

**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 the Fair Housing :
Council of Suburban :
Philadelphia, :

Charging Party, :

v. :

The Blue Valley Times, Blue Valley :
Publishing, Inc. and Michael Ortoski :

Respondents. :
_____ :

HUD ALJ 11-F-081-FH-40
FHEO No. 03-11-0288-8

12/15/11 AF

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

This matter arose from a complaint of familial status discrimination filed by Complainant Fair Housing Council of Suburban Philadelphia ("FHCSF") with the United States Department of Housing and Urban Development (hereinafter "the Department"), pursuant to the Fair Housing Act, 42 U.S.C. § 3601, *et seq.* (hereinafter the "Act").

On September 29, 2011, the Department issued a Charge of Discrimination (hereinafter "Charge") against The Blue Valley Times, Blue Valley Publishing, Inc. and Michael Ortoski alleging violations of 42 U.S.C. § 3604(c) which prohibits publishing discriminatory advertisements with respect to the rental of a dwelling that indicate any preference, limitation or discrimination based upon familial status or intention to make any such preference, limitation or discrimination. Based upon the information provided by Michael Ortoski to the Department on or about November 22, 2011, *Blue Valley Times* is owned by Michael Ortoski and Blue Valley Times, LLC ("The Blue Valley Times"). Michael Ortoski and Blue Valley Times, LLC purchased *Blue Valley Times* several years ago from Blue Valley Publishing, Inc., therefore, Blue Valley Publishing, Inc. is hereby dismissed as a Respondent. Michael Ortoski and Blue Valley Times, LLC own *Blue Valley Times* and are, therefore, the only Respondents for purposes of this Initial Decision and Consent Order (hereinafter "Respondents"). *Blue Valley Times* is a newspaper with weekly readership of over 20,000 that publishes classified advertisements for the sale and rental of houses, mobile homes and apartments.

The Charge alleged that Respondents published numerous discriminatory advertisements for rental housing in the classified section of *Blue Valley Times* from August 2010 through April 2011.

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 January 30, 2012. To avoid uncertain and costly litigation, the parties have agreed to resolve the above-captioned case without the need for a hearing. The Department, Complainant and Respondents have consented to the entry of this Initial Decision and Consent Order (hereinafter "Consent Order"), as indicated by the signatures of the parties below.

II. GENERAL INJUNCTION

It is hereby ORDERED that Respondents, 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 *Blue Valley Times* or any other publication from publishing advertisements which contain language that indicates a preference, limitation, or discrimination based on familial status in violation of § 3604(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 Department's agreement to dismiss this Charge and for Complainant's agreement to release all claims against Respondents, Respondents agree to the following:

- A. All members of the staff of *Blue Valley Times* shall complete online fair housing training conducted by FHCSP at no cost to Respondents within sixty (60) days of the approval of this agreement by the Office of Administrative Law Judges. Such training will take place during a weekday between the hours of 9:00 a.m. and 5:00 p.m. Eastern Standard Time;
- B. Within three (3) months of the effective date of this agreement, Respondents will publish the following equal housing opportunity statement in the classified advertising section of each issue of *Blue Valley Times*, for as long as the paper is published, that states:

IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS (HAVING ONE OR MORE CHILDREN UNDER 18), OR NATIONAL ORIGIN IN THE SALE, RENTAL, FINANCING, APPRAISAL OF HOUSING OR IN THE PROVISION OF REAL ESTATE BROKERAGE SERVICES. IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST OR WOULD LIKE FURTHER INFORMATION ABOUT YOUR RIGHTS OR OBLIGATIONS UNDER THE FAIR HOUSING ACT, CONTACT THE FAIR HOUSING COUNCIL OF SUBURBAN PHILADELPHIA AT 267-419-8918.
- C. Respondents also agree to publish a fair housing advertisement (4 inches by 5 inches) provided by FHCSP in each issue of *Blue Valley Times* for the next twenty-three (23) years;
- D. Respondents agree to provide a letter to FHCSP that identifies an estimated dollar figure for any space provided to FHCSP in *Blue Valley Times* within ten (10) days;
- E. Respondents agree to publish one (1) article annually on fair housing submitted by FHCSP for a period of twenty-three (23) years;
- F. Respondents agree NOT to accept for publication in *Blue Valley Times*, any advertising for real estate that violates the Fair Housing Act.
- G. FHCSP shall provide a certificate of completion to the Department evidencing that all members of the staff of *Blue Valley Times* have successfully completed the online 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, PA 19107

