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October 26, 2022

Cushing Housing, Inc.  
c/o Richard Walborn, Board President  
214 E. Broadway Street  
Cushing, OK, 74023

Oklahoma Property Management Inc.  
c/o Jessica Scruggs  
3621 Meadow Lark Lane  
Oklahoma City, OK 73120

SUBJECT: Letter of Findings of Noncompliance with Title VI  
**NAME REDACTED** and **NAME REDACTED** v. *Cushing Housing Inc.*;  
*Oklahoma Property Management Inc.*  
HUD Case Number: 06-17-8923-6 (Title VI)

Dear Mr. Walborn and Ms. Scruggs:

The Office of Fair Housing and Equal Opportunity has completed the investigation of the above Complaint, in which Complainants **NAME REDACTED** and **NAME REDACTED** alleged that Recipients Cushing Housing, Inc., and Oklahoma Property Management, Inc., (“OPMI”) violated Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulations at 24 C.F.R. Part 1 (“Title VI”). The complaint also alleged violations of the Fair Housing Act, 42 U.S.C. §§ 3601 – 19, and its implementing regulations at 24 C.F.R. Part 100, HUD’s processing of which is ongoing.

As detailed below, HUD’s investigation revealed that Recipients violated Title VI by failing to adequately respond to known serious racial harassment. HUD also finds that Recipients retaliated against Ms. **NAME REDACTED** for reporting this harassment and seeking action by Recipients to address it.

## **I. SUMMARY**

When Ms. **NAME REDACTED** (White), and her daughter, Ms. **NAME REDACTED** (White), first moved to Cimarron Towers, “it was great.” But as soon as Ms. **NAME REDACTED** started dating **NAME REDACTED**, who is Black, “all of it changed.” Complainants **NAME REDACTED** and **NAME REDACTED** soon became the target of severe and pervasive racial harassment.

Shortly after Ms. **NAME REDACTED** was seen by other Cimarron Towers tenants with Mr. **NAME REDACTED**, Complainants **NAME REDACTED** and **NAME REDACTED** were verbally and physically assaulted by a group of tenants at Ms. **NAME REDACTED**’s apartment.

During the altercation, Ms. **NAME REDACTED** heard another tenant say “[Y]our daughter [Ms. **NAME REDACTED**] is getting kicked out because of her n\*\*\*\*r boyfriend.” During this incident, Ms. **NAME REDACTED** was physically attacked and told by this same tenant “[Mr. **NAME REDACTED**] shouldn’t ever be with a White girl, because it shouldn’t be like that.” Complainants **NAME REDACTED** and **NAME REDACTED** reported the incident to the Cimarron Towers property manager Kim Pyle, but no responsive actions were taken.

A few days later, Ms. **NAME REDACTED** and Mr. **NAME REDACTED** noticed another tenant surreptitiously taking photos of their unit. Ms. **NAME REDACTED** called Cushing police. The police responded to the tenant and asked what he was doing. After the tenant candidly explained that he was taking photos to provide to the property manager to expose that Mr. **NAME REDACTED** was improperly living there, this tenant remarked to police: “[t]hat f\*ck\*ng n\*\*\*\*r needs to leave, he’s not supposed to be here...” and “[w]hy is he dating a white woman?” He then stated: “I wish it was like it was back in the old days when we could beat a n\*\*\*\*rs ass whenever we wanted.” Ms. **NAME REDACTED** and Mr. **NAME REDACTED** recall this man saying during the encounter with the police “that n\*\*\*\*rs need to be hanged for being with White women.”

Complainants endured this sort of harassment on a regular basis for six months. As discussed more fully below, despite notifying OPMI and Cushing Housing of the harassment and asking that they take action to stop it, the racial harassment continued throughout the remainder of their tenancy. After each incident, Complainants tried to get the onsite property manager OPMI, and eventually Cushing Housing itself, to address the harassment, but the harassment persisted for the duration of their tenancy.

When OPMI and Cushing finally acted, issuing a Notice to Vacate to the harassers, they also issued a Notice to Vacate to Ms. **NAME REDACTED**, penalizing the victim along with the perpetrators. OPMI and Cushing then failed to follow through on their actions against the harassers; shortly after Complainants had to move, the perpetrators were provided new leases and allowed to remain on the property.

The harassment took a severe toll on both Complainants’ mental health. Due to the pervasive nature of the harassment, Ms. **NAME REDACTED** was afraid to leave her apartment because she would often be taunted as soon as she left her door. Ms. **NAME REDACTED** was afraid of getting trapped in the elevator with her harassers, so she often used the stairs despite this causing her pain due to a preexisting mobility impairment. Both Complainants told the Department that the harassment they endured caused them to experience near constant fear, stress, anxiety and depression that has continued to persist years later.

