

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)	
)	
Joshua Corbett and Jamie Corbett and their minor)	
children,)	
)	
Charging Party,)	
)	HUDALJ No.: 10-E-210-FH/30
v.)	FHEO Nos.: 05-10-0605-8
)	05-10-0606-8
Sharlene Kuiper, Jerald Kuiper and the Kuiper)	
Family Trust, Sharlene Kuiper and Jerald Kuiper,)	
trustees,)	
)	
Respondents.)	
)	

INITIAL DECISION AND CONSENT ORDER

I. JURISDICTION

This matter arose from complaints of familial status discrimination filed by the above-named Complainants on February 10, 2010, pursuant to the Fair Housing Act as amended in 1988, 42 U.S.C. §3601, *et seq.* (hereinafter the "Act"). On September 30, 2010, the Charging Party issued a Charge of Discrimination (hereinafter "Charge") against the above-named Respondents for violations of 42 U.S.C. §3604 (a), (b), (c), and (d) of the Act.

II. BACKGROUND

On or about September 30, 2010, the Secretary of the U.S. Department of Housing and Urban Development (hereinafter "the Department" or "HUD") commenced this action on behalf of Complainants Joshua Corbett and Jamie Corbett and their minor children, pursuant to Section 810(g)(1) and (2) of the Act, as amended, 42 U.S.C. § 3610(g)(1) and (2). Complainant Joshua Corbett sought housing for his family, consisting of himself, his wife, Jamie, and their three minor children, in or around late May and early June 2009. Complainant Joshua Corbett contacted Respondents in response to a rental advertisement that Respondents had placed on the internet.

Respondents are Jerald and Sharelene Kuiper and the Kuiper Family Trust. Respondent Kuiper Family Trust owns the subject property, 3703 North Terri Lane, Grand Chute (Appleton), Outagamie County, Wisconsin (hereinafter "the Subject Property"). Respondents Sharlene Kuiper

and Jerald Kuiper are the managers of the Subject Property and the trustees of Respondent Kuiper Family Trust. Both Respondents Jerald Kuiper and Sharlene Kuiper maintain active real estate licenses in the State of California.

Complainants allege that they were injured by discriminatory acts of Respondents. Complainants allege that Respondents violated §804(a), (b), (c) and (d) of the Act on the basis of familial status when Respondents refused to make an appointment allowing Complainant Joshua Corbett to inspect the Subject Property, subjected Complainants to different terms and conditions of rental by allowing prospective tenants without children under eighteen years of age the opportunity to view and rent the property first, by making discriminatory statements and by representing to Complainant Joshua Corbett that the Subject Property was not available for inspection when it was, in fact, so available as evidenced by Respondents' scheduled showings with Jamie Corbett and others who called indicating they did not have children under eighteen years of age. Complainants' allegations were corroborated by testers from Metropolitan Milwaukee Fair Housing Council.

As a result of Respondents' alleged discriminatory conduct, Complainants state that they have suffered damages, including emotional distress, loss of a housing opportunity and inconvenience. Complainants allege that they were so upset at the way Respondents treated them they abandoned their housing search. Complainants stayed in their existing housing, even though it was no longer suitable for them to live there with three small children.

Respondents deny having discriminated against Complainants on the basis of familial status. However, to avoid uncertain, protracted and costly litigation, the parties have agreed to resolve the above-captioned case without the need for a hearing or adjudication on the merits. Respondents and Complainants 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.

III. GENERAL INJUNCTION

It is hereby ORDERED that during the effective period of this Consent Order, Respondents Sharlene Kuiper, Jerald Kuiper, and the Kuiper Family Trust ("Respondents") their heirs, executors, assigns, agents, employees, and successors, and all other persons in active concert or participation with them in the ownership or operation of the Subject Property are permanently enjoined from discrimination against any person on the basis of familial status, in any aspect of the rental or sale of a dwelling, pursuant to § 804(a), (b), (c), and (d) of the Act. Respondents hereinafter promise and agree to comply with all the provisions of the Act relevant to the Subject Property and any other properties owned by them.

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 is not available for inspection, sale, or rental when such dwelling is in fact so available.

IV. 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. By signing this Consent Order, Respondents do not admit any violation of the Fair Housing Act or wrongdoing. It is expressly understood that neither the entering into this Consent Order, nor any other action taken by Respondents pursuant to this Consent Order, shall be construed as an admission of liability.
- D. 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.
- E. 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.
- F. This Consent Order shall govern the conduct of the parties to it for a period of two (2) years following the date this Consent Order becomes final pursuant to 42 U.S.C. §3612(h).

- G. The Consent Order is binding upon Complainants, 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 Subject Property.
- H. It is understood that, according to 42 U.S.C. §3610(b)(4) of the Act, the Consent Order shall be a public document.
- I. 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 (2010).
- J. 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.

