

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

The Secretary, United States	:	
Department of Housing and Urban	:	
Development, on behalf of Robin	:	
Link, and on behalf of Zaire Link,	:	
minor aggrieved child, by and through:	:	
Robin Link, his parent and general	:	
Guardian; and the Fair	:	
Housing Council of Suburban	:	
Philadelphia,	:	
Charging Party,	:	
	:	HUD ALJ 10-E-101-FH/11
v.	:	FHEO Nos. 03-10-0065-8
	:	03-10-0068-8
	:	
Patricia Trucksess and	:	
Charles Trucksess,	:	
	:	
Respondents	:	

**INITIAL DECISION AND CONSENT ORDER**

**I. BACKGROUND**

This matter arose from complaints of familial status discrimination filed by Complainants Robin Link and Fair Housing Council of Suburban Philadelphia ("FHCSF") with the United States Department of Housing and Urban Development (hereinafter known as "Charging Party" or "the Department"), pursuant to the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601, *et seq.* (hereinafter the "Act").

On April 9, 2010, the Department issued a Charge of Discrimination (hereinafter "Charge") against Respondents Patricia and Charles Trucksess (hereinafter "Respondents") for violations of 42 U.S.C. §§ 3604(a) and (c), which prohibit making housing unavailable on the basis of familial status and the use of discriminatory statements.

The Charge alleged that Respondents indicated to Robin Link that they do not rent to families; Respondents, therefore, 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 sale or rental of a dwelling, in violation of 42 U.S.C. § 3604(c) (2009). The Charge also alleged that by terminating Robin Link's lease, which was motivated by the presence of her child, Respondents refused to rent to a

family with a child in violation of 42 U.S.C. § 3604(a) (2009). In addition, the Charge alleged that, as a result of Respondents' discriminatory actions and statements, FHCSF, a non-profit fair housing organization whose mission is to promote freedom of residence, suffered frustration of its mission due to diversion of resources normally devoted to educational, counseling and referral services, in investigating the matter and providing counseling to Robin Link.

None of the parties involved in this matter elected to have their claims decided in a civil action in federal district court. Accordingly, an administrative hearing was scheduled for September 2010. However, to avoid uncertain and costly litigation, the parties have agreed to resolve the above-captioned case without the need for a hearing. The Department, Complainants and Respondents have consented to the entry of this Initial Decision and Consent Order (hereinafter "Consent Order"), as indicated by the signature of the parties and counsel below.

## **II. GENERAL INJUNCTION**

It is hereby ORDERED that Respondents Charles and Patricia Trucksess, their heirs, executors, assigns, agents, employees, and successors, and all other persons in active concert or participation with them in the ownership, operation or management of the subject property and any other properties owned or managed by them are permanently enjoined from discrimination against any person on the basis of familial status, in any aspect of rental or sale of a dwelling, pursuant to §§ 3604 (a) and (c) of the Act.

Respondents acknowledge that the Act makes it unlawful to:

- A. Make unavailable or deny a dwelling unit to any person because of race, color, religion, national origin, sex, disability, or familial status; or refuse or fail to provide or offer information about a dwelling unit or to show or rent a dwelling unit to any person because of race, color, religion, national origin, sex, disability or familial status.
- B. Discriminate against any person in the terms, conditions, or privileges of rental of a dwelling unit, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, sex, disability or familial status.
- C. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the rental of a dwelling unit that states any preference, limitation or discrimination based upon race, color, religion, national origin, sex, disability or familial status.
- D. Represent to any person because of race, color, religion, national origin, sex, disability or familial status, that any dwelling unit is not available for inspection or rental when such dwelling unit is, in fact, so available.

### III. SPECIFIC RELIEF

In exchange for the Charging Party's agreement to dismiss this Charge and for Complainants' agreement to release all claims against Respondents:

