

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)	
Sheila Wavrunek, and her minor child,)	
)	HUD ALJ No.: 11-M-043-FH/14
Charging Party,)	FHEO No.: 05-10-0121-8
)	
v.)	
)	
James Norton and Julia Norton,)	
)	
Respondents.)	

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

This matter arose from a complaint of familial status discrimination filed by Complainant Sheila Wavrunek on October 20, 2009, with the United States Department of Housing and Urban Development (hereinafter known as the “Department” or “HUD”), alleging that she was injured by the discriminatory actions of Respondent James Norton, owner of the subject property, on the basis of familial status in violation of the Fair Housing Act, as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the “Act”). On or about May 5, 2010, the complaint was amended to add Complainant’s 17-year-old son, Zachary Wavrunek, a minor at all relevant times to the complaint, as an aggrieved party. The amended complaint also added Respondent James Norton’s wife, Julia Norton, co-owner of the subject property, as a Respondent. On July 12, 2011, the Charging Party issued a Charge of Discrimination (hereinafter “Charge”) against Respondents James and Julia Norton (“Respondents”) for violations of 42 U.S.C. §§ 3604(a), (b) and (c), which prohibits, *inter alia*, the making of discriminatory statements, otherwise making housing unavailable and applying different terms and/or conditions on the basis of familial status.

In or around September 2009, Complainant viewed a rental advertisement for the property located at 473-477 N. Wall Street, Denmark, Brown County, Wisconsin (“subject property”). Complainant contacted the telephone number listed in the advertisement and spoke with Respondent James Norton regarding the availability of an apartment. After Respondent James Norton informed Complainant that a 2-bedroom unit was available for rent, Complainant scheduled an appointment to view the unit. After Complainant viewed the unit, she completed a rental application and paid Respondent James Norton a deposit for the unit. Shortly thereafter, Respondent James Norton informed Complainant that she was approved for a unit. However, on or about September 23, 2009, during a telephone conversation between Complainant and

Respondent James Norton, Respondent James Norton conditioned Complainant's tenancy by informing her that he would only rent to Complainant if she promised not to allow her son, who was a minor at the time, to have his friends over unless she was home. Complainant alleges that, because she would not agree to these terms and conditions, she was denied housing and was discriminated against because of her familial status, specifically, having a child under the age of 18 residing with her. Furthermore, in the course of the HUD investigation, Respondents submitted various lease agreements for the subject property which included policies and rules restricting and/or imposing limitations on children.

Respondents deny the allegations contained in the complaint. Respondent James Norton stated that neither the age, nor the fact that Complainant had a child, was the issue. Respondent James Norton contends that he did, in fact, approve Complainant for a unit and later agreed to rent to Complainant under certain terms and conditions which related to her minor son not having visitors unless Complainant was present at home.

To avoid uncertain, protracted and costly litigation, the Complainant and Respondents have agreed to resolve the above-captioned case without the need for a hearing or adjudication on the merits. Complainant and Respondents Julia and James Norton have accordingly consented to the entry of this Initial Decision and Consent Order (hereinafter "Consent Order"), as indicated by the signatures of the parties and counsel below.

II. GENERAL INJUNCTION

It is hereby ORDERED that during the effective period of this Consent Order, 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 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), (b) and (c) 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 and/or managed by them. Respondents agree that they will rent the subject property and any other properties owned and/or managed by them to qualified occupants on a non-discriminatory basis as required by the federal Fair Housing 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. 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. By signing this Consent Order, Respondents Julia and James Norton do not admit any violation of the Act or wrongdoing. It is expressly understood that neither the entering into this Consent Order, nor any other action taken by Respondents Julia and James Norton pursuant to this Consent Order, shall be construed as an admission of liability.
- 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 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.
- E. The parties agree that if the situation arises where a party to this Consent Order 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 from the date this Consent Order becomes final pursuant to 42 U.S.C. §3612(h), specifically set forth in Section IX, below.
- G. This Consent Order is binding upon Respondents Julia and James Norton and their employees, officers, heirs, successors, assigns, and all others working for or in association with Respondents Julia and James Norton in the operation or management of the subject property.
- H. The Consent Order does not in any way limit or restrict the Charging Party's authority to investigate, charge or seek remedy in any other complaint involving Respondents Julia and James Norton or their employees, officers, heirs, successors, assigns and any other affiliated entities pursuant to the Act, or any other complaint within the Charging Party's jurisdiction.

- I. It is understood that, according to 42 U.S.C. §3610(b)(4) of the Act, this Consent Order shall be a public document.
- J. 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).

IV. SPECIFIC RELIEF

In exchange for the Charging Party's agreement to dismiss this Charge, Respondents Julia and James Norton, shall take the following corrective actions:

- A. Respondents Julia and James Norton agree to make a monetary payment in the total amount of FOUR THOUSAND DOLLARS (\$4,000.00) to Complainant and her minor son, Zachary Wavrunek.
- B. Pursuant to 24 C.F.R. §180.450, within sixty (60) days of the entry of this Consent Order by the Administrative Law Judge, make the payment described in Paragraph "A," above, in one lump sum payment. The payment shall be made in the amount of FOUR THOUSAND DOLLARS (\$4,000.00) in the form of a certified check or money order made payable to "Zachary Wavrunek."