## **II. FINDINGS**

### **A. Background**

Cimarron Towers is a multi-unit development located in Cushing, Oklahoma, for residents who are elderly or have a disability. It has been funded under two HUD programs: the Section 202 program and the Section 8 project-based rental assistance program. At the time of

the discriminatory actions, self-reported demographic data indicates the property was approximately 88.8% White, 4.4% Black, and 6.6% American Indian/Alaskan Native.

Cushing Housing is a single purpose nonprofit that developed and owned Cimarron Towers. Cushing Housing is governed by a seven-person Board of Directors.

OMPI managed Cimarron Towers for Cushing Housing from January 2006 until January 2017. OMPI has also managed several other residential properties in Oklahoma. At the time of the incidents described in this letter, Jessica Scruggs was OMPI's sole owner and corporate manager.

OMPI employed Kim Pyle as Cimarron Towers' onsite property manager from roughly December 2012 through December 2016. Ms. Pyle continued working at the Cimarron Towers under its new management company from January 2017 through September 2017.

Ms. **NAME REDACTED** moved into Cimarron Towers on December 30, 2014. Her daughter, Ms. **NAME REDACTED**, moved into a separate unit of Cimarron Towers in January 2016. Both Complainants are White. In March 2016, Ms. **NAME REDACTED** began dating **NAME REDACTED**, who is Black.

As detailed below, about a month after Ms. **NAME REDACTED** began dating Mr. **NAME REDACTED** and he was seen visiting her, other residents of Cimarron Towers began harassing both Complainants. As detailed below, two particularly egregious incidents occurred on June 10<sup>th</sup> and June 14<sup>th</sup>, but the harassment persisted for six months until Complainants moved out in November 2016.

## **B. The June 10<sup>th</sup> Incident**

On June 10, 2016, Ms. **NAME REDACTED** left her apartment to visit Ms. **NAME REDACTED**'s apartment with Ms. **NAME REDACTED**'s grandson. As Ms. **NAME REDACTED** walked out, she saw several tenants making noise and causing a disturbance in her hallway. Ms. **NAME REDACTED** told a fellow tenant about this disturbance and the fellow tenant reported the event to Kim Pyle, who was the office manager at Cimarron Towers.

Later that day, multiple tenants, including Kathy Byrd, began pounding at Ms. **NAME REDACTED**'s door, cursing at her, calling her a "f\*ck\*ng liar b\*tch." Ms. **NAME REDACTED** then opened the door and told the residents that if they did not leave, she would call the police. The residents did not leave, so Ms. **NAME REDACTED** went back into her apartment and called the police. Ms. **NAME REDACTED** also sent Ms. Pyle a text message explaining what was happening, and Ms. Pyle told her to contact the police. Ms. **NAME REDACTED** then heard Ms. Byrd say from the hallway, "[Y]our daughter [Ms. **NAME REDACTED**] is getting kicked out because of her n\*\*\*\*r boyfriend."

That evening, Ms. **NAME REDACTED** left her apartment to visit Ms. **NAME REDACTED**, who lived on the floor above. While walking up the stairs, she encountered Ms. Byrd, who appeared drunk, as well as another tenant. Ms. **NAME REDACTED** tried to walk by them, but Ms. Byrd ran towards Ms. **NAME REDACTED** and began pushing her. Ms. **NAME REDACTED** yelled for her mother and tried running up the stairs, but Ms. Byrd grabbed hold of

her legs to pull her down. Ms. Byrd then said “He [Mr. **NAME REDACTED**] shouldn’t ever be with a White girl, because it shouldn’t be like that.” Ms. **NAME REDACTED** continued to walk up the stairway and Ms. Byrd kept chasing her. By the time Ms. **NAME REDACTED** arrived at Ms. **NAME REDACTED**’s apartment, Ms. Byrd was chasing Ms. **NAME REDACTED** on all fours, mimicking Ms. **NAME REDACTED**’s cries to Ms. **NAME REDACTED** for help.

Ms. **NAME REDACTED** opened her door and saw Ms. Byrd on all fours, along with Jim Skinner and another Cimarron Towers tenant who had arrived at the scene. Ms. Byrd then rammed her head into Ms. **NAME REDACTED**, who was standing in her doorway, in an apparent attempt to enter Ms. **NAME REDACTED**’s apartment. Ms. Byrd then fell to the floor in Ms. **NAME REDACTED**’s doorway and began complaining about back pain. When the police arrived, Ms. Byrd was still trying to crawl into Ms. **NAME REDACTED**’s apartment. The police had to stand in front of Ms. Byrd to keep her out.

Later that evening, Mr. **NAME REDACTED** came to visit Ms. **NAME REDACTED**’s apartment. He was called a “n\*\*\*\*r” by an unknown tenant as he left.