- A. Respondents agree to pay the total sum of THIRTY THOUSAND DOLLARS (\$30,000.00) to Complainant Robin Link in the form of a certified check made payable to Robin Link within five (5) days of the effective date of this Consent Order, to be sent by Federal Express or certified mail to the following address:
- Fair Housing Council of Suburban Philadelphia  
Attn: Robin Link  
225 South Chester Road, Suite #1  
Swarthmore, PA 19081
- B. Respondents agree to pay the total sum of TEN THOUSAND DOLLARS (\$10,000.00) to Complainant FHCSP in the form of a certified check made payable to the Fair Housing Council of Suburban Philadelphia within five (5) days of the effective date of this Consent Order, to be sent by Federal Express or certified mail to the following address:
- James Berry, Executive Director  
Fair Housing Council of Suburban Philadelphia  
225 South Chester Road, Suite #1  
Swarthmore, PA 19081
- C. Within five (5) days of the date of the issuance of the checks to Complainants Robin Link and FHCSP, Respondents shall send a copy of those certified checks to HUD's Regional Counsel, via First Class Mail, at the following address:
- Sheryl L. Johnson, Regional Counsel, Region III  
U.S. Department of Housing and Urban Development  
Office of the Regional Counsel  
The Wanamaker Building, 100 Penn Square East  
Philadelphia, Pennsylvania 19107
- D. Within three (3) months of the effective date of this Consent Order, Respondents shall participate in fair housing training to be conducted by FHCSP. The training will address federal, state and local fair housing laws, regulations and ordinances. There will be no costs associated with this training.
- E. Respondents shall provide a signed and dated certificate of completion to the Department evidencing that they have successfully completed the fair housing training provided by FHCSP, within thirty (30) days of completion of such course.

The certificate of completion shall be mailed to HUD's Regional Counsel, via First Class Mail, at the following address:

Sheryl L. Johnson, Regional Counsel, Region III  
U.S. Department of Housing and Urban Development  
Office of the Regional Counsel  
The Wanamaker Building, 100 Penn Square East  
Philadelphia, Pennsylvania 19107

- F. Within three (3) months of the effective date of this Consent Order, Respondents shall insert in all rental documents, advertisements and application forms used by Respondents the fair housing logo described in HUD regulations at 24 C.F.R. § 110.25 (2009), that reads, in part, as follows:

EQUAL HOUSING OPPORTUNITY:  
We Do Business in Accordance with the Fair Housing Act  
(The Civil Rights Act of 1968, as amended by the Fair Housing  
Amendments Act of 1988).

IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY  
PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX,  
HANDICAP, FAMILAL STATUS (HAVING ONE OR MORE  
CHILDREN), OR NATIONAL ORIGIN IN THE SALE OR  
RENTAL OF HOUSING OR RESIDENTIAL LOTS.

- G. Within three (3) months of the effective date of this Consent Order, Respondents shall create a written rental policy of nondiscrimination to be approved by HUD. Once approved by HUD, which shall be within six (6) months from the effective date of this Consent Order, said policy shall be implemented and distributed immediately to all current and prospective tenants and posted in common areas. The draft rental policy shall be mailed to the Department by regular mail to the following address:

Wanda S. Nieves, Director  
Office of Fair Housing, Region III  
U.S. Department of Housing and Urban Development  
The Wanamaker Building, 100 Penn Square East  
Philadelphia, Pennsylvania 19107

- H. For a period of two (two) years from the effective date of the Consent Order, Respondents will provide to HUD on a quarterly basis (January, April, July, October) the following information in writing: (a) Family composition (number of children under 18 years of age) residing in each unit in the subject property; (b) Copies of all advertisements used to solicit new renters; and (c) Copies of all new rental policies and procedures. The information shall be mailed to the Department by regular mail to the following address:

Wanda S. Nieves, Director  
Office of Fair Housing, Region III  
U.S. Department of Housing and Urban Development  
The Wanamaker Building, 100 Penn Square East  
Philadelphia, Pennsylvania 19107

#### **IV. MUTUAL RELEASE**

In consideration for Respondents' payment to Robin Link and FHCSP, compliance with the conditions and terms of this Consent Order and with all orders of this tribunal described herein, and for other good and valuable consideration, the Department, Robin Link and FHCSP, their successors, assigns, agents, employees, and attorneys hereby forever waive, release, and covenant not to sue Respondents, their successors, heirs, executors, assigns, agents, employees, and attorneys, including any subsequent owner of the subject property with regard to any and all claims, damages, and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD ALJ No. 10-E-101-FH/11, or which could have been filed in any action or suit arising from said subject matter; however, any claims or causes of action that accrue after the execution of this Consent Order are not subject to the releases as set forth in this paragraph.

