal under the Chicago Code, it is not entitled to First Amendment protection.

6. Justin Massa is Complainant's Fair Housing Testing and Outreach Coordinator. As a result of complaints received by Complainant, Mr. Massa regularly monitors websites advertising Chicago-area rental housing listings for discriminatory advertisements.
7. In or around January 24, 2006, Justin Massa conducted a search for discriminatory housing advertisements on craigslist.org. As part of this search, Mr. Massa viewed and saved a rental advertisement for the subject property posted by Respondent on craigslist.org in or around January 21, 2006. The advertisement also contained pictures of the subject property. The advertisement read as follows:

"I am the landlord not a roommate. Two blocks from CTA BlueLine Belmont. Located North of Logan Square. I pay gas and electric. One month security deposit required. I am the landlord looking for tenants for this newly finished garden apartment. Great Apartment for single person. Cable and phone line ready. Quiet house and street. Street permit parking \$25 year. Owner occupied building. Privacy fenced backyard. Two blocks from I-90/94 Belmont & Kimball exit and the CTA Blue line, Bankone, Washington Mutual Bank, LaSalle Bank, Walgreens, Jewel-Osco, Dominick's, McDonald's, Burger King, Taco Bell, KFC, Dunkin' Doughnuts, Baskin-Robbins all in walking distance. Many retail stores in walking distance. No Dogs.

I prefer young college students or single females. I prefer to rent this apartment to someone who will be living alone. Again I will not be living with you. I live on the second floor.

31XX Monticello at Belmont & Central Park  
This is in or around Belmont Blue Line"

8. On or around November 20, 2006, Justin Massa printed out the advertisement in order to determine the potential respondent, as the advertisement listed only a partial address --31XX Monticello-- and no other identifiable information aside from reference number 127166619 provided by craigslist.org. Mr. Massa conducted a search of all homes on the 3100 block of North Monticello on the Cook County Assessor's website. Based on his search, Mr. Massa concluded that 3135 North Monticello was the only house on the Cook County Assessor's website that matched the photos posted in the craigslist.org advertisement.
9. Mr. Massa recorded the Property Index Number ("PIN") associated with 3135 North Monticello. The PIN was listed as 13-26-107-014-0000. He then entered the PIN on the Cook County Treasurer's Office website to obtain the tax records associated with the subject property. The tax records showed the property owner's name to be Cesar A. Lopez, and that the tax bill was sent to Respondent at the subject property.
10. On January 17, 2007, Complainant filed its fair housing complaint against Respondent with HUD.

11. On June 18, 2007, in the course of the investigation, Respondent spoke to a HUD Equal Opportunity Specialist ("EOS") who informed him of a free fair housing training to be held the next day by the Spanish Coalition for Housing Citywide Resource Center – Chicagoland Bilingual Landlord Association in coordination with Complainant.
12. On June 19, 2007, Respondent attended the free training seminar.<sup>3</sup> During the seminar, Justin Massa, presented information on fair housing laws, a segment of which addressed internet advertisements. During his presentation, Respondent directed questions to Mr. Massa.
13. After the presentation on June 19, 2007, Respondent approached Mr. Massa and acknowledged that he posted the advertisement referenced in Paragraph 7, above. Respondent admitted that he did not see a problem with the advertisement he posted on craigslist.org and commented that he was just "being honest" because "girls really are cleaner."
14. During the course of the investigation, the HUD EOS interviewed Zeraida Martinez, one of Respondent's former tenants. Ms. Martinez explained that she resided in the first floor unit at the subject property with her 2 children from in or around December 2003 until the end of June 2006. Ms. Martinez also recalled that a single male resided in the garden unit when she moved out in June 2006.
15. In response to HUD's November 7, 2007 data request letter, Respondent admitted that he rented the garden unit to a man from June 1, 2006 through May 31, 2007.
16. Consequently, the garden unit was unoccupied in or around January 2006 when the discriminatory advertisement referenced in Paragraph 7, above, was posted on craigslist.org.
17. During the investigation, two rental advertisements for the first floor and garden units were discovered on an internet website posting residential rentals, roomster.net. The advertisements were similar to those posted on craigslist.org, except for the discriminatory language.
18. Respondent admitted to a HUD EOS that he "may" have posted the advertisement on roomster.net. Respondent failed to call the HUD EOS back to confirm or deny this allegation.
19. Additionally, on or about November 28, 2007, as part of the investigation, the HUD EOS discovered the existence of Respondent's MySpace.com page, which bears the headline "The Movin' Cuban" in Chicago, Illinois. According to the MySpace page, Respondent last updated his profile on October 21, 2007. The page displays a picture

---

<sup>3</sup> In fact, Respondent admitted to the EOS on July 2, 2007 that he attended the free training seminar.

of a man on a motorcycle and references the name Cesar numerous times. The profile reads in pertinent part, "I own a building and I'm in need of tennants (sic) to rent my two bedroom first floor apartment. The hardwood floors have recently been refinished and is available for showings (sic). For apartment pics:photos.yahoo.com/MVNQBAN@yahoo.com."