Around 11:45 PM that same evening, Ms. **NAME REDACTED** texted Ms. Pyle to ask about Ms. Pyle’s availability to discuss the incident. Ms. Pyle responded that she wasn’t sure when she would be available but would let Ms. **NAME REDACTED** know. Ms. Pyle then remarked that she “would like to have a nice weekend ... when dumbassess are acting like idiots [her] weekend gets ruined.” Ms. **NAME REDACTED** responded that she felt bad texting Ms. Pyle to report the incident. Ms. Pyle responded: “Don’t worry. It wasn’t you. It was the idiots! You always stay to yourself and I never have drama from you. It’s the others that make me hate my job.” Ms. Pyle concluded the text exchange by saying that if Ms. **NAME REDACTED** encountered further problems, Ms. **NAME REDACTED** should call the police.

After the incident, Ms. **NAME REDACTED** texted Ms. Pyle asking how she would address the incident, including if she planned to evict Ms. Byrd. Complaint **NAME REDACTED** recalls that Ms. Pyle did not indicate that she would take any action.

### **C. The June 14<sup>th</sup> Incident**

A few days later, on June 14, 2016, Ms. **NAME REDACTED** and Mr. **NAME REDACTED** observed Mr. Skinner taking pictures of Ms. **NAME REDACTED**’s unit. Ms. **NAME REDACTED** called the police. The police arrived and Ms. **NAME REDACTED** explained that she had observed Mr. Skinner taking photos of their unit. During the police visit, Ms. **NAME REDACTED** told the officer that she was assaulted by Ms. Byrd the prior week and believed that the residents of her building were trying to get her to move out, including by leaving derogatory notes on her apartment door. Ms. **NAME REDACTED** also explained to the police that Ms. Pyle had previously told her that Mr. **NAME REDACTED** was prohibited from staying overnight under Cimarron Towers’ policies.<sup>1</sup> The police “determined that the residents

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<sup>1</sup> Although OPMI never gave Ms. **NAME REDACTED** a lease agreement, the standard lease in use at Cimarron Towers provides that “[g]uests are not permitted to reside in any apartment for more than five consecutive days, or

had been told in some way to obtain evidence of **NAME REDACTED** being in the building, and report it to the manager [Ms. Pyle].”

Mr. Skinner admitted to the police that he was taking pictures in an effort to prove that Mr. **NAME REDACTED** was improperly staying in the unit. When an officer advised Mr. Skinner not to photograph Mr. **NAME REDACTED** but rather to identify his presence to the manager if necessary, Mr. Skinner became aggressive and said, “[a]ll of you are pieces of sh\*t” and “Cushing PD are a bunch of sorry sons of b\*tch\*s.” Mr. Skinner then said “[t]hat f\*ck\*ng n\*\*\*\*r needs to leave, he’s not supposed to be here,” and “[w]hy is he dating a white woman?” Mr. Skinner further stated “I wish it was like it was back in the old days when we could beat a n\*\*\*\*r’s ass whenever we wanted.” The Cushing officer’s report of this incident concludes that “Jimmy was not going to be rational about this issue,” explaining that as he was walking away “Jimmy continued his verbal barrage of racial insults.” Ms. **NAME REDACTED** and Mr. **NAME REDACTED** recall Mr. Skinner saying to the police during this discussion that he was going to kill Mr. **NAME REDACTED**. Mr. Skinner also said that “n\*\*\*\*r’s need to be hanged for being with White women.”

Following this incident, neither Complainant felt safe at home. Ms. **NAME REDACTED** spent the night at Mr. **NAME REDACTED**’s residence. Ms. **NAME REDACTED** barricaded her front door with her wheelchair and slept with a knife under her pillow.

A few weeks later, on July 19<sup>th</sup>, a tenant verbally assaulted Mr. **NAME REDACTED** in an apparent effort to provoke Mr. **NAME REDACTED** to get into a fight. Later that day, another tenant overheard Mr. Skinner say that he was “coming after” Ms. **NAME REDACTED**. On or around that same day, a group of people called Mr. **NAME REDACTED** a n\*\*\*\*r and Ms. **NAME REDACTED** a “n\*\*\*\*r lover.”

#### **D. Complainants Continued to Request that Ms. Pyle Act to Stop the Harassment.**

Around 10:30pm on June 14<sup>th</sup>, Ms. **NAME REDACTED** texted Ms. Pyle and explained that she and her daughter were being targeted for racial harassment and relayed the nature of Mr. Skinner’s remarks. Ms. Pyle responded “Omg . . . I don’t know Jim that well. I just moved him in there a few months ago. I can’t believe they didn’t take him to jail.” Ms. **NAME REDACTED** explained that the police report would document the incident, and said to Ms. Pyle “[w]e are scared and feel unsafe with Jim.” Following this incident, Ms. **NAME REDACTED** provided Ms. Pyle with the police report of the incident. Ms. Pyle made no mention of her or OPMI taking action against Mr. Skinner.

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10 days total, in any 30-day period without prior written permission of management.” In addition, Cimarron Tower’s “House Rules” state that “[e]xcessive guests and visitors are not permitted. Prior written permission is required for guests/visitors to stay more than seven days.” Ms. **NAME REDACTED** was also not able to independently confirm that Mr. **NAME REDACTED** could stay overnight because she never actually received a lease agreement, let alone a guest policy. Mr. **NAME REDACTED** only stayed with Ms. **NAME REDACTED** on weekend nights, and therefore his visits complied with both of these policies.