In consideration of the execution of this Consent Order, and other good and valuable consideration, Respondents, their successors, assigns, agents, employees, and attorneys, including any subsequent owner of the subject property, hereby forever waive, release, and covenant not to sue the Department, Robin Link or FHCSP or their officers, successors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD ALJ No. 10-E-101-FH/11, or which could have been filed in any action or suit arising from said subject matter; however, any claims or causes of action that accrue after the execution of this Consent Order are not subject to the releases as set forth in this paragraph.

#### **V. GENERAL PROVISIONS**

- A. The parties acknowledge that this Consent Order is a voluntary and full settlement of the Charge. No party has been coerced, intimidated, threatened, or in any way forced to become a party to the Consent Order. The parties have read and fully understand the significance of all the terms set forth herein.
- B. The parties and their counsel agree that, in the interest of prompt conclusion of this matter, the execution of this Consent Order by the parties may be accomplished by separate execution of consents (the original executed Consent and Signature Pages) to be attached to the body of this Consent Order to constitute one document.

- C. The signatures of the parties to this Consent Order may be executed by way of facsimile transmission and shall be deemed to be an executed and admissible Consent Order for all purposes as may be necessary under the terms of this Consent Order.
- D. The parties and their counsel agree that if the situation arises where a party to this agreement needs an extension of time in order to satisfy a deadline provided herein, such extension must be obtained by mutual agreement of the parties and all signatories or their successors, in writing.
- E. This Consent Order shall govern the conduct of the parties to it for a period of three (3) years following the date this Consent Order becomes final pursuant to 42 U.S.C. §3612(h).
- F. This Consent Order is binding upon Robin Link, FHCSP, Respondents and their employees, heirs, successors, assigns, and all others working for or associated with Respondents who are involved in the operation of the subject property, including any subsequent owners of the property.
- G. It is understood that this Consent Order shall be a public document.
- H. Except as provided herein, the signatures of the parties to this Consent Order further constitute a waiver of any right to apply for additional attorney's fees or costs pursuant to 42 U.S.C. § 3612 (p) and 24 C.F.R. § 180.705.
- I. This Consent Order does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.

## **VI. MONITORING BY HUD**

Respondents agree and understand that pursuant to a situation, which reasonably so warrants, the Department may review compliance with this Consent Order. As a part of such review, the Department may require written reports concerning compliance, may inspect the subject property with reasonable notice, examine witnesses, and examine and copy pertinent records of Respondents at any reasonable time between the effective date of the Consent Order and three (3) years from said date. Respondent agrees to provide full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Consent Order.

## **VII. DISMISSAL OF CHARGE**

In consideration of Respondents' payment to Robin Link and FHCSP and compliance with the terms and conditions of this Consent Order, and all orders contained herein, the Charging Party agrees to the dismissal, without a formal determination, of the allegations that Respondents injured Robin Link and FHCSP by violating the Act. Therefore, as of the effective date of this Consent Order, the Charge against Respondents is hereby DISMISSED with prejudice. However, nothing in this paragraph should be construed to prevent any of the parties from taking action to enforce this Consent Order.

## **VIII. COMPLIANCE**

Respondents' failure to satisfy the terms of this Consent Order is a breach of the Consent Order, which may be enforced in the United States Court of Appeals pursuant to 42 U.S.C. §§ 3612(j) and (m).

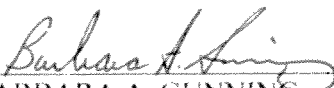
## **IX. ADMINISTRATION**

This Consent Order is entered into pursuant to the Fair Housing Act and its implementing regulations, 24 C.F.R. § 180.450 (2009), and shall become final upon the expiration of thirty (30) days or by confirmation of the Secretary within that time. *See* 42 U.S.C. §3612(h). The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period and a waiver of any right to challenge the validity of this Consent Order at any time.

## **X. EFFECTIVE DATE OF AGREEMENT**

In accordance with 24 C.F.R. § 180.450 (2009), the Administrative Law Judge shall accept a settlement agreement agreed to by the parties if she finds the agreement to be in the public interest, by issuing an Initial Decision and Consent Order. The effective date of this Agreement is the date on which Administrative Law Judge Gunning signs this Initial Decision and Consent Order. WHEREFORE, the parties, having resolved the Charge by this agreement, respectfully request that this Initial Decision and Consent Order be issued in accordance with HUD's regulations at 24 C.F.R. § 180.450 (2009).

ISSUED this 21<sup>st</sup> day of September, 2010.

  
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BARBARA A. GUNNING  
ADMINISTRATIVE LAW JUDGE