20. The content of Respondent's MySpace page also confirms that (1) a unit was available for rental, (2) Respondent sought to rent out the subject property and (3) he used the internet as a medium to advertise the subject property.
21. Respondent provided MVNQBAN@yahoo.com as one of his e-mail addresses, and admitted that he selected this address himself.<sup>4</sup> During the investigation, HUD subpoenaed craigslist.org for the personal e-mail address associated with the reference number 127166619 listed in the craigslist.com posting. Craigslist.org provided MVNQBAN@yahoo.com as the e-mail address associated with the posting of the advertisement. Craigslist also included the Poster Internet Protocol address ("IP address") which indicates the computer that was used to submit the post at issue.
22. As a result of Respondent's discriminatory conduct, Complainant CLC has suffered damages, including inconvenience, economic loss through diversion of its resources, and frustration of its mission to promote equal housing opportunities in the Chicago metropolitan area. Complainant CLC was forced to divert some of its scarce resources to investigate Respondent's discriminatory advertisement, conduct factual research into the ownership of the subject property and other properties owned by Respondent, conduct legal research, conduct education and outreach regarding familial status and sex discrimination and recruit and retain legal counsel for its HUD complaint.
23. As a result of Respondent's discriminatory conduct, an unknown number of prospective tenants with children and/or who are male were discouraged from seeking a rental opportunity at the subject property because of the discriminatory language "Great Apartment for single person," and "I prefer young college students or single females. I prefer to rent this apartment to someone who will be living alone," posted in Respondent's craigslist.org advertisement, frustrating Complainant's mission to promote diverse and equal housing in the Chicago metropolitan area.

### 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. §

---

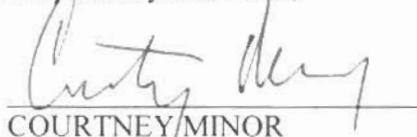
<sup>4</sup> This combination of letters is presumably a phonetic representation of Complainant's self professed nickname, "The Movin' Cuban."

3610(g)(2)(A) of the Act, hereby charges Respondent with engaging in a discriminatory housing practice in violation of Section 3604(c) of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practice of Respondent, as set forth above, violates the Fair Housing Act, as amended 42 U.S.C. §3601 *et seq.*;
2. Enjoins Respondent, his agents, employees, and successors, and all other persons in active concert or participation with him from discriminating because of familial status and sex against any person in any aspect of the rental or sale of a dwelling;
3. Awards such damages as will fully compensate Complainant CLC, an aggrieved party, for its economic loss, inconvenience, and frustration of mission caused by Respondent's discriminatory conduct pursuant to 42 U.S.C. § 3604(c); and
4. Assesses a civil penalty of eleven thousand dollars (\$11,000) against Respondent for the violation of the Act that Respondent has 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).

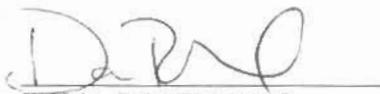
Respectfully submitted,



COURTNEY MINOR  
Regional Counsel for Region V



LISA M. DANNA-BRENNAN  
Supervisory Attorney-Advisor for Fair Housing



DANA ROSENTHAL  
Trial Attorney  
U.S. Department of Housing  
and Urban Development  
Office of the Regional Counsel  
for Region V  
77 West Jackson Boulevard, Room 2632  
Chicago, Illinois 60604-3507  
(312) 353-6236, ext. 2614  
FAX: (312) 886-4944

Date: 02/20/08

## DETERMINATION OF REASONABLE CAUSE

**CASE NAME:** Chicago Lawyers' Committee for Civil Rights Under Law, Inc. v. Lopez, Cesar  
**CASE NUMBER:** 05-07-0423-8

### **I. JURISDICTION**

On January 17, 2007, the Chicago Lawyers' Committee for Civil Rights Under Law, Inc. ("Complainant") filed a timely complaint with the United States Department of Housing and Urban Development ("HUD" or "the Department") alleging that it was injured by a discriminatory act of Respondent Cesar A. Lopez ("Respondent"). Complainant is a not-for-profit agency that engages in fair housing outreach and enforcement activities, including, but not limited to, investigating civil rights complaints and monitoring advertisements for discriminatory content. Complainant alleges that Respondent posted a discriminatory advertisement in violation of Section 804(c) of the federal Fair Housing Amendments Act of 1988 ("Act"). The ad reads, in relevant part:

"Great apartment for single person...I prefer young college students or single females. I prefer to rent this apartment to someone who will be living alone."

Section 804(c) prohibits making, printing, publishing, or causing 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, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

The advertised property is located at 3135 North Monticello Avenue, Chicago, Illinois, 60618 ("subject property"). The subject property is a three-unit building; Respondent resides in the second and third floor units, and leases the first floor and garden units. The garden apartment is the unit described in the subject advertisement for this complaint. The subject property is otherwise exempt from coverage under the Act, under Section 803(b)(2), because it contains four or fewer residential units and the owner resides in one (or more) of the units. This exemption, however, does not apply to violations of Section 804(c) of the Act.

