

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

Secretary, United States
Department of Housing and Urban
Development, on behalf of the Fair
Housing Rights Center in
Southeastern Pennsylvania,

Charging Party,

v.

Gary M. Abraham,

Respondent

ALJ No. 12-AF-064-FH-24

FHEO No. 03-12-0180-8

2/28/13
AF

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

This matter arose from a complaint of familial status discrimination filed by Complainant Fair Housing Rights Center in Southeastern Pennsylvania (FHRCSP) on March 28, 2012, with the United States Department of Housing and Urban Development (Department) pursuant to the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601, *et seq.* (Act). Complainant, a non-profit fair housing organization, alleged that Respondent made discriminatory statements indicating a preference against families with children and made a dwelling unavailable to families with children. Complainant alleged that, as a result of Respondent's actions, its mission was frustrated and it was forced to divert resources away from its other housing programs to investigate and respond to the alleged discrimination.

On September 26, 2012, the Charging Party issued a Charge of Discrimination (Charge) against Respondent Gary M. Abraham (Respondent) 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 in the context of a rental transaction.

None of the parties involved in this matter elected to have their claims decided in a civil action. An administrative hearing has been scheduled for March 19, 2013. However, to avoid uncertain and costly litigation, the parties have agreed to resolve the above-captioned case without the need for a hearing. Charging Party and Respondent have consented to the entry of this Initial Decision and Consent Order (Consent Order), as indicated by the signature of the parties and their counsel below. This Consent Order constitutes full resolution of the claims set forth in the Complaint without an admission of liability or wrongdoing on the part of Respondent.

II. GENERAL INJUNCTION

It is hereby ORDERED that Respondent Gary M. Abraham, his heirs, executors, assigns, agents, employees, and successors, and all other persons in active concert or participation with him in the ownership, operation or management of the subject property and any other properties owned or managed by him are permanently enjoined from discriminating 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.

Respondent acknowledges 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:

- A. Respondent shall pay the total sum of FIVE THOUSAND DOLLARS (\$5,000.00) to Complainant FHRCSP in the form of a certified check made payable to Fair Housing Rights Center in Southeastern Pennsylvania 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:

Angela McIver
Executive Director
Fair Housing Rights Center in Southeastern Pennsylvania
105 E. Glenside Ave., Suite E
Glenside, PA 19038

- B. Within five (5) days of the date of the issuance of the certified check made payable to Fair Housing Rights Center in Southeastern Pennsylvania referenced in Section III.A. of this agreement, Respondent shall send a copy of the check to HUD's Regional Counsel at the following address:

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

- C. Within six (6) months of the effective date of this Consent Order, Respondent Gary M. Abraham shall purchase and attend a two-and-a-half hour (2.5) fair housing training session facilitated by FHRCSP at a cost to Respondent of Seven Hundred and Fifty Dollars (\$750.00). The payment is to be made in the form of a certified check made payable to Fair Housing Rights Center in Southeastern Pennsylvania at the time the training is provided. FHRCSP will accommodate Respondent by providing the training at a mutually convenient venue and time. The training will address federal, state, and local fair housing laws, regulations, and ordinances.
- D. Respondent shall provide a signed and dated certificate of completion to the Department, in the same form as that attached hereto as Attachment A, evidencing that he has successfully completed the fair housing training provided by FHRCSP, within thirty (30) days of completion of such course. Respondent shall provide a copy of the certified check referenced in Section III.C. with the certificate of completion. The certificate of completion and the copy of the certified check shall be mailed to the Department by regular mail to the following address:

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

E. Respondent shall purchase four (4) advertisements using local radio, TV stations, or print media, which have the potential to reach over five hundred thousand (500,000) individuals, in the Philadelphia metropolitan area over a period of one (1) year that address familial status discrimination. The period of one (1) year shall begin within five (5) days of the effective date of this Consent Order. The advertisement to be used (in print or oral form) is attached as Attachment B. The parties have agreed that the following examples will satisfy this requirement:

1. Advertisements with any of the local radio or TV stations (i.e., KYW