1. The above-mentioned payment in Section IV, Paragraph (B), shall be mailed to Complainant Sheila Wavrunek, by Federal Express or certified mail to the following address:

Sheila Wavrunek
115 Main Street (Lower Back)
Denmark, Wisconsin 54205

A copy of the above certified check or money order made payable to "Zachary Wavrunek" shall be sent to the Department's Office of Regional Counsel at the following address:

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

- C. Within one hundred and sixty (160) days of the entry of this Consent Order, Respondents shall attend a fair housing training session selected by Respondents and conducted by a fair housing organization acceptable to Charging Party. Respondents shall pay all costs to attend and complete the training. Prior to attending such training, Respondents must submit the name and contact information of the proposed training agent to Charging Party for approval. This information shall be submitted to

HUD Attorney Barbara Sliwa via e-mail at Barbara.Sliwa@hud.gov, or by telephone at (312) 913-8613.

- D. Respondents shall provide a certificate of completion to the Department, in the same form as that attached hereto as "Attachment A," evidencing that they have successfully completed the course. Respondents should sign and date the certificate of completion (Attachment A), and send it to HUD within thirty (30) days of completion of such course. The certificate of completion shall be mailed to the Department by first class mail to the following address:

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

- E. Within thirty (30) days of the entry of this Consent Order, Respondents shall remove any and all language contained in their rules, policies and/or lease agreements used in the rental of units at the subject property and any other properties owned or managed by them that references discriminatory statements regarding familial status. Specifically, Respondents shall remove the following language from their lease agreement:

1. Parents are responsible for the supervision of their children and will be held financially responsible for any damage done to the building, grounds, or common areas of the property.
2. No children are allowed to play in the common areas of the building (hallways, basement, and laundry room).
3. Specifically, tenants may not perform routine childcare services for non-resident children. The addition of children from outside the property overcrowds the facilities.
4. A tenant may not perform baby-sitting services for the children of friends or relatives who do not live at the property. This does not prohibit the occasional care for relatives' or friends' children.

- F. Respondents shall not apply additional terms and conditions to households with children and agree to change their policy of requiring an adult be present at home when teenaged children have visitors at the subject property.

V. MUTUAL RELEASE

- A. In consideration of Respondents' payment to Complainant and Zachary Wavrunek, 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 Complainant and Zachary Wavrunek, their successors, assigns, agents, employees,

and attorneys hereby forever waive, release, and covenant not to initiate a proceeding against Respondents Julia and James Norton, its successors, heirs, executors, assigns, agents, employees and officers, 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. 11-M-043-FH/14, FHEO No. 05-10-0121-8 or which could have been filed in any action or suit arising from said subject matter.

- B. In consideration of the execution of this Consent Order, and other good and valuable consideration, Respondents Julia and James Norton, their successors, assigns, agents, employees, and officers, hereby forever waive, release, and covenant not to sue Complainant or Zachary Wavrunek, or their officers, successors, assigns, agents, employees, officers 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-M-043-FH/14, FHEO No. 05-10-0121-8 or which could have been filed in any action or suit arising from said subject matter.

VI. MONITORING BY HUD

Respondents agree and understand that pursuant to a situation, which reasonably so warrants, the Department, on request of Complainant, or on its own initiative, may review compliance with this Consent Order. As a part of such review, the Department may inspect Respondents' property identified in Section I 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. The Parties agree that any request made hereunder by the Complainant or the Department shall be in writing with at least 48 hours notice to Respondents. Respondents agree to provide full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Consent Order.

VII. DIMISSAL OF CHARGE

In consideration of Respondents' payment to Complainant and Zachary Wavrunek, 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 Complainant and Zachary Wavrunek by violating the Act. Therefore, 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, 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 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. AGREEMENT OF THE PARTIES**CONSENT AND SIGNATURE PAGES**

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 1 1-M-043-FH/14, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes, as signified by their signatures below.


JULIA NORTON
Respondent

5 Aug 2011
Date


JAMES NORTON
Respondent


5 Aug 11
Date

CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 11-M-043-FH/14, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes, as signified by their signatures below.


SHEILA WAVRUNEK
Complainant

8-9-11
Date

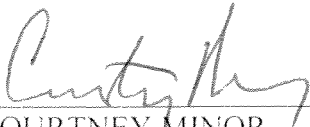

ZACHARY WAVRUNEK
Aggrieved Party

8-9-11
Date

CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 11-M-043-FH/14, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes on them, as signified by their signatures and that of their counsel, below:


FOR THE DEPARTMENT:


COURTNEY MINOR
Regional Counsel
Region V

08/10/2011
Date


LISA M. DANNA-BRENNAN
Supervisory Attorney-Advisor
for Fair Housing

08/10/2011
Date

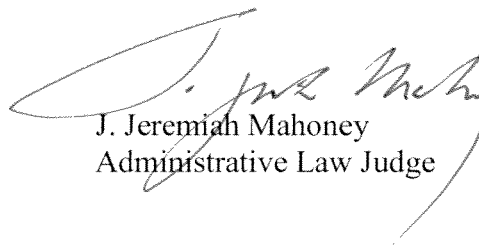

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08/10/2011
Date

XI. ORDER OF THE COURT

The hearing in this matter was scheduled for November 15, 2011, but on August 10, 2011, the parties filed with the court a motion to enter their agreed and attached Consent Order. The Court, after reading the agreement, and discussing a portion thereof with the parties in a telephone conference conducted on August 16, 2011, finds that the agreement appears to be in the public interest. All parties having signed, the agreement, as incorporated in the foregoing Initial Decision and Consent Order, is accepted and the hearing is cancelled.

So ORDERED, this 16th day of August, 2011.



J. Jeremiah Mahoney
Administrative Law Judge