The discriminatory ads are alleged to have been posted on craigslist.org on or about January 21, 2006. The subject complaint was filed on January 17, 2007. Respondent does not receive federal funding.

### **II. COMPLAINANT'S ALLEGATIONS**

Complainant alleges that Respondent posted an online advertisement on craigslist.org indicating a limitation prohibiting males and families with children from renting the available unit.

### III. RESPONDENT'S DEFENSES

Respondent claims that he did not post the advertisement on craigslist.org, contending that someone else, perhaps a former female friend, may have posted it without his knowledge. Respondent claims this friend has done something similar in the past with dating websites. Furthermore, Respondent contends that the garden unit of the subject property was not available for rent at the time the craigslist.org advertisement was posted and that he only advertised his rentals by word of mouth.

### IV. FINDINGS AND CONCLUSION

Complainant is a public interest law consortium comprised of forty-five (45) Chicago law firms. Complainant utilizes funding from federal, state, and local resources, as well as donations of legal services, to enforce fair housing laws, preserve affordable housing, advocate for the rights and interests of poor children, and represent victims of hate crimes. Its programs and activities include operating a Fair Housing Project and Legal Action Program.

As a component of the Fair Housing Project, Complainant routinely conducts investigations into discriminatory advertising for Chicago-area rental housing on craigslist.org, as a result of having received several complaints about said practices in the past. On January 24, 2006, Justin Massa, Complainant's Fair Housing Testing and Outreach Coordinator, viewed an advertisement on craigslist.org posted by Respondent on or about January 21, 2006, which stated in part:

"I am the landlord not a roommate. Two blocks from CTA Blue Line Belmont. Located north of Logan Square. I pay gas and electric. One month security deposit required. I am the landlord looking for tenants for this newly finished garden apartment. **Great apartment for single person...I prefer young college students or single females. I prefer to rent this apartment to someone who will be living alone.** Again I will not be living with you. I live on the second floor." (Emphasis added.)

Because the advertisement contained a partial address - "31XX Monticello" - and no other identifiable information, Mr. Massa searched the Office of the Cook County Assessor's website ("Assessor's website") and viewed photographs provided for each home within the 3100-3199 block of North Monticello Avenue. Mr. Massa compared each photo with the photos contained in the craigslist.org advertisement and concluded that 3135 N. Monticello was the only home on the Assessor's website that matched the photos on the craigslist.org advertisement. Mr. Massa stated that among other details, he identified a distinct hexagonal window to the right side of the front door in the Assessor's photo of 3135 N. Monticello that clearly matched the photo in the craigslist.org advertisement.

From the Assessor's website Mr. Massa obtained the Property Identification Number (PIN) associated with 3135 N. Monticello. He then recorded the PIN and entered it into

the search engine on the Office of the Cook County Treasurer's website. Accordingly, Mr. Massa was then able to obtain the tax records associated with the property. The tax records identified Cesar A. Lopez as the person responsible for property taxes at the subject property. Mr. Massa's representations as described above were verified by the HUD Equal Opportunity Specialist ("EOS") as part of the investigation and are accurate.

During the investigation, on June 18, 2007, the EOS told Respondent about a free fair housing training seminar to be held the next day. The free training seminar was conducted by the Chicagoland Bilingual Landlord Association, in coordination with Complainant on June 19, 2007. Respondent later admitted to the EOS that he did indeed attend this seminar.

Mr. Massa was a presenter at the June 19, 2007 seminar. In an affidavit, Mr. Massa stated that he conducted a portion of the seminar on educating landlords on fair housing laws, including a segment on internet advertising. Mr. Massa stated that throughout his presentation, a gentleman, he later identified as Respondent, asked several questions about the process Complainant employs in order to identify people who create discriminatory advertisements. Mr. Massa contends that at the end of the seminar, Respondent approached him and acknowledged posting the advertisement that is the subject of this investigation ("discriminatory advertisement"). Mr. Massa claims that Respondent explained that he did not see a problem with the advertisement that he posted on craigslist.org, and that he was just "being honest" because "girls really are cleaner."

On June 19, 2007, an EOS interviewed Respondent. During the interview, Respondent claimed that he did not post the advertisement on craigslist.org. Rather, he alleged that one of his former female friends might have posted the discriminatory advertisement because she knew his e-mail and phone number and had done something like that in the past on dating websites. Respondent would not provide any names of the female friends he suspected of posting the discriminatory advertisement in order for the EOS to corroborate his claim.

On or around November 7, 2007, the EOS found two online advertisements posted on roomster.net, another internet website posting apartment rentals, for the subject property. In contrast to the discriminatory advertisement on craigslist.org, the roomster.net advertisements listed the address of the subject property. The roomster.net advertisements, however similar to the one posted on craigslist.org, did not contain the discriminatory statements found in the craigslist.org advertisement.

