

**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 Complainant Louisiana Fair Housing)	
Action Center v. N. Clark, LLC, f/k/a)	
Greater New Orleans Fair Housing Action Center)	
)	
Charging Party,)	
)	ALJ No. _____
v.)	
)	FHEO No. 06-19-5052-8
N. Clark, LLC, and Kathleen C. Cresson,)	
)	
Respondents.)	
_____)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about May 13, 2019, Complainant Louisiana Fair Housing Action Center (“LaFHAC” or “Complainant”), formerly known as Greater New Orleans Fair Housing Action Center filed a complaint with the Louisiana Department of Justice (“LADOJ”) alleging that Kathleen C. Cresson and Guy Cresson discriminated against it based on familial status and race, in violation of the Fair Housing Act (“Act”), 42 U.S.C. § 3604 (a) and (b). On June 14, 2019, the complaint was amended to include N. Clark, LLC, as a respondent and to correct the titles of Kathleen and Guy Cresson. The case was reactivated by the U.S. Department of Housing and Urban Development (“HUD” or “the Department”) on November 19, 2020, from LADOJ. On December 22, 2020, the complaint was amended a second time to remove Guy Cresson as a respondent, add a claim of discrimination under 42 U.S.C. § 3604 (c), update Complainant’s name to reflect the organization’s name change, and clarify the address of the subject property.

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. §§ 3610(g)(1) and (2). The Secretary has delegated that authority to the General Counsel, who has redelegated the authority to the Regional Counsel. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Regional Director for the Office of Fair Housing and Equal Opportunity for Region VI has determined that reasonable cause exists to believe that a discriminatory housing practice

has occurred and has authorized and directed the 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 attached Determination of Reasonable Cause, Respondents N. Clark, LLC and Kathleen C. Cresson (collectively, "Respondents") are hereby charged with violating the Act as follows:

A. Legal Authority

1. It is unlawful to refuse to rent or negotiate to rent or otherwise make unavailable or deny a dwelling to any person because of familial status or race. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(1) and (b)(3), 100.60(a) and (b)(2), 100.70(c)(1) - (2).
2. It is unlawful to make, print, or publish, or cause to be made, printed, or published any notice or statement, with respect to the rental of a dwelling, that indicates any preference, limitation, or discrimination based on familial status or race, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a), (b), and (c)(2).
3. Familial status is defined as one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or another person having legal custody of such individual or individuals. 42 U.S.C. § 3602(k)(1); 24 C.F.R. § 100.20.

B. Parties and Subject Property

4. Complainant LaFHAC is a non-profit civil rights organization dedicated to eradicating housing discrimination throughout the greater New Orleans area through education, investigation and enforcement activities. Complainant's office is located at 1340 Poydras Street, Suite 710, New Orleans, LA 70112.
5. Complainant is an aggrieved person, as defined by the Act. 42 U.S.C. 3602(i).
6. Respondent N. Clark LLC owns a duplex located at 221 North Clark Street, New Orleans, Louisiana (the "subject property"). The subject property is an upstairs/downstairs duplex. The upstairs unit is used as a law office while the downstairs is used as a residential apartment. The subject property is a dwelling, as defined by the Act. 42 U.S.C. § 3602(b).
7. Respondent Kathleen Cresson ("Respondent Cresson") utilizes 221 North Clark Street, New Orleans, Louisiana as her mailing address. Respondent Cresson is the Managing

Member of Respondent N. Clark, LLC. Respondent Cresson also acts as the property manager for the subject property and handles the day-to-day operations for the subject property.

8. Respondent Cresson posted an advertisement and responded to calls from prospective tenants relating to the subject property.
9. Paul is Respondent Cresson's nephew and agent and assists Respondent Cresson in at least two of the tours of the subject property and is believed to have made several calls to Complainant's Testers in response to their inquiries about the subject property.

