

**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	)	
<b>REDACTED</b>	)	
	)	ALJ No.
Charging Party,	)	FHEO No. 06-16-4599-8
	)	
v.	)	
	)	
El Patrimonio Apartments, L.P.	)	
El Patrimonio Apartments I, L.L.C,	)	
Texas Regional Asset Management, L.L.C.,	)	
Javier Mascorro	)	
Respondents.	)	
_____	)	

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On March 25, 2016, Complainant, **REDACTED** (“Complainant”) timely filed a complaint with the U.S. Department of Housing and Urban Development (“the Department” or “HUD”), alleging that El Patrimonio Apartments L.P., Texas Regional Asset Management, L.L.C., and Javier Mascorro discriminated against him, his wife, and their two minor children, on the basis of familial status, in violation of the Fair Housing Act, 42 U.S.C. §§ 3601 et. seq. (the “Act”). On or about November 30, 2016, the complaint was amended to include claims under Section 804(c); to name Complainant’s wife and two minor children as other aggrieved parties; and to name El Patrimonio Apartments I, L.L.C. as a respondent. Complainant also alleges above-named respondents interfered with his enjoyment of a dwelling in violation of the Act.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (“Charge”) 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. § 3610(g)(1) and (2). The Secretary has delegated that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405), who has retained and re-delegated the authority to Regional Counsel, the authority to issue such a Charge following determination of reasonable cause. 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Regional Director for the Office of Fair Housing and Equal Opportunity (FHEO) for Region VI, on behalf of the Assistant Secretary for FHEO, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case and has authorized and directed issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

## **II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE**

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause and No Reasonable Cause, Respondents are hereby charged with violating the Act as follows:

### **A. LEGAL AUTHORITY**

1. 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 familial status. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65.
2. It is unlawful to make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the 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.
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 "familial status" as one or more individuals (who have not attained the age of 18 years) being domiciled with, (1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.
5. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised to enjoyed, any right granted or protected by Section 804 of the Act. 42 U.S.C. § 3617; see 24 C.F.R. 400.

B. PARTIES AND SUBJECT PROPERTY

6. Complainant **REDACTED** is a person with a wife, **REDACTED** and two minor children. At the time of the alleged discrimination, the minor children were 5 and 7 years old.
7. Complainant, Ms. **REDACTED** and their two minor children are “aggrieved persons” as defined by the Act, 42 U.S.C. § 3602(i).
8. The Fair Housing Council of Greater San Antonio (FHCOGSA) is a non-profit fair housing organization funded in part through HUD's Fair Housing Initiatives Program to conduct testing for housing discrimination and to engage in other related fair housing enforcement activities. FHCOGSA is Complainant’s legal representative.
9. At all times relevant to this Charge, Respondent El Patrimonio Apartments, L.P. (“EPA LP”) owned the property located at 2601 Sarah Avenue, McAllen, Texas, 78503 (“Subject Property”).
10. Respondent EPA LP is a limited partnership that does business within the State of Texas.
11. The Subject Property is a 192-unit housing complex, and its units are dwellings, as defined by the Act. *See* 42 U.S.C. § 3602(b). The Subject Property is not exempt under the Act.
12. At all times relevant to this Charge, Respondent El Patrimonio Apartments I, L.L.C. was the general partner of Respondent EPA LP.
13. At all times relevant to this Charge, Respondent Texas Regional Asset Management, LLC (“TRAM”) was a domestic business corporation registered in the State of Texas and managed the operations of the Subject Property.
14. During all times pertinent to this Charge, Respondent Javier Mascorro was employed by Respondent TRAM and served as the property manager of the Subject Property.

C. FACTUAL ALLEGATIONS

15. In September of 2013, Complainant and Ms. **REDACTED** entered into a lease agreement (“Lease”) with Respondent EPA LP for a residential unit located at the Subject Property. Complainant resided in the unit with Ms. **REDACTED** and two minor children. Complainant and his family were residents of the Subject Property for a period of approximately two years from September of 2013 until September of 2015.

16. In addition to signing the Lease, Complainant and Ms. **REDACTED** signed two addenda: 1) Lease Addendum for Pool Rules ("Pool Rules") and 2) Lease Addendum Community Policies ("Community Policies"). These two documents outlined the formal policies governing the use of the pool and amenities of the Subject Property.