The roomster.net advertisements indicated that both the first floor and garden unit at the subject property were available for rent. The roomster.net advertisements also included several descriptive sentences and phrases about each of the units at the subject property and their amenities. Most of the descriptive sentences and phrases in these advertisements were identical to the descriptive phrases contained in the discriminatory advertisement on craigslist.org. Photographs of the exterior and vacant interiors of each unit were included in the roomster.net advertisements.

Additionally, information identifying Respondent was provided in the roomster.net advertisement such as, Respondent's full name, home address, and cell phone number. Preceding Respondent's cell phone number in the advertisement for the first floor apartment is the sequence of letters, 'MVNQBAN.'<sup>1</sup>

In response to a subpoena served upon craigslist.org to obtain information associated with the identity of the individual responsible for posting the discriminatory advertisement, craigslist.org provided information indicating that the personal email address registered by the poster of the subject advertisement is [MVNQBAN@yahoo.com](mailto:MVNQBAN@yahoo.com). The response also states that the advertisement in question was posted on January 20, 2006, Pacific Standard Time (January 21, 2006 CST). Finally, the response identifies the internet protocol ("i.p.") address for the poster of the discriminatory advertisement, which can be used to identify the computer location from where the discriminatory advertisement was posted.

The investigation further revealed the existence of Respondent's MySpace.com webpage. When searching MySpace, the EOS conducted a search for the e-mail address [MVNQBAN@yahoo.com](mailto:MVNQBAN@yahoo.com). On November 27, 2007, the EOS located a MySpace page with the headline "The Movin' Cuban" in Chicago, Illinois. The profile indicated that it had last been updated on October 21, 2007. The page displays a picture of a man on a motorcycle and references the name Cesar numerous times. Under the section, "About me," Respondent disclosed that he owns a building, is in need of tenants, and provides a link to pictures of the subject property at [photos.yahoo.com/mvnqban](http://photos.yahoo.com/mvnqban).

During a follow-up interview with Respondent, he confirmed that 'MVNQBAN@yahoo.com' is, indeed, his personal email address. When questioned as to how his personal email address became registered with craigslist.org and associated with the discriminatory advertisement, Respondent suggested that since that particular email address is "public and can be found everywhere," someone else may have registered it without his knowledge. Yet, when asked if he had received any email inquiries from interested parties who viewed the subject advertisement, Respondent acknowledged that he may have received some, but no longer had them because they were either erased or sent directly into his junk mail folder. Respondent responded negatively when asked if he filed a complaint with craigslist.org regarding the alleged fraudulent submission of the advertisement.

The EOS questioned Respondent about the roomster.net advertisements and their similarity to the discriminatory advertisement on craigslist.org, to which Respondent initially accused someone else of copying the text of the discriminatory advertisement and pasting it into yet another allegedly false rental advertisement on roomster.net. When asked to explain how a stranger would have access to photographs depicting the exterior and interior vacant units at the subject property, as uploaded on roomster.net, however, he acknowledged that he may have placed the advertisements on roomster.net.

---

<sup>1</sup> This combination of letters is presumably a phonetic representation of Complainant's self professed nickname, "The Movin' Cuban."

### **Prima Facie Elements**

To establish a prima facie case in violation of Section 804(c) on the basis of sex and familial status, the following elements must be met:

1. Complainant is a member of a class of persons whom the Act protects from unlawful discrimination;
2. Respondent made, printed, or published, or caused to be made, printed, or published statements expressing a preference to rent to single persons, someone living alone or a female and a limitation upon renting to families with children and males; and
3. The statement was with respect to the sale or rental of a dwelling.

In this case, all three elements have been met with respect to discrimination based upon sex and familial status. First, Complainant has organizational standing to file under the Act because it was injured as a result of Respondent's violation of section 804(c) of the Act. Specifically, Complainant's staff read the statements contained in the subject advertisement on January 24, 2006 while conducting an investigation into discriminatory advertising for Chicago-area rental housing on craigslist.org. Accordingly, Complainant was injured when its time and resources were diverted away from housing counseling, education, and other matters and toward the investigation of the discriminatory conduct and the enforcement of fair housing laws against Respondent. Complainant CLC seeks to redress the injury it suffered in trying to eradicate familial status and sex discrimination in Chicago's housing market. Complainant CLC contends that its resources have been diverted, its mission of open housing opportunity frustrated, and its clients harmed by Respondent's alleged discriminatory act.

Second, Respondent posted the discriminatory advertisement on craigslist.org. As discussed in detail below, Respondent's defenses, including that someone else posted the discriminatory advertisement, are not credible. In sum, Respondent refused to proffer the person he alleged may have posted the advertisement in order for the EOS to substantiate his claim. Further, he admitted posting the discriminatory advertisement to Justin Massa at a fair housing training on June 19, 2007. Finally, the similarity of the roomster.net advertisements to the craigslist.org posting, the photographs of the interior of his unit posted on both roomster.net and craigslist.org, and the fact that the discriminatory advertisement was posted using Respondent's e-mail address makes it unlikely that someone else posted the advertisement as Respondent claims.