On June 16<sup>th</sup>, Ms. Pyle texted Ms. **NAME REDACTED** saying that she had been getting complaints about a dog in Ms. **NAME REDACTED**'s apartment.<sup>2</sup> She also said that the reports Ms. **NAME REDACTED** had provided her with were not police reports. Ms. Pyle said "[t]hey were your statements. Have to have reports saying what cops feel like happened because its [their] word against the other lady. Ashley [Caldwell] is moving for fear of you two." Ms. **NAME REDACTED** explained to HUD that she was unaware of the reason Ms. Caldwell would be fearful of her, stating that she never had a negative interaction with Ms. Caldwell.

Ms. **NAME REDACTED** also tried to contact Ms. Pyle following this June incident. Ms. **NAME REDACTED** wanted to confirm that Mr. **NAME REDACTED** was allowed to stay overnight and dispel the confusion that led to the June 14<sup>th</sup> incident. When Ms. **NAME REDACTED** texted Ms. Pyle, Ms. Pyle told her that she had to make an appointment. Ms. **NAME REDACTED** tried to make an appointment with Ms. Pyle at least four times over the next several weeks without success. In response to each of the first three requests to meet, Ms. Pyle told Ms. **NAME REDACTED** that she was too busy to meet.

Around August 2016, Ms. **NAME REDACTED** went to Ms. Pyle's office, where she saw Ms. Pyle outside smoking. When she tried to approach Ms. Pyle, Ms. Pyle quickly went into her office, only to come out shortly thereafter with Ms. Byrd and two other tenants. The three tenants began to antagonize Ms. **NAME REDACTED**. Ms. **NAME REDACTED** recalls that Ms. Pyle took her phone out and recorded the verbal harassment. Ms. **NAME REDACTED** then called the police. When the police arrived, Ms. Pyle denied that she and the other tenants were antagonizing Ms. **NAME REDACTED** and suggested that Ms. **NAME REDACTED** started the altercation.

**E. Ms. **NAME REDACTED** Had Also Contacted Others at OPMI to Address the Harassment.**

Frustrated with Ms. Pyle's inaction, as well as Ms. Pyle's apparent turn against her and her daughter, on June 17, 2016, Ms. **NAME REDACTED** called OPMI and spoke with OPMI employee Gail Beggs. Ms. **NAME REDACTED** told Ms. Beggs about the incidents that occurred on June 10<sup>th</sup> and 14<sup>th</sup>. Ms. **NAME REDACTED** also sent Ms. Beggs the text messages between Ms. Pyle and herself regarding the incidents. Ms. Beggs told her that Jessica Scruggs, the owner of OPMI, would contact her. Ms. Scruggs never contacted Ms. **NAME REDACTED**. Ms. Beggs confirmed to the Department that she received multiple phone calls from Ms. **NAME REDACTED** detailing the harassment and that each time Ms. **NAME REDACTED** called she gave the message to Ms. Scruggs.

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<sup>2</sup> Ms. **NAME REDACTED** did not have dogs of her own, but would sometimes dog-sit for her neighbors, including her next-door neighbor Janet Dunn. Ms. **NAME REDACTED** stated she would also dog-sit for her daughter Ms. **NAME REDACTED**. Ms. **NAME REDACTED** had a small dog that Ms. Pyle knew about. Ms. **NAME REDACTED** said she never paid a pet deposit and was never approached by Ms. Pyle about paying the deposit or reprimanded for having the dog live with her.

**F. Ms. Pyle Issued Notices to Vacate to Ms. Byrd and Mr. Skinner But Did Not Follow Through on Evicting Them.**

On June 20, 2016, Ms. Pyle issued Notices to Vacate to Ms. Byrd and Mr. Skinner. Their notices stated that they were being evicted for “Harassment of other tenants.” Ms. Pyle claims to not remember any incidents of racial harassment asserting generally that Ms. Byrd and Mr. Skinner were evicted for being aggressive towards other tenants. Despite having been issued Notices to Vacate based on harassment, both Ms. Byrd and Mr. Skinner were allowed to renew their leases, and they did so in December 2016 and January 2017, respectively.

Until Complainants moved out, they continued to see their harassers on a daily basis. Complainants frequently saw Ms. Byrd coming in and out of her apartment and often overheard Ms. Byrd talking about them. Complainants also continued to see Mr. Skinner at the property, explaining that “Jim Skinner was still there every day, all day.” In fact, Complainants often saw Mr. Skinner, Ms. Byrd, and Ms. Pyle together at or near Ms. Pyle’s office.