C. Factual Allegations

10. Complainant received a complaint that led them to prepare a test based on race to use at a property owned by Respondent Cresson. The testing identified familial status as an additional area of potential discrimination. Therefore, the tests were conducted to include familial status in addition to race.
11. Complainant conducted four paired tests. The tests consisted of four "protected" testers posing as Black renters (Testers 1, 3, 5, and 7) and four "unprotected" testers posing as White renters (Testers 2, 4, 6, and 8). Testers 3 and 4 posed as renters without children while Testers 1, 2, 5, 6, 7, and 8 posed as renters with children. Each tester responded to an online advertisement on Craigslist for the subject property by calling Respondent Cresson at the number posted on the advertisement.
12. On June 7, 2018, Tester No. 1 left a voicemail for Respondent Cresson inquiring about the property. Respondent Cresson never called him back. Tester No. 1 was never offered a time to visit the subject property and never in fact toured the subject property.
13. On June 8, 2018, Tester No. 2 and Respondent Cresson exchanged several voicemails back and forth before arranging a time to view the subject property. During these exchanges, Respondent Cresson offered Tester No. 2 times to tour the subject property.
14. On June 9, 2018, Tester No. 2 toured the subject property. During the showing, Respondent Cresson and Tester No. 2 had several exchanges about the subject property including:
 - a. Respondent Cresson stating the subject property "has no yard for the kids"
 - b. "I don't have a swimming pool....So, that's another problem too with no kids you don't have a yard. You know?"
 - c. Immediately after pointing out the subject property's lack of a back yard, Respondent Cresson goes on to state "And how do you feel about hard floors? Because when your babies crawl..."
 - d. Respondent Cresson indicated that she "loves kids" and again brought up the subject property's lack of yard space by asking the tester if she wanted a backyard for her child. Specifically, Respondent Cresson said in part, "you don't want a yard

for him [referring to the child], though, huh? He doesn't care. He stays inside mostly?"

15. On June 11, 2018, Tester No. 3 left a voicemail for Respondent Cresson inquiring about the subject property. Respondent Cresson left Tester No. 3 a return voicemail the following day, simply stating she is calling about the subject property. She did not offer any times to view the subject property nor make any other statements indicating a willingness to rent to Tester No. 3. Tester No. 3 then left Respondent a return voicemail, to which Respondent Cresson never responded. Tester No. 3 was never offered a time to view the subject property nor did he tour the subject property.
16. On June 11 and 12, 2018, Tester No. 4 and Respondent Cresson exchanged voicemails. During these exchanges, Respondent Cresson stated she wanted to show Tester No. 4 the subject property but needed more information. Respondent Cresson and Tester No. 4 then spoke on the phone and discussed the subject property, and Tester No. 4 revealed the only other occupant would be a roommate. Respondent Cresson then offered Tester No. 4 the opportunity to view the subject property. On June 12, 2018, Tester No. 4 toured the subject property with Respondent Cresson and her nephew, Paul. Neither Respondent Cresson nor Paul mentioned the lack of a backyard, a pool, nor the parking lot.
17. On June 14, 2018, Tester No. 5 left a voicemail for Respondent Cresson inquiring about the subject property. Respondent Cresson never responded. Tester No. 5 was never offered a time to view the subject property nor did she tour the subject property.
18. On June 14, 2018, Tester No. 6 left a voicemail for Respondent Cresson inquiring about the subject property. An agent of Respondent Cresson, believed to be Paul, left a voicemail for Tester No. 6. Tester No. 6 then returned the voicemail and Respondent Cresson answered the call while Tester No. 6 was leaving a voicemail. During the call, after Tester No. 6 reveals two children, ages 8 and 10, would also be residing at the subject property, Respondent Cresson stated:
 - a. "Okay. Yeah, they don't need a backyard because...have you seen the place yet?";
 - b. "So there's no yard for the kids or a dog, you see what I am saying? Cars come in, go around the back, and come out. Have you seen the place yet?";
 - c. In response to Tester No. 6 stating the lack of a backyard was "not a deal breaker," Respondent Cresson stated, "Because that's the only thing I'm concerned...but your kids are not real young like I wouldn't be afraid a two-year-old would run...run out into the parking lot. They 8 and 10."
 - d. In response to Tester No. 6 stating the property looked "like a real good place it looks like a good fit for us for a lot of reasons," Respondent Cresson stated, "Um, I don't mind kids if they well-behaved, and if you don't care that there's no yard...so I could show it to you"