Further, the discriminatory advertisement on its face indicates a preference not to rent to men or people with children. The subject advertisement clearly states a discriminatory preference as illustrated by the statements, "Great apartment for single person...I prefer young college students or single females. I prefer to rent this apartment to someone who will be living alone." Therefore, Complainant can satisfy the second element of the prima facie case because Respondent posted the advertisement and the advertisement expresses a preference not to rent to males or people with children.

Finally, Respondent's statements were made with respect to the sale or rental of the

subject property. The statements at issue were made in an advertisement seeking persons to rent the subject property. Respondent's MySpace page indicates he was looking for tenants as late as November 27, 2007. Respondent's claim that he was no longer renting units at the subject property was contradicted by his former tenant who recalled a man living in the unit below her in June 2006, as well as her tenancy there, and Respondent's own response to HUD's data request letter. As a result, Complainant has satisfied the third element of the prima facie case.

**Analysis of Respondent's Defenses:**

While Respondent never submitted a written answer in response to the complaint, he provided different defenses at various stages of the investigation during interviews conducted by the EOS, through responses to a data request letter and through his attorney representative. Respondent's defenses are that (1) he did not post the discriminatory advertisement, but that someone else did, (2) the other units in his building were not available for rent at the time the discriminatory advertisement was posted, and (3) he advertises his property by word of mouth only. Upon examination, Respondent's defenses are untenable.

**1. Someone else posted the discriminatory advertisement.**

Respondent claims that he did not post the discriminatory advertisement on craigslist.org. Rather, someone else, possibly a former female friend, may have posted the discriminatory advertisement. Respondent stated that this former female friend posted false advertisements in his name on dating websites in the past. However, Respondent steadfastly refused throughout this investigation to provide the contact information for the former female friend. Consequently, this defense could not be substantiated.

Furthermore, Respondent admitted to Justin Massa during a fair housing training seminar that he posted the advertisement and that he did not see anything wrong with it. Mr. Massa provided an affidavit detailing his direct contact with Respondent at the fair housing training held on June 19, 2007. In the affidavit, Mr. Massa stated that throughout his presentation, a gentleman, he later identified as Respondent, asked several questions about the process Complainant employs in order to identify people who create discriminatory advertisements.

Mr. Massa contends that at the end of the seminar, Respondent acknowledged posting the discriminatory advertisement. Mr. Massa claims that Respondent explained that he did not see a problem with the advertisement that he posted on craigslist.org, and that he was just "being honest" because "girls really are cleaner." Moreover, Respondent admitted to the EOS that he attended the training seminar. Accordingly, Respondent's interaction with Mr. Massa supports the conclusion that Respondent, rather than a "female friend," posted the discriminatory advertisement on craigslist.org.

Respondent's contention that he did not post the discriminatory advertisement is also not credible in light of (1) the similarity of the roomster.net postings to the discriminatory

advertisement and (2) the interior photographs of his units posted on roomster.net and craigslist.org. While Respondent initially also claimed that someone else could have posted the roomster.net advertisements, he equivocated when confronted with the fact that pictures of the interior of the units were uploaded directly onto the roomster.net site. Moreover, he did not deny that he posted the advertisements. Rather, he told the EOS that he may have posted the roomster.net advertisements and he would check his computer and let the EOS know. Respondent never contacted the EOS with this information.

Respondent's personal information was provided in the roomster.net advertisements, including the sequence of letters MVNQBAN. When asked about the sequence of letters MVNQBAN, Respondent explained that this was a sequence that he chose for his e-mail address. In fact, Respondent revealed that he has numerous e-mail addresses using this sequence, including [MVNQBAN@yahoo.com](mailto:MVNQBAN@yahoo.com). The investigation revealed through a subpoena to craigslist.org that the craigslist.org advertisement was posted by someone using the e-mail address [MVNQBAN@yahoo.com](mailto:MVNQBAN@yahoo.com). It is unlikely that someone other than Respondent posted advertisements for his property using his personal e-mail address and had access to exterior and interior photos of the subject property. In addition, craigslist.org also disclosed an i.p. address for the posting, which may be used to ascertain to a reasonable degree of certainty the point of origination for the posting. Accordingly, for the reasons listed above, Respondent's defense that someone else posted the discriminatory advertisement is not credible.

## **2. The property has not been a rental property in years.**

On or about November 7, 2007, Respondent told the EOS that the subject property had not been a rental property in years, thus, the garden unit was not available for rent at or near the time the Craigslist advertisement was posted. He asserted that the garden unit had not been occupied since 2005, when his male friend resided there. Respondent said he was told by friends that use of the dwelling as a rental property was illegal since the two units did not have two separate exits. While Respondent proffered this defense, he did not provide the EOS with the particular provision of the city of Chicago Building Code he believed he was in violation of. Also, he did not contend that the city of Chicago had ever notified him that renting out his units would be illegal, nor did he assert that he contacted the city to confirm whether rental of his units would violate the city code. He further stated that it is his intent to use the subject property as a single family home.