IV. MUTUAL RELEASE

In consideration for Respondents' 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 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 *Blue Valley Times*, 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. 11-F-081-FH-40, 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, manager, editor or publisher of *Blue Valley Times*, hereby forever waive, release, and covenant not to sue the Department 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. 11-F-081-FH-40, 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 or electronic transmission in PDF form 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 is binding upon FHCSP, the Department, Respondents and their employees, heirs, successors, assigns, and all others working for or associated with Respondents who are involved in the publishing, editing, operation or management of *Blue Valley Times*, including any subsequent owners of *Blue Valley Times*.
- F. It is understood that this Consent Order shall be a public document.
- G. 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 (2011).
- H. 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 review advertisements published in *Blue Valley Times* at any reasonable time between the effective date of the Consent Order and two (2) years from said date. Respondents agree 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' compliance with the terms and conditions of this Consent Order, and all orders contained herein, the Department agrees to the dismissal, without a formal determination, of the allegations that Respondents injured 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).

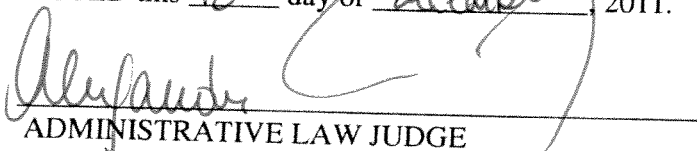
IX. ADMINISTRATION

This Consent Order is entered into pursuant to the Fair Housing Act and its implementing regulations, 24 C.F.R. § 180.450 (2011), 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 (2011), the Administrative Law Judge shall accept a settlement agreement agreed to by the parties if he 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 the Administrative Law Judge 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 (2011).

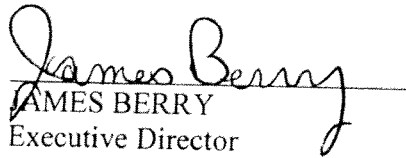
ISSUED this 15th day of December, 2011.


ADMINISTRATIVE LAW JUDGE

CONSENT AND SIGNATURE PAGES

The undersigned party has read the foregoing Consent Order, HUD ALJ No. 11-F-081-FH-40, and willingly consents to it with a full understanding of the rights it confers and the responsibilities it imposes on it, as signified by its signature below:

FOR FAIR HOUSING COUNCIL OF SUBURBAN PHILADELPHIA:

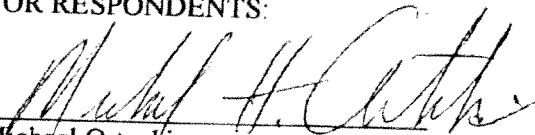

JAMES BERRY
Executive Director

Date: 12/2/11

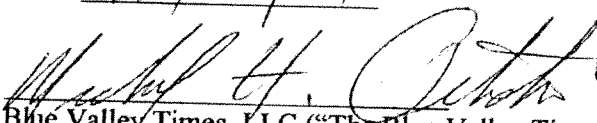
CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 11-F-081-FH-40, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes, as signified by their signatures and that of their counsel below:

FOR RESPONDENTS:


Michael Ortoski

Date: 12/15/11

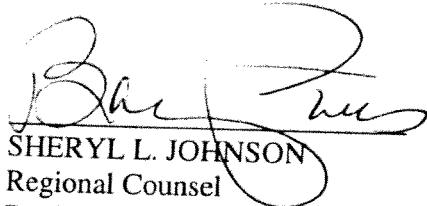

Blue Valley Times, LLC ("The Blue Valley Times")
By Michael Ortoski

Date: 12-15-11


CONSENT AND SIGNATURE PAGES

The undersigned party has read the foregoing Consent Order, HUD ALJ No. 11-F-081-FH-40, and willingly consents to it with a full understanding of the rights it confers and the responsibilities it imposes on the Department, as signified by their signatures, below:

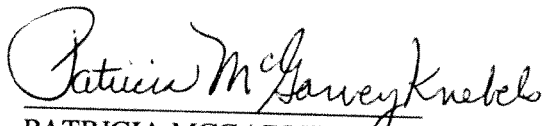
FOR THE DEPARTMENT:

for 
SHERYL L. JOHNSON
Regional Counsel
Region III

12/14/2011
Date


RICHARD A. MARCHESE
Associate Regional Counsel for
For Civil Rights and Procurement

12/14/11
Date


PATRICIA MCGARVEY KNEBELS
Attorney-Advisor

12/14/11
Date

U.S. Department of Housing
and Urban Development
Office of Regional Counsel
Region III
The Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3380
Telephone: (215) 430-6667
Fax: (215) 656-3446
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