The Community Policies stated, in part:

1. Persons under 18 years of age must be accompanied by an adult when using any of the property's amenities and in community areas after 10:00 p.m.
2. Pool Rules — Pool hours are 10:00 a.m. to 10:00 p.m. A parent or guardian must accompany anyone under the age of 16 years.

The Pool Rules stated, among other things:

1. Warning — No life guard will be on duty. Children should not use the pool without adult supervision. Pool hours are only between 10 a.m. and 8 p.m.
2. Residents and guests must be responsible at all times for making sure that young children do not leave apartments unnoticed and that they do not wander into the pool area. Remember to use keyless deadbolts, pin locks, and window latches when small children are inside.
3. No children under the age of 18 will be allowed in the pool at any time, unless accompanied and supervised by a parent, guardian or a person over the age of 18 who has been given written authority by the parent or guardian to supervise the children and who has assumed responsibility for such supervision.
4. Parents, guardians or custodians of a child are totally responsible for the child's compliance with these rules. These rules apply to residents, occupants, guest and their children.
5. 1st and final offense: Banned from the pool for the remainder of the season.

17. On or about March 11, 2015, Respondent Mascorro issued a Notice of Lease Violation ("Lease Violation") notifying Complainant that he violated the children supervision policies and that unsupervised children are "not tolerated."

18. Complainant called Respondent Mascorro questioning the Lease Violation because at the time his children were supervised by other adults in the vicinity. Respondent Mascorro told Complainant that his children were required to be supervised by blood relatives at all times.

19. During that same phone call, Respondent Mascorro also told Complainant that he would have to pay a \$250 fine or be evicted. At the time he received the Lease Violation, Complainant's monthly rent payment was \$510.
20. On or about March 27, 2015, Complainant received a Friendly Reminder Notice ("Friendly Reminder") reminding all residents that children required adult supervision at all times when in the pool area and failure to comply would result in a \$250 immediate fine. The Friendly Reminder stated no exceptions would be made.
21. An undated notice (the "General Notice") was provided to Complainant that stated, in part, unsupervised children would result in an immediate fine of \$250 and the police will be called for violations.
22. On or about March 31, 2015, the FHCOGSA issued surveys to tenants of the Subject Property insuring about policies and rules implemented by Respondents. Seven of the eight responses indicated an awareness of a policy that all children were required to be supervised by an adult while in the general areas of the Subject Property as well as pool area.
23. Read together, the Community Policies, the Pool Rules, property signage, and issued notices communicated the following specific rules that placed broad restrictions on families with children and were discriminatory on their face:
  - i. Children under the age of 18 must be supervised by an adult at all times while on the Subject Property;
  - ii. Failure to comply with any of the rules or policies would result in an immediate \$250 fine;
  - iii. There was a rule requiring adult supervision for children under the age of 18 and younger at the pool; and
  - iv. Unsupervised children would not be tolerated, and the police may get involved for non-compliance of the rules and policies.
24. During Complainant's tenancy, Respondents displayed a sign in the pool area that stated: "Persons under the age of 16 must be accompanied by an adult resident."
25. During Complainant's tenancy, Respondents displayed a sign in the playground area that stated: "All children must be accompanied by an adult."
26. Respondents' above-cited policies were directed specifically at children and families with children living at the Subject Property.

27. As a result of Respondents' conduct, Complainant, his wife, and their two minor children suffered actual damages including, but not limited to emotional distress, frustration, inconvenience, and interference of enjoyment of housing.

#### D. LEGAL ALLEGATIONS

28. By implementing and enforcing community rules that created different terms and conditions and privileges of the rental of a dwelling based upon of familial status, Respondents violated 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65.
29. By making, publishing, and posting notices and signs expressing a limitation against tenants with children and based upon familial status with respect to the rental of a dwelling, Respondents violated 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75.
30. By engaging overly restrictive community policies and imposing severe penalties for non-compliance of such policies which interfered with Complainant's enjoyment of his dwelling, Respondents violated 42 U.S.C. § 3617; 24 C.F.R. § 100.400.

### III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of the Act, and requests that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate §§ 804(b) and (c) and 818 of the Act, as amended, 42 U.S.C. § 3601, *et seq.*;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating against any person because of familial status in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant;
4. Assesses 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. § 180.671; and
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 12<sup>th</sup> day of September, 2018,

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