Respondent's contention that he was no longer interested in renting out his units is false. The investigation revealed that Respondent's MySpace page advertised a unit for rent at the subject property as late as November 27, 2007. Respondent also provided a link to pictures so that interested parties could view them. Specifically, Respondent's MySpace webpage reads, "I own a building and I'm in need of tennants (sic) . . . the hardwood floors have recently been refinished and is available for showings." A link to pictures of the subject property can also be found on his MySpace page. Further, Respondent also admitted that he may have posted an advertisement on roomster.net for the subject

property. Accordingly, Respondent's claim that the subject property had not been a rental property in years is not credible because he placed at least two advertisements on the internet holding his property out for rent.

Further, in contrast to Respondent's claim, the investigation revealed that the garden unit had been occupied after 2005. During the investigation, Respondent's witness, Zeraida Martinez, was interviewed. She is a former tenant who resided in the first floor apartment at subject property from January 2003 through June 2006. During the interview, she stated that when she moved out in late June 2006, a single male was residing in the garden unit. Ms. Martinez' recollection directly contradicts Respondent's claim that the garden unit has remained vacant since 2005, and casts serious doubt—along with his other demonstratively false contentions—on his credibility.

When subsequently confronted with this contradictory evidence, Respondent retracted his previous statement that the unit had been vacant since 2005, and recalled that his friend was indeed living in the garden unit in June of 2006. He could not recall when his friend moved in or out. Even this contention, that he could not recall when his friend moved in or out, is contradicted by his written response to HUD's data request letter. His response to the HUD data request letter provides that the garden unit was leased to his male friend from June 1, 2006 through May 31, 2007.

Additionally, Respondent's attorney's representations concerning Respondent's defense contradict Respondent's. Respondent's defense is that he was no longer renting out the garden unit on or around January 21, 2006 because it would violate the city of Chicago Building Code. Presumably, for this reason, he did not advertise the garden unit as available on craigslist, as alleged by Complainant. His attorney, on the other hand, claims that he did not advertise on craigslist on or around January 21, 2006 because the unit was already occupied.

Specifically, in a December 3, 2007 letter, Respondent's representative asserted that Respondent rented the garden unit from June 1, 2006 through May 31, 2007. As a result, the unit was not available for rent at the time the discriminatory advertisement was discovered by Complainant. In a December 5, 2007 interview, he reiterated that the garden unit was unavailable at the time of the craigslist.org posting because it was already occupied by a tenant.

Not only does Respondent's defense differ from his representative's version, but the discriminatory advertisement was posted at a time when both Respondent and Respondent's attorney claim the unit was vacant. The subpoena to craigslist.org provides that the advertisement was posted on January 21, 2006. Mr. Massa discovered the advertisement on or about January 24, 2006. When asked in the data request letter for the names and dates of tenants residing at the subject property from June 1, 2005 to May 30, 2007, Respondent provided only two names. One was Ms. Martinez who resided in the first floor unit. The other name was of a man that resided there from June 6, 2006 to May 31, 2007, presumably in the garden unit. No other names or dates are provided. Consequently, the garden unit was unoccupied on January 24, 2006 when Complainant

discovered the advertisement.

In light of Respondent's lack of credibility on matters central to this case, including when the garden unit at the subject property was leased, and his posting of the discriminatory advertisement on craigslist.org on January 21, 2006 or roomster.net, there is sufficient evidence to conclude that the garden unit was available for rent on or about that date, and that Respondent was looking to rent out his units.

### **3. Respondent advertises his property by word of mouth only.**

Finally, Respondent claims that he advertises the subject property by word of mouth only. Thus, he did not post the discriminatory advertisement for the subject property on craigslist.org. Again, Respondent's MySpace page advertising the subject property for rent demonstrates that Respondent does not exclusively advertise his properties by word of mouth, as he claims. Similarly, the posting of the roomster.net advertisement also contradicts Respondent's claim that he only advertises his property by word of mouth.

Based on the totality of the evidence discovered during the investigation, Respondent's claims that he did not post the discriminatory advertisement on craigslist.org on or about January 21, 2006, that the garden unit in his building was unavailable at that time, and that he only advertises by word of mouth are not credible.

For the above reasons, there is reasonable cause to believe that the Act was violated, as alleged.

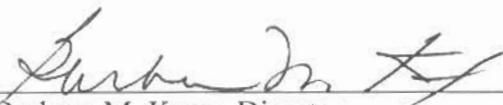
## **V. ADDITIONAL INFORMATION**

Notwithstanding this determination by HUD, the Act provides that the complainant may file a civil action in an appropriate federal district court or state court within two years after the occurrence or termination of the alleged discriminatory housing practice. The computation of this two-year period does not include the time during which this administrative proceeding was pending. In addition, upon the application of either party to such civil action, the court may appoint an attorney, or may authorize the commencement of or continuation of the civil action without the payment of fees, costs, or security, if the court determines that such party is financially unable to bear the costs of the lawsuit.