19. On June 16, 2018, Tester No. 6 viewed the subject property. During the showing Respondent Cresson made the following statements:
- a. “cause you to see if your kids were little I would be concerned about...I wouldn't want them running out into the parking lot but they're old, they 8 and 10”
 - b. “they ought to know not to run out, they cause a [inaudible], you know what I'm saying?”
20. On June 22, 2018, Tester No. 7 left a voicemail for Respondent Cresson inquiring about the subject property. An agent of Respondent Cresson, believed to be her nephew, Paul, left a voicemail for Tester No. 7, offering times to show the subject property over the weekend. Tester No. 7 left a voicemail on Monday, June 25, 2018, requesting a different time to tour the subject property, as he had been out of town over the weekend. Neither Respondent Cresson nor her agent responded. While Tester No. 7 was initially offered times to view the property, he never toured the property and his request for different times to tour the subject property was ignored.
21. Between June 22, 2018, and June 25, 2018, Tester No. 8 and Respondent Cresson exchanged several voicemails before arranging a time to view the subject property. During their calls, Respondent Cresson made the following statements:
- a. “Now the only problem, the reason I ask is because I don't know if you've seen the place. It has no backyard.”
 - b. the subject property is “surrounded by parking lot”. Respondent Cresson further said, “The only thing I would be concerned about it, would a little 2-year-old run out and somebody be...a client be coming in or something.”
 - c. “somebody called up about somebody 8 and 10 and I said, ‘well they ought to know not to run out,’ but you know how kids are.”
 - d. “so that's the only thing I'm concerned about for a 2-year-old. Would he run out the door and then somebody...you know “cause it's, it's not...if I were a parent I'd want like a yard and stuff.”
 - e. “So, so, I don't know if that's a concern it would be a concern for me, it might just not be the right...you know and unfortunately I have a place in Lakeview that would be perfect but it doesn't...you know and even that backyard is completely open ‘cause I have two lots onto it . . . But at least the kid if he ran out, he wouldn't run into a parking lot.”
 - f. “So, um, I don't know if you want to see it. Um, I mean, I'm here now. Um, but I'm not gonna be here a whole lot longer, but I am here now, but it would...that would be a concern for me as a parent.”
22. In the responses to the complaint, Respondent Cresson asserted:

a. they “did not want increased liability with young kids running into the lot or playing in a parking lot.”

b. they disagree with the idea that “what is best for the family unit is only the parents’ decision.” Instead, Respondents “think it is a consensus with the parent and the property owner, not a one-sided power trip where parents who rent get to call all the shots.”

c. "As an attorney I am aware of how stupid people are. They leave their kids to die in a hot car. Now there are constant disturbing news stories about so many parents killing their kids intentionally. I love kids as I am the oldest of 8. But if parents do not watch their kids playing in the commercial parking lot, and something happened, they will sue me."

d. “In fact in the years that I have rented the downstairs unit to a ‘permanent’ tenant vs an Air bnb tenat[sic], I do not recall that a potential tenant with kids ever turned in a rental application to be a permanent tenant downstairs because they could see the situation....”

23. As a result of Respondents’ discriminatory conduct, Complainant suffered actual damages, including diversion of resources and frustration of its mission. Complainant diverted its resources to identify and counteract the Respondent’s discriminatory practices. Moreover, Respondent’s discriminatory practices frustrated Complainant’s mission by interfering with Complainant’s ability to promote integration of and equal access to housing in the Greater New Orleans area.

D. Legal Allegations

24. As described above, Respondents violated Section 804(a) of the Act by engaging in conduct relating to the provision of housing that otherwise made unavailable or denied the subject property to Testers 1, 3, 5, and 7 because of race, when Respondents failed to provide tours of the subject property to Black testers, failed to respond to Testers 1 and 5, and failed to engage in rental negotiations with Testers 1, 3, 5, and 7. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(1) and (b)(3), 100.60(a) and (b)(2), 100.70(c)(1).

25. As described above, Respondents violated Section 804(a) of the Act by otherwise making unavailable or denying a dwelling to Complainant’s testers because of familial status when Respondent Cresson discouraged Testers 2, 6, and 8, who had children, from renting the subject property, exaggerated drawbacks of the subject property, and steered Testers 2, 6, and 8 away from their desired housing. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(1) and (b)(3), 100.60(a) and (b)(2), 100.70(c)(1) - (2).

26. As described above, Respondents violated Section 804(c) of the Act by making statements to Testers 2, 6, and 8 with respect to the rental of a dwelling that indicated a preference or limitation based on familial status. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a), (b), and (c)(2).

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the 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 42 U.S.C. §§ 3604(a) and (c), and requests that an Order be issued that:

1. Declares that Respondents' discriminatory housing practices, as set forth above, violate 42 U.S.C. §§ 3604(a) and (c) of the Fair Housing Act;
2. Enjoins Respondents and all other persons in active concert or participation with Respondents from discriminating against any person based on familial status or race in any aspect of the sale or rental of a dwelling;
3. Requires Respondents to take training that addresses the Fair Housing Act's prohibitions against discrimination, including, but not limited to race and familial status discrimination;
4. Awards such damages as will fully compensate Complainant;
5. Assesses a civil penalty against Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
6. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this ____ day of September 2023.

Sakeena M. Adams
Regional Counsel
for Region VI

Mary C. Merchant
Acting Associate Regional Counsel for Litigation
for Region VI

Allyssa Wheaton-Rodriguez
Taylor B. Alsobrooks
Kimberly A. Quirk
U.S. Department of Housing
and Urban Development
Office of General Counsel, Region VI
307 W. 7th Street, Suite 1000
Fort Worth, TX 76102
Telephone: 817-978-5769
Facsimile: 817-978-5563