Thus, Ms. Byrd and Mr. Skinner were not evicted even though their actions violated several sections of the Cimarron Towers’ lease. The Cimarron Towers House Rules lease addendum provides that “[a]ny offensive acts which makes it necessary to call police or causing arrest and conviction” will be grounds for terminating tenancy.<sup>3</sup> It further states that “[a]ny illegal activity, including ... threatening or intimidating assaults” will not be tolerated and that “threatening or intimidating” behavior or “any breach of the lease agreement that otherwise jeopardizes the health, safety, and welfare of the landlord, his agent, or other tenant ... shall be a material and irreparable violation of the lease and good cause for immediate termination of tenancy.” Ms. Byrd’s and Mr. Skinner’s violent actions and violent threats, which necessitated police intervention and jeopardized the health, safety, and welfare of Ms. **NAME REDACTED** and Ms. **NAME REDACTED**, fell well within the scope of each of these provisions.

**G. Ms. Pyle Also Issued Ms. **NAME REDACTED** a Notice to Vacate.**

On June 20, 2016, Ms. Pyle issued Ms. **NAME REDACTED** a Notice to Vacate. Ms. Pyle explained that notices were issued to Complainants along with Ms. Byrd and Mr. Skinner because “everybody was blaming everybody for everything.” Ms. Pyle told another Cimarron Tower resident that Ms. **NAME REDACTED** was issued a Notice to Vacate because Ms. **NAME REDACTED** went over Ms. Pyle’s head to Ms. Scruggs, and Ms. Scruggs directed Ms. Pyle to evict Ms. **NAME REDACTED** along with Ms. Byrd and Mr. Skinner.

The notice issued to Ms. **NAME REDACTED** stated: “No pet deposit and felon on premises. Your daughter being arrested at your apartment. Another tenant threatened by you.”

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<sup>3</sup> A policy that allows for tenancy termination based only on a police call or an arrest may be problematically overbroad. See, e.g., U.S. Dep’t of Housing and Urban Development, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services*, at 5-7 (Sept. 13, 2016), [www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF](http://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF). However, this does not impact the matter at hand given the egregiousness of the conduct and the ample evidence that the conduct occurred.

Ms. **NAME REDACTED** was surprised to receive this notice. First, she does not own pet, though she would occasionally dog sit for neighbors and Ms. **NAME REDACTED**, which is not prohibited by her lease or the property rules. Seven months prior, Ms. **NAME REDACTED** had received a Notice to Quit regarding a dog in her unit, but no further action was taken so she assumed the matter had been dropped. Had Ms. Pyle asked, Ms. **NAME REDACTED** would have explained that she dog sat occasionally and did not have a pet.

Regarding the references to a felon and an arrest, sixteen months prior Ms. **NAME REDACTED** had received a Notice to Quit for allowing her daughter **NAME REDACTED** to visit. Ms. **NAME REDACTED** has a felony record. Again, Ms. **NAME REDACTED** assumed the matter had been dropped because no further action was taken. Similarly, three months prior, Ms. **NAME REDACTED** received a Notice to Quit after Ms. **NAME REDACTED** was arrested – notably not on the property – but she assumed the matter was dropped because no further action was taken. Had it been pursued, Ms. **NAME REDACTED** would have contested that Ms. **NAME REDACTED**'s arrest off the property violated Ms. **NAME REDACTED**'s lease.

Ms. **NAME REDACTED** never received further details about another tenant feeling threatened by her. No information about this alleged lease violation was in Ms. **NAME REDACTED**'s tenant file, and neither Ms. Pyle nor Ms. Scruggs could explain to HUD what incident this allegation refers.

#### **H. Ms. **NAME REDACTED** Contacted OPMI, again, and Cushing Housing to address the harassment.**

Concerned about her impending eviction, the ongoing harassment, and Ms. Pyle's continued inaction, on June 21, 2016, Ms. **NAME REDACTED** once again tried calling Ms. Scruggs. After being told that Ms. Scruggs was not available, Ms. **NAME REDACTED** called Jeremy Frazier, a Cushing Housing board member at the time and the Cushing Assistant City Manager. Mr. Frazier said he would call the Chief of Cushing Police regarding the incidents. Later that day, Ms. **NAME REDACTED** again called OPMI and finally was able to talk with Ms. Scruggs. After some negotiation, Ms. **NAME REDACTED** was told by Ms. Scruggs that she could stay in her unit until her lease expired in November 2016, but then she would need to move out.

Several days later, Ms. **NAME REDACTED** emailed and called OPMI in hopes of getting assistance in addressing the harassment. She also called Jonathan Frazier to find out when the next Cushing Housing board meeting was and left him a voicemail. Ms. **NAME REDACTED** tried to contact at least two other Cushing Housing board members in addition to Mr. Frazier. Despite these efforts, Ms. **NAME REDACTED** was never helped. Ms. **NAME REDACTED** reported that this experience left her feeling extremely frustrated.