The Department's regulations implementing the Act require that a dismissal, if any, be publicly disclosed, unless the respondent requests that no such release be made. Such request must be made by the respondent within thirty (30) days of receipt of the determination to the Field Office of Fair Housing and Equal Opportunity at the address contained in the enclosed summary. Notwithstanding such request by the respondent, the fact of a dismissal, including the names of all parties, is public information and is available upon request.

A copy of the final investigative report can be obtained from:

Office of Fair Housing and Equal Opportunity  
Midwest Regional Office - Region V  
Ralph H. Metcalfe Federal Building  
77 West Jackson Boulevard, Room 2101  
Chicago, Illinois 60604-3507

  
\_\_\_\_\_  
Barbara M. Knox, Director  
FHEO Region V

2/20/08  
Date

Respondent also initially claimed he did not post the Craigslist advertisement because his property had not been a rental property in years, and because he only advertises by word of mouth. However, his former tenant, his MySpace page, his own responses to the HUD data request letter, and his representative's understanding of the facts contradict his assertions.

IMPORTANT NOTICE

**THE ENCLOSED CHARGE OF DISCRIMINATION ISSUED BY THE SECRETARY  
OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT GIVES YOU THE FOLLOWING  
IMPORTANT RIGHTS AND RESPONSIBILITIES:**

**I. Election of Civil Action or Administrative Proceeding**

If you are either the person charged or any aggrieved person on whose behalf this charge is brought, you have the right to choose one of two judicial forums in which the issues involved in the charge will be heard. The two forums are: (1) a United States government administrative proceeding before an independent United States government administrative law judge and (2) a United States district court (district court).

If you want to have your case tried in a United States government administrative proceeding, you need take no further action. If you take no further action and if no other person decides to go to district court, a United States administrative hearing automatically will be held before an independent United States government administrative law judge.

If no person elects to have the claims asserted in this charge decided in a civil action in district court, an administrative proceeding will be conducted before a United States government administrative law judge:

**ON:                    MAY 20, 2008**

**IN OR NEAR: CHICAGO, IL or VICINITY**

at a **TIME and PLACE** set forth by another order of a United States government administrative law judge. The proceeding will be conducted in accordance with the Consolidated HUD Hearing Procedures for Civil Rights Matters set forth at 24 C.F.R. Part 180.

**A. Advantages of Administrative Proceeding**

**1. Speed**

The administrative hearing process was created by Congress to provide for a quick and inexpensive way to resolve housing discrimination charges. 42 U.S.C. Section 3612(d) & (g). The time from the issuance of the charge until the issuance of the administrative law judge's decision is about six months. In contrast, because of the large number of criminal cases in district courts, which, under the Speedy Trial Act, take precedence over all other cases, it is not uncommon for civil litigation such as fair housing cases to take on average at least two years to be litigated in district court.

## **2. Free HUD Counsel**

If this case is tried in a United States government administrative proceeding, an attorney from the United States Department of Housing and Urban Development will prosecute the case on behalf of the aggrieved person at no charge. Providing the opportunity to have a United States Department of Housing and Urban Development lawyer prosecute the case was intended by Congress to give aggrieved persons expert advice from lawyers representing the Department that is in charge of implementing the Fair Housing Act.

### **3. Remedy**

The independent United States government administrative law judge may order injunctive and other equitable relief and monetary relief for actual damages (including damages caused by humiliation) and may also impose civil penalties.

## **B. Advantages of Judicial Proceeding**

### **1. Jury Trial**

If this case proceeds to a district court, any party may choose to have the case decided by a jury.

### **2. Free Department of Justice Counsel**

If the case proceeds to a district court, an attorney from the United States Department of Justice will prosecute the case at no charge.

### **3. Remedy**

The district court may order injunctive and other equitable relief and monetary relief for actual damages (including damages caused by humiliation) and punitive damages.

## **C. Procedure if an Election is made**

If you decide to go to district court, an election to do so must be filed with the Chief Docket Clerk, at the following address, no later than **MARCH 17, 2008**. Documents are not filed until received by the Chief Docket Clerk.

Chief Docket Clerk  
Office of Administrative Law Judges  
U.S. Department of Housing and Urban Development  
451 7<sup>th</sup> Street, S.W., Room 3142  
Washington, DC 20410  
Telephone Number: 202-708-4266  
Facsimile Machine Number: 202-708-3722

You also must give written notice of the election to go to district court to the individuals listed below:

**COMPLAINANT**

Chicago Lawyers' Committee for Civil  
Rights Under Law, Inc.  
100 North LaSalle Street, Suite 600  
Chicago, Illinois 60602

**COMPLAINANT'S REPRESENTATIVE**

Monica J. Mosby, Esquire  
Katten, Muchin, Rosenman, LLP  
525 West Monroe  
Chicago, Illinois 60661  
(312) 902-5382 (Office)  
(312) 577-4715 (Fax)