V. SPECIFIC RELIEF

In exchange for the Charging Party's agreement to dismiss this Charge, Respondents Sharlene Kuiper, Jerald Kuiper, and the Kuiper Family Trust shall:

- A. Pay the sum of twenty thousand dollars (\$20,000.00) to Complainants, Joshua and Jamie Corbett as provided for in subsection (B) of this Section.
- B. Pursuant to 24 C.F.R. §180.450, within 15 days of the entry of this Consent Order by the Administrative Law Judge, Respondents shall make a payment in the amount of \$20,000.00 in the form of a certified check or money order made payable to "Joshua and Jamie Corbett."

- 1. The payment shall be mailed to Complainants by Federal Express or certified mail to the following address:

Jamie Corbett
Joshua Corbett
1313 S Buchanan St,
Appleton, WI 54915.

- 2. A copy of the certified check or money order mailed to Complainants shall be simultaneously mailed to the Department at the following address:

Courtney Minor, Regional Counsel, Region V
U.S. Department of Housing and Urban Development
77 West Jackson Boulevard, Room 2617
Chicago, Illinois 60604-3507

C. Within eight (8) months of the entry of this Consent Order, Respondents Sharlene Kuiper and Jerald Kuiper and each employee or agent of Respondents involved in the rental or management of the Subject Property, if any, must attend fair housing training to be conducted in or around Appleton, Wisconsin by a qualified fair housing enforcement agency.¹

1. The training must cover Respondents' responsibilities under federal, state and local fair housing laws, regulations and ordinances.
2. Respondents are responsible for any and all costs, if any, associated with such fair housing training.
3. After completing the training required by this Section of the Consent Order, Respondents and any employee or agent of Respondents involved in the rental or management of the Subject Property, if any, shall each provide a certificate of completion to HUD, in the substantially the same form as that attached hereto as "Attachment A," evidencing that they have successfully completed the course. Respondents should sign and date the certificates of completion (Attachment A-1 and A-2), and send them to the Department within thirty (30) days of completion of such course. The certificate of completion shall be mailed to the Department by regular mail to the following address:

Courtney Minor, Regional Counsel, Region V
U.S. Department of Housing and Urban Development
77 West Jackson Boulevard, Room 2617
Chicago, Illinois 60604-3507

VI. MUTUAL RELEASE

In consideration of Respondents' payment to Complainants, 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, Complainants, 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/or attorneys, including any subsequent owner of the Subject Property, with regard to any and all claims, damages, and

¹ The Metropolitan Milwaukee Fair Housing Council is a qualified fair housing enforcement agency that conducts fair housing training acceptable to Charging Party. Contact information for MMFHC is as follows:

Margaret Bowitz
Metropolitan Fair Housing Council
600 East Mason Street, #200
Milwaukee, WI 53202
414-278-1240
Fax: 414-278-8033
e-mail: fairhousingwisconsin.com

injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of HUD ALJ No. 10-E-210-FH/30 and FHEO Case Nos. 05-10-0605-8 and 05-10-0606-8 or which could have been filed in any action or suit arising from said subject matter.

In consideration of the execution of this Consent Order, dismissal of the Charge against them, 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 or Complainants or their officers, successors, assigns, agents, employees and/or 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-210-FH/30 and FHEO Case Nos. 05-10-0605-8 and 05-10-0606-8 or which could have been filed in any action or suit arising from said subject matter.

VII. MONITORING BY HUD

Respondents agree and understand that pursuant to a situation, which reasonably so warrants, HUD, on request of Complainants or on its own initiative, may review compliance with this Consent Order. As a part of such review, HUD may require written reports concerning compliance, may inspect Respondents' property identified in Section II of this Consent Order, examine witnesses, and examine and copy pertinent records of Respondents at any reasonable time between the date of the entry of this Consent Order and two (2) years from said date. Respondents agree to provide full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Consent Order.

VIII. DIMISSAL OF CHARGE

In consideration of Respondents' payment to Complainants and compliance with the terms and conditions of this Consent Order, and all orders contained therein, the Charging Party agrees to the dismissal, without a formal determination, of the allegations that Respondents injured Complainants by violating the Act. Therefore, the Charge against Respondents Sharlene Kuiper, Jerald Kuiper, and the Kuiper Family Trust 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.

IX. 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).

X. ADMINISTRATION AND ORDER OF THE COURT

The hearing in this matter was initially scheduled for January 19, 2011. On December 23, 2010, the parties forwarded to the Court a draft of the foregoing Order, incorporating the terms of their settlement agreement. On December 13, 2010, counsel for the Charging Party, Respondents Jerald and Sharlene Kuiper and the Kuiper Family Trust indicated that they were prepared to sign the Consent Order. Counsel had no further matters to raise and the Court indicated that the Consent

12/27/10 Corrections by
M. Lisa Knight
by phone message from
Michael Kuiper

Order appeared to be in the public interest. All the parties to the Consent Order having signed, their agreement (incorporated in the foregoing Initial Decision and Consent Order) is accepted.

This Consent Order is entered into pursuant to the Fair Housing Act, 42 U.S.C. §3612(g)(3), 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 constitutes 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.

So Ordered, this 10 day of January 2011.


UNITED STATES ADMINISTRATIVE LAW JUDGE