

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS**

Secretary, United States Department of)
Housing and Urban Development, on behalf of)
REDACTED)
)
Charging Party,)
)
v.)
)
Dyersburg Apartments, Ltd., and MACO Property)
Management Company, Inc.,)
)
Respondents.)
_____)

OHA No. _____

FHEO No. 04-14-0252-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

REDACTED (“Complainant”) timely filed a complaint with the U.S. Department of Housing and Urban Development (the “Department” or “HUD”) on or about September 13, 2013, alleging that Respondents Dyersburg Apartments, Ltd. and MACO Property Management Company, Inc. discriminated against him on the basis of race in violation of the Fair Housing Act (the “Act”), 42 U.S.C. §§ 3601-3619. The complaint was last amended on April 20, 2015.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §§ 3601(g)(1) and (2). The Secretary has delegated to the General Counsel, who has redelegated to the Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause by the Assistant Secretary of Fair Housing and Equal Opportunity or his or her designee. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Regional Director of the Office of Fair Housing and Equal Opportunity for Region IV has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred and has authorized the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned amended complaint and the Determination of Reasonable Cause, Respondents Dyersburg Apartments, Ltd. and MACO Property Management Company, Inc. are hereby charged with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to discriminate against any person by refusing 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 or color. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a). "Discrimination" under this provision includes the use of different qualification criteria or rental standards or procedures, because of race or color. 24 C.F.R. § 100.60(b)(4).
2. It is unlawful to discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65(a).
3. The Act defines an "aggrieved person" as any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i)(1); 24 C.F.R. § 100.20.
4. The Act defines "dwelling" as any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof. 42 U.S.C. § 3602(b).

B. PARTIES AND SUBJECT PROPERTY

5. Complainant **REDACTED** is African-American.
6. Complainant is an "aggrieved person," as defined by the Act.
7. Respondent Dyersburg Apartments, Ltd., ("Dyersburg Apartments") is a Limited Partnership organized under the laws of Tennessee.
8. At all times pertinent to this Charge, Respondent Dyersburg Apartments owned Meadow Lane Apartments, located at 613-655 US-51 Bypass, Dyersburg, TN 38024, ("Subject Property").

9. The Subject Property is a multifamily complex that is not exempt under sections 803 and 807 of the Act.
10. The units at the Subject Property were “dwellings,” as defined by the Act.
11. At all times pertinent to this Charge, Respondent MACO Property Management Company, Inc. (“MACO Management”) was the General Partner of Respondent Dyersburg Apartments and managed the Subject Property. Respondent MACO Management is a corporation organized under the laws of Missouri.

C. FACTUAL ALLEGATIONS

12. In 2012, Respondents Dyserburg Apartments and MACO Management maintained a written policy entitled “Resident Selection Guidelines” at the Subject Property.
13. The Resident Selection Guidelines provides for rejection of applicants who had a felony conviction within the last 10 years.
14. The Resident Selection Guidelines also provides for rejection of applicants who had engaged in certain criminal activity, including “[a]ny conviction or adjudication other than acquittal for the sale, distribution, or manufacture of any controlled or illegal substance,” and “[a]ny conviction or adjudication other than acquittal, for any sexual offense.”
15. In November 2012, Complainant was residing with his ex-wife in the apartment of his ex-wife, at the Subject Property. Complainant’s ex-wife is African-American.
16. Respondent MACO Management’s Resident Manager for the Subject Property recommended to Complainant that he complete a lease application.
17. Complainant completed a lease application, indicating in the application that he had a felony conviction for writing a bad check.
18. Respondent MACO Management’s Resident Manager Jan Smith denied the Complainant’s lease application. In conversation with the Complainant, Resident Manager Smith informed him that the Subject Property had a policy to not rent to felons.
19. In addition to denying his application, Resident Manager Smith told Complainant he was no longer allowed on the premises of the Subject Property because he was a felon.
20. While the Complainant’s application for housing was rejected, at least two (2) other applicants who were not African-American and who had criminal records in violation of the Resident Selection Guidelines were approved for housing by Respondent MACO Management’s Resident Manager.

21. The first resident had a history of felony sexual battery. The resident disclosed his conviction on his application. This resident was/is on the National Sex Offender database. Under the Resident Selection Guidelines, this resident did not qualify for housing. Despite this resident's felony, MACO's Resident Manager approved the resident to live at the Subject Property.
22. The second resident had pled guilty to felony drug charges and was serving probation. The resident disclosed her guilty plea on her application. Under the Resident Selection Guidelines, this resident did not qualify for housing. Despite this resident's felony, Respondent MACO Management's Resident Manager approved the resident to live at the Subject Property.

D. FAIR HOUSING ACT VIOLATIONS

23. As described in paragraphs 12 through 22 above, Respondents Dyersburg Apartments and MACO Management discriminated, based on Complainant's race, by refusing to rent to Complainant on the basis that he was disqualified due to his felony conviction, while allowing two Caucasian applicants with disqualifying felony criminal histories to reside in the Subject Property. Respondents acted in violation of the Act. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a).
24. As described in paragraphs 12 through 22 above, Respondents Dyersburg Apartments and MACO Management discriminated, based on Complainant's race, in the terms, conditions, or privileges of sale or rental of a dwelling, by denying Complainant's rental application because of his felony conviction while allowing Caucasian applicants with disqualifying felony criminal histories to rent at the Subject Property. By applying rental standards and criteria in favor of the Caucasian applicants, and against Complainant, an African-American, Respondents acted in violation of the Act. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65(a).

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 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 Act, as amended, 42 U.S.C. § 3601, *et seq.*;
2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, from discriminating because of race in any aspect of the rental of a dwelling pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(ii);

3. Mandates Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, to attend training that addresses the Act's prohibitions against race discrimination;
4. Awards such damages as will fully compensate Complainants for the actual damages caused by Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(i);
5. Awards a civil penalty against each Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(iii); and
6. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3).

Respectfully submitted,



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(Continuation of Signature Page for Charge of Discrimination, FHEO Case No. 04-14-0252-8.)



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Date: August 27__, 2018