

**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.

Bienville Property Management, Inc. d/b/a
Showhomes Mobile and Baldwin Counties and
Tammy Boothe,

Respondents.

OHA No. _____
FHEO No. 04-14-0664-08

CHARGE OF DISCRIMINATION

I. JURISDICTION

Redacted ("Complainant") timely filed a complaint with the U.S. Department of Housing of Urban Development (the "Department" or "HUD") on or about May 7, 2014, alleging that Bienville Property Management, Inc. d/b/a Showhomes Mobile and Baldwin Counties and Tammy Boothe (collectively as "Respondents") violated the Fair Housing Act ("Act") because of familial status. 42 U.S.C. §§ 3601-.3619. The complaint was amended on August 21, 2014 and August 9, 2017.

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 to the General Counsel, who has re-delegated 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, i.e., the Regional Director of the Office of Fair Housing and Equal Opportunity for Region IV. 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 complaint and the Determination of Reasonable Cause, 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. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a) and (b)(2).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of 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(a) and (b)(4).
3. It is unlawful to make statements or publish advertisements with respect to the rental of a dwelling that indicate 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(a) and (c)(1).
4. "Familial status" includes one or more individuals under the age of eighteen (18) being domiciled with a parent or legal guardian. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.
5. The Act defines "dwelling" as any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, 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(h).

B. PARTIES AND SUBJECT PROPERTY

6. At the time of the complaint, Complainant was a parent of three children ages six (6), four (4), and two (2) years old.
7. At all times pertinent to this Charge, Respondent Bienville Property Management, Inc. d/b/a Showhomes Mobile and Baldwin Counties ("Showhomes") was a home staging business. The services provided by Respondent Showhomes to its clients included assisting in preparing and maintaining their homes while the homes were on the market for sale. Respondent Showhomes also rented some of its clients' homes while staging the homes for sale.
8. If Respondent Showhomes was asked to rent out a home by one of its clients, Respondent Showhomes would find renter and execute a month to month rental agreement with the renter. The rental agreement outlined the amount the renter had to

pay each month to reside in the property and explained that the renter would have to vacate the property once the home sold.

9. At all times pertinent to this Charge, David and Meg Bryant, co-owned the single- family house located at **Redacted** Mobile Alabama 36607 ("Subject Property"). The Subject Property is 3,011 square feet, with 3 bedrooms and 3.5 bathrooms.
10. David and Meg Bryant hired Respondent Showhomes to manage the Subject Property, which included staging the Subject Property in preparation for sale and securing a tenant in the home until the Subject Property was sold.
11. At all times pertinent to this Charge, Respondent Tammy Boothe was employed by Respondent Showhomes as the Property Manager for the Subject Property.
12. The Subject Property is a "dwelling" as defined by the Act.
13. Complainant is an "aggrieved person" as defined by the Act.

C. FACTUAL ALLEGATIONS

14. On or about May 7, 2013, Complainant observed an advertisement for the Subject Property on Rental.com.
15. Complainant called the number listed on the advertisement, **Redacted** which was the direct number for Respondent Showhomes, to inquire about the Subject Property's availability.
16. During the phone call, Complainant spoke with Respondent Boothe.
17. Respondent Boothe asked Complainant whether she had two (2) minor children or fewer.
18. Complainant informed Respondent Boothe that she had three (3) minor children.
19. Respondent Boothe informed Complainant that she would not be able to rent the home to her unless she had two (2) minor children or fewer.
20. On or about May 23, 2013, the Center for Fair Housing ("CFH") conducted a test after Complainant contacted it about the alleged discriminatory practices she encountered with Respondents.
21. The CFH Tester called the telephone number she found in an advertisement for the Subject Property on Rentalhouses.com, **Redacted** which was the number to Executive Systems, InclEsuite360.com ("ESuite"), the answering service Respondent Showhomes retained to assist with its call volume for the Subject Property and other

properties being advertised by Respondent Showhomes. The Tester's call was answered by an ESuite representative named Tiffany. The Tester inquired about the availability of the Subject Property.

22. Representative Tiffany confirmed that the Subject Property was available to rent. Representative Tiffany asked if the Tester had any minor children, and the Tester responded that she had three (3) minor children. Representative Tiffany explained that only two (2) minor children were permitted, per Respondents' rules, and further stated that is why the rates were so reasonable.
23. The Subject Property was not sold until May 19, 2014, more than a year after Complainant **Redacted** attempted to rent it.
24. During the investigation, Respondents provided Co HUD the names and contact information for the most recent twenty (20) applicants that were approved to reside in homes managed by Respondent Showhomes. The Department attempted to make contact with all twenty (20) applicants. The Department successfully made contact with eight (8) of the twenty (20) applicants. The investigation revealed that none of the eight (8) approved applicants had two (2) or more minor children. The homes the eight (8) applicants lived in ranged from 1,540 square feet to 4,350 square feet, and from three (3) bedrooms to six (6) bedrooms.
25. As a result of Respondents' discriminatory conduct, Complainant suffered actual damages, including lost housing opportunity, emotional distress, and out of pocket expenses.

D. FAIR HOUSING ACT VIOLATIONS

26. By refusing to negotiate the rental of the Subject Property to Complainant because she had more than two (2) minor children, Respondents violated subsection 804(a) of the Act because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a) and (h)(2).
27. By having and applying a policy that Complainant and others could not have more than two (2) minor children as a term or condition to rent the Subject Property, Respondents violated subsection 804(b) of the Act because of familial status. 42 U.S.C. § 3604(h); 24 C.F.R. §§ 100.65(x) and (b)(4).
28. By informing Complainant and the tester that Respondents do not rent to families with more than two (2) minor children, Respondents made statements that indicated a preference, limitation, or discrimination against families with children or an intention to make such a preference, limitation or discrimination with respect to the rental of a dwelling, in violation of subsection 804(c) of the Act. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75.

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 and all other persons in active concert or participation with them, from discriminating against any person based on familial status in any aspect of a rental transaction pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(ii);
3. Awards such damages as will fully compensate Complainant for her injuries caused by Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(i);
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(b)(3)(iii);
5. 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);
6. Mandates Respondents, their agents, employees, successors, and all other persons in active concert or participation with them, to attend training that addresses the Act's prohibitions against familial discrimination.

Respectfully submitted,

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