**RESPONDENT**

Cesar A. Lopez  
3135 North Monticello, Apt. #3  
Chicago, Illinois 60618

**RESPONDENT'S REPRESENTATIVE**

Carlo D'Agostino, Attorney-at-Law  
422 West Wesley Street  
Wheaton, Illinois 60187  
(630) 784-0446 (Office)  
(630) 682-3749 (Fax)

**OFFICIALS:**

**DANA ROSENTHAL, TRIAL ATTORNEY**

Joseph A. Pelletier  
Acting Assistant General Counsel  
for Fair Housing Enforcement  
Office of General Counsel  
Department of Housing and  
Urban Development  
451 Seventh St., SW, Room 10270  
Washington, DC 20410

Bryan Greene  
Deputy Assistant Secretary for Enforcement  
and Programs  
Office of Fair Housing and Equal Opportunity  
Department of Housing and Urban Development  
451 Seventh St., SW, Room 5204  
Washington, DC 20410

If a timely election to proceed in District Court is made, the Chief Administrative Law Judge will issue a "Notice of Election of Judicial Determination."

## II. Procedural Rights and Responsibilities for Administrative Proceeding

### A. Answer

If you are the respondent in the administrative proceeding, you must file a written answer to the attached charge by **MARCH 21, 2008**, (within 30 days of the service of the charge). The answer must include:

1. A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny, each allegation made in the charge. A statement of lack of information shall have the effect of a denial. Any allegation that is not denied shall be deemed admitted.

2. A statement of each affirmative defense and a statement of the facts supporting each affirmative defense.

Failure to file an answer within the 30-day period following service of the Charge shall be deemed an admission of all matters of fact recited in the Charge and may result in the entry of a default decision. 24 C.F.R. Section 180.420(b).

### B. Request for Intervention

If you are the aggrieved person on whose behalf the attached charge was filed, you may participate as a party in the administrative proceeding by filing a timely request for intervention. In order for requests for intervention to be timely, they must be filed with the Chief Docket Clerk within 50 days after service of the charge. 24 C.F.R. Section 180.310(b).

### C. Discovery

All discovery for the administrative proceeding will be completed by **MAY 5, 2008**, in accordance with 24 C.F.R. Section 180.500(a). If no person elects to have the claims asserted in this charge decided in a civil action in district court, a lawyer from the United States Department of Housing and Urban Development will contact you or your representative to discuss scheduling the discovery of information relevant to transactions and events related to the enclosed charge.

Discovery of electronic information is treated on equal footing with paper documents. Electronically stored information is defined expansively to include any type of information that is stored electronically, including, but not limited to: email messages and attachments; other electronic communications; word processing documents; spreadsheets; tables; data; photographs; and telephone logs.

In order to meet your discovery obligations, you are advised to take all reasonable steps to:

- Prevent deleting or discarding any information, including electronic information, related to the enclosed charge of discrimination.
- Assess how information, including electronic information, is stored, how it can be produced, and what evidence is relevant to the case.

### III. Restrictions on Respondent's Sale or Rental of Property

If at any time following the service of the attached charge, the respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of the charge, the respondent must provide a copy of the charge to such person before the respondent and that person enter into the contract, sale, encumbrance or lease.

If there is anything in this notice that you do not understand or if you have additional questions, contact: **DANA ROSENTHAL**, Trial Attorney, at **(312) 353-6236, EXT. 2614**.

Attachments (Charge of Discrimination and Determination of Reasonable Cause)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Determination of Reasonable Cause", "Charge of Discrimination" and "Notice" in FHEO No. 05-07-0423-8 was served by facsimile machine on the office of Administrative Law Judges (FAX: 202-708-3722), via first class mail, postage prepaid and FEDEX upon the following:

Chief Docket Clerk  
Office of Administrative Law Judges  
U.S. Department of Housing and  
Urban Development  
451 7<sup>th</sup> Street, S.W., Room 3142  
Washington, DC 20410

**COMPLAINANT**

Chicago Lawyers' Committee for Civil  
Rights Under Law, Inc.  
100 North LaSalle Street, Suite 600  
Chicago, Illinois 60602

**COMPLAINANT'S REPRESENTATIVE**

Monica J. Mosby, Esquire  
Katten, Muchin, Rosenman, LLP  
525 West Monroe  
Chicago, Illinois 60661  
(312) 902-5382 (Office)  
(312) 577-4715 (Fax)

**RESPONDENT**

Cesar A. Lopez  
3135 North Monticello, Apt. #3  
Chicago, Illinois 60618

**RESPONDENT'S REPRESENTATIVE**

Carlo D'Agostino, Attorney-at-Law  
422 West Wesley Street  
Wheaton, Illinois 60187  
(630) 784-0446 (Office)  
(630) 682-3749 (Fax)

on this 20<sup>TH</sup> day of February, 2008

Benita Washington

Benita Washington  
Paralegal Specialist  
Office of Regional Counsel  
U.S. Department of Housing and  
Urban Development  
77 West Jackson Boulevard, Room 2617  
Chicago, Illinois 60604-3507  
(312) 353-6236, ext. 2619  
(312) 886-4944 (Fax)