#### **I. The Harassment Continued for the Remainder of Complainants' Tenancies.**

Ms. Byrd and Mr. Skinner continued to harass Complainants with insults and racial slurs until Complainants moved out in November 2016. Ms. **NAME REDACTED** explained that the harassment occurred so regularly that she was afraid to leave her apartment, often being taunted as soon as she walked out. She said, "I was afraid to get on [the] elevator so I would not be



trapped. I started using stairs. Even though it would be painful,” referencing a mobility impairment that she has. The trauma associated with these events led Ms. **NAME REDACTED** to start seeing a psychiatrist.

Ms. **NAME REDACTED** explained that for the remainder of her tenancy if she went out of the apartment, she would be called a n\*\*\*\*r lover, b\*tch, and other slurs. She said that Ms. Byrd and Mr. Skinner would regularly call her a “n\*\*\*\*r lover.” She remembers Ms. Byrd keeping a sign on her door that said “at least I’m not a n\*\*\*\*r loving b\*tch.” Ms. **NAME REDACTED** also said that Ms. Pyle would call Ms. **NAME REDACTED** a “b\*tch” and “fat cow.” When asked if Ms. Pyle ever used a racial slur, Ms. **NAME REDACTED** responded that Ms. Pyle “allowed others to do it. She would laugh and not do anything about it.”

In November 2016, both Complainants moved out of Cimarron Towers. Ms. **NAME REDACTED** says that absent the pervasive harassment, she would still be living at Cimarron Towers, particularly as it provided affordable housing. Ms. **NAME REDACTED** felt forced to move out because the harassment made living at Cimarron Towers intolerable and she feared for her safety.

### **III. ANALYSIS**

The Department finds that Recipients violated Title VI by discriminating against Complainants on the basis of race. Recipients failed to adequately respond to known serious racial harassment. Recipients also unlawfully retaliated against Ms. **NAME REDACTED** by issuing her a Notice to Vacate after she informed Recipients of the harassment.

#### **A. Legal Authority**

Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”<sup>4</sup> Cushing Housing and OPMI are required to comply with Title VI because they are a recipient and subrecipient respectively of Federal financial assistance from HUD, including under the Section 202 Supportive Housing for the Elderly Program and through the project-based rental assistance program under Section 8 of the U.S. Housing Act of 1937.

Title VI’s obligations apply to Cushing Housing, even where the discriminatory conduct is committed through contractual or other arrangements. Cushing Housing is liable for OPMI’s discriminatory conduct because OPMI was implementing the program for Cushing Housing when the discrimination occurred.<sup>5</sup>

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<sup>4</sup> 42 U.S.C. § 2000d-1; 24 C.F.R. § 1.4(a).

<sup>5</sup> 24 C.F.R. § 1.4(b)(1).

## **B. Cushing Housing and OMPI Failed to Adequately Respond to Serious Racial Harassment.**

Failing to adequately respond to racial harassment violates Title VI if (1) a third party harasses a program participant or beneficiary based on race, color, or national origin, and the harassment is sufficiently serious to deny or limit the individual's participation in or benefit from the program; (2) the recipient knows or reasonably should know about the harassment through either actual or constructive notice; (3) the recipient fails to take prompt and effective steps reasonably calculated to end the harassment, prevent its recurrence, and address its effects.<sup>6</sup> It is well settled that unlawful discrimination includes discriminating against a person because of the race of their partner, guest or other associate.<sup>7</sup>

### 1. Complainants endured serious racial harassment that limited their ability to benefit from a HUD program.

As detailed above, the harassment of Complainants was serious and included racial slurs, insults, threats of violence, and a physical assault. The content of the harassment, including use of the word “n\*\*\*\*r,” demonstrates it was undoubtedly racially motivated. The harassment was so serious that Complainants called the police twice, and the police reports corroborate that serious racial harassment occurred.

This harassment denied Complainants the opportunity to equally benefit from a HUD-assisted housing program. The harassment interfered with Complainants' right to feel safe and secure and to quietly enjoy their homes.<sup>8</sup> The harassment persisted for six months on an ongoing basis and took a significant toll on Complainants' mental well-being. It also caused Ms. **NAME REDACTED** physical harm by forcing her to use the stairs and caused her pain due to a preexisting mobility impairment out of fear that she would be harassed or attacked if she used the elevator.

In the end, both Complainants lost their housing due to the harassment. Ms. **NAME REDACTED** was forced to move out in the face of eviction proceedings because she sought

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<sup>6</sup> *Bryant v. Indep. Sch. Dist. No. 1-38*, 334 F.3d 928, 931-34 (10th Cir. 2003); *Davis v. Monroe Cty. Bd. Of Educ.*, 526 U.S. 629, 641-44 (1999) (applying the deliberate indifference standard to peer harassment claim under Title IX); *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 206, n.5, (3d Cir. 2001) (noting that the deliberate indifference standard from *Davis* “applies equally” to Title VI harassment claims); *Zeno v. Pine Plains Cent. Sch. District*, 702 F.3d 655, 665 (2d Cir. 2012) (applying the deliberate indifference standard to a racial harassment claim under Title VI); *Blunt v. Lower Merion Sch. Dist.*, 767 F.3d 247, 271-73 (3d Cir. 2014); *See also*, U.S. Dep’t of Justice, Civil Rights Division, Title VI Legal Manual, Section VI: Proving Discrimination – Intentional Discrimination, at 28-29.

