

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGE

The Secretary, United States
Department of Housing and Urban
Development, on behalf of
Housing Discrimination Project, Inc.

Charging Party,

v.

George Ross and Mary Ross,

Respondents.

HUDALJ 01-92-0466-8

Thomas W. Rodick, Esquire
For the Department

George and Mary Ross, Pro se

James F. Donnelly, Esquire
For the Intervenor

Before: William C. Cregar
Administrative Law Judge

**INITIAL DECISION AND ORDER ON
APPLICATION FOR ATTORNEY FEES**

On August 5, 1994, Intervenor Housing Discrimination Project, Inc., filed a Motion seeking \$3,772.50 for attorneys fees. Respondents have filed no opposition to Intervenor's motion or to the amount sought. Intervenor seeks fees for James F. Donnelly, its attorney during this litigation. Mr. Donnelly filed an affidavit stating that he expended 25.15 hours of work on the case at a rate of \$150 per hour, the asserted customary rate, for a total of \$3,772.50. The motion is supported by affidavits of two attorneys familiar with Mr. Donnelly and his background stating that his claimed rate of \$150 per hour is reasonable.

Applicable Law

The Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.* ("the Act"), provides that a prevailing party in an administrative proceeding is entitled to recover attorney fees. 42 U.S.C. § 3612(p); *see* 24 C.F.R. § 104.940. A prevailing party is one whose success on significant issues achieves sought after results. *See Busche v. Burkee*, 649 F.2d 509, 521 (7th Cir.), *cert. denied*, 454 U.S. 897 (1981); *see also* *Dixon v. City of Chicago*, 948 F.2d 355, 357-358 (7th Cir. 1991).¹

The burden of establishing the reasonableness of the requested rate, as well as the number of hours expended on litigation, is on the applicant. *Hensley v. Eckerhart*, 461 U.S. 424, 433, 437 (1983). A reasonable rate is the prevailing market rate in the relevant legal community. *Blum v. Stenson*, 465 U.S. 886, 895 (1984). An attorney's expertise is a consideration in determining the rate. *See id.* at 898.

An applicant must submit an accounting of the time expended on litigation, ordinarily including an affidavit providing dates and the nature of the work performed. *See Calhoun v. Acme Cleveland Corp.*, 801 F.2d 588 (1st Cir. 1986).

Discussion

Respondents were found to have violated the Act and damages were assessed against them. Accordingly, Intervenor is a prevailing party and Respondents are liable for reasonable attorney fees and expenses. *See* 24 C.F.R. § 104.940(b).

Mr. Donnelly's affidavits detailing the hours he spent working for the Housing Discrimination Project on Respondents' fair housing violations and the reasonableness of his rate are sufficiently detailed and complete to allow me to find that both are reasonable. In this regard, I note that Intervenor's presentation at the hearing and its Post-

¹These and numerous cases cited in this decision are cases interpreting the Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988 ("CRA Fees Act"). Cases interpreting the CRA Fees Act also apply to the Fair Housing Act. *See* 42 U.S.C. § 3602(o).

hearing brief did not duplicate the work of the attorney for the Charging Party.

Conclusion and Order

Accordingly, within 45 days the date this initial decision becomes final, Respondents are **ORDERED** to pay Intervenor a total of \$3,772.50 for attorney fees.

WILLIAM C. CREGAR
Administrative Law Judge

Dated: September 29, 1994