<sup>7</sup> *See e.g.*, *Bob Jones Univ. v. United States*, 461 U.S. 574, 605 (1983) (citing *Loving v. Virginia*, 388 U.S. 1 (1967)) (“Discrimination on the basis of racial affiliation and association is a form of discrimination.”); *Woods-Drake v. Lundy*, 667 F.2d 1198, 1201-02 (5th Cir. 1982) (discrimination by the landlord against white tenants because they had Black guests violates 42 U.S.C. § 1982 and the Fair Housing Act.).

<sup>8</sup> Harassment that occurs in or around one's home is inherently more intrusive, violative and threatening than in other contexts because one's home is a place of refuge where one is “entitled to feel safe and secure and need not flee.” *See Quigley v. Winter*, 598 F. 3d 938, 947 (8th Cir. 2010) (emphasizing that defendant's harassing conduct was made “even more egregious” by the fact that it occurred in plaintiff's home”); *See also, Salisbury v. Hickman*, 974 F. Supp. 2d 1282, 1292 (E.D. Cal. 2013).

assistance from Recipients and the police in stopping the harassment. Ms. **NAME REDACTED** felt she had no choice to move out after enduring six months of harassment without being given hope that it would stop.

2. Recipients knew about the harassment.

Cushing Housing and OPMI both knew of the harassment. Complainants notified Ms. Pyle, an OPMI property manager, of the June 10<sup>th</sup> and June 14<sup>th</sup> incidents via text message immediately after each incident occurred. Ms. **NAME REDACTED** also provided Ms. Pyle with police reports documenting the incidents. During the months that followed, Ms. Pyle witnessed instances of racial harassment first-hand, but rather than attempt to assist Complainants, Ms. Pyle stood by and offered encouragement while others directed racial slurs towards Ms. **NAME REDACTED**.

Ms. **NAME REDACTED** also reached out directly to OPMI multiple times, including to its owner Jessica Scruggs. In these contacts, Ms. **NAME REDACTED** detailed the harassment and requested that OPMI address it. Ms. **NAME REDACTED** provided OPMI with documentation of the harassment, detailed her and Ms. **NAME REDACTED** attempts to obtain Ms. Pyle's assistance, and Ms. Pyle's consistent failure to take any sort of responsive actions. Ms. Beggs, the OPMI employee with whom Ms. **NAME REDACTED** spoke, confirmed that she passed Ms. **NAME REDACTED**'s numerous messages along to OPMI owner Ms. Scruggs. However, Ms. Scruggs did not respond to Ms. **NAME REDACTED** nor did she take any other action to address the harassment.

Ms. **NAME REDACTED** also attempted to report the harassment directly to Cushing Housing by calling three of its board members. Ms. **NAME REDACTED** had a phone conversation with one board member, during which she detailed the harassment and requested responsive action. She then followed up with a voicemail, reiterating the situation and her plea for assistance. She additionally brought the paper copies of police reports and text messages between herself and Ms. Pyle to the office of one of the Board members. However, Ms. **NAME REDACTED** received no response from Cushing Housing to any of her efforts to prompt them to act.

3. Recipients failed to take prompt and effective steps reasonably calculated to end the harassment, prevent its recurrence, and address its effects.

Neither Cushing Housing nor OPMI took prompt, effective action to address the harassment. When Ms. **NAME REDACTED** notified Ms. Pyle of the June 10<sup>th</sup> incident, Ms. Pyle lamented Ms. Byrd and Mr. Skinner's behavior but took no action to stop potential future harassment. Following the June 14<sup>th</sup> incident, after which Ms. **NAME REDACTED** explicitly told Ms. Pyle that she and her daughter feared for their safety given Mr. Skinner's explicit threats of violence, Ms. Pyle again did nothing.

Likewise, Ms. **NAME REDACTED** reached out directly to Ms. Scruggs several times to report the harassment, but for several days OPMI did nothing. When OPMI did finally act, they penalized Ms. **NAME REDACTED** along with her two harassers by issuing Notices to Vacate to all three. OPMI then allowed the harassers to sign new leases and continue to live at Cimarron

Towers while forcing Ms. **NAME REDACTED** to move out. OPMI allowed Ms. Byrd and Mr. Skinner to remain even though their conduct on June 10<sup>th</sup>, June 14<sup>th</sup>, and other occasions blatantly violated their lease terms by jeopardizing the health, safety, and welfare of other residents. Despite this authority to terminate their tenancies, OPMI allowed the harassers to remain on the property and continue to harass Complainants for several more months until the Complainants moved out.

OPMI's actions were thus ineffective and could not reasonably have been expected to end the harassment, prevent its recurrence, or address its effects. In addition, Cushing Housing took no action with respect to the harassment and failed to even respond to Ms. **NAME REDACTED**'s repeated attempts to report it.

### **C. Recipients Retaliated Against Ms. **NAME REDACTED**.**

HUD's Title VI regulations prohibit retaliation based on a complaint about conduct prohibited by Title VI.<sup>9</sup> Prohibited retaliation occurs when (1) an individual engages in a protected activity of which the Recipient is aware; (2) the Recipient takes a significantly adverse action against the individual; and (3) a causal connection exists between the individual's protected activity and the Recipient's adverse action.<sup>10</sup>

Complaining about racial harassment to one's housing provider is a protected activity.<sup>11</sup> As discussed above, both OPMI and Cushing Housing were aware of the harassment and Ms. **NAME REDACTED**'s complaints.

Recipients took significant adverse actions against Ms. **NAME REDACTED** when they issued her a Notice to Vacate. Although the Notice set forth four reasons for its issuance, the timing of the Notice and the evidence discussed in Section II.H above indicate that all of the stated reasons are pretextual. Not until Ms. **NAME REDACTED** engaged in a protected activity did Recipients seek to terminate her tenancy for the alleged violations, all of which were old or of dubious validity. This causal nexus is further corroborated by the statement of another Cimarron Towers tenant that Ms. Pyle expressly told him that she issued the Notice to Vacate to Ms. **NAME REDACTED** because Ms. **NAME REDACTED** had complained to OPMI about being harassed.

## **IV. REMEDIES AND OTHER CORRECTIVE ACTION**

In order to remedy the violations of Title VI outlined in this letter, Recipients will be required to undertake corrective actions which include, in general terms:

1. Refraining from, on the grounds of race, color, or national origin, discriminating against persons in any program or activity receiving Federal financial assistance;

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<sup>9</sup> 24 C.F.R. §1.7(e).

<sup>10</sup> See, e.g., *Emeldi v. Univ. of Oregon*, 673 F.3d 1218, 1223 (9th Cir. 2012); *Palmer v. Penfield Cent. Sch. Dist.*, 918 F. Supp. 2d 192, 199 (W.D.N.Y. 2013).

<sup>11</sup> See *Peters v. Jenney*, 327 F.3d 307, 320-21(4th Cir. 2003) (Protected activity under Title VI occurs when a person believes, reasonably and in good faith, that they were opposing a recipient's racially discriminatory actions.).

2. Taking all necessary actions, including the provision of adequate assurances and corrective actions with respect to employees, contractors, board members, and other persons acting on behalf of or in concert with Recipients, to prevent the recurrence of any discriminatory or otherwise unlawful conduct in the future;

3. Making Complainants **NAME REDACTED** and **NAME REDACTED** whole through monetary and other relief;

4. Implementing regular trainings on compliance with Title VI, including responsibilities related to addressing harassment, for its employees;

5. Identifying for HUD review and approval a Fair Housing and Civil Rights coordinator, who shall serve as Recipient's lead official tasked with ensuring compliance with fair housing and civil rights laws, regulations, and requirements; and

6. Revising or developing, and providing for HUD review and approval, Recipient's policies and practices for handling civil rights complaints, including, but not limited to, complaints related to harassment.

## **V. CONCLUSION**

The Department finds that based on the evidence set forth in the investigation, the Recipient discriminated against Complainants by failing to adequately respond to known serious racial harassment. Recipients also retaliated against Ms. **NAME REDACTED** by moving to terminate her tenancy for reporting this harassment. Therefore, Cushing Housing and OPMI are non-compliant with Title VI of the Civil Rights Act of 1964 and HUD's implementing regulations.

The Department will seek to resolve these findings by entering into a written Voluntary Compliance Agreement/Conciliation Agreement (VCA/CA) between HUD and Recipients. The VCA/CA will include appropriate remedies and processes necessary to resolve the violations identified in this letter, as well those stemming from the pending related complaint under the Fair Housing Act, HUD case number 06-17-8923-8. At a minimum, the VCA/CA will require Recipients to address the discrimination outlined in this letter through the adoption of appropriate policies and procedures to ensure compliance with Title VI and to make Complainants whole through monetary and other relief.

If the findings in this letter cannot be corrected through an agreed-upon VCA/CA, compliance with HUD's Title VI regulations may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law including, but not limited to, referral to Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law

of the U.S.<sup>12</sup> Also, the government may seek to debar or suspend an individual or entity from participation in its program.<sup>13</sup>

If you have any interest in resolving this matter voluntarily through a written agreement, please contact Patrick Banis, Director, Region VI FHEO Center, at (817) 978-5892 or [Patrick.L.Banis@hud.gov](mailto:Patrick.L.Banis@hud.gov) within ten (10) days of receiving this letter.

Sincerely,



Christina Lewis, Director  
Office of Fair Housing & Equal Opportunity  
Region VI

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<sup>12</sup> See 24 C.F.R. § 1.8(a).

<sup>13</sup> See 2 C.F.R. pt. 2424; 24 C.F.R. §§1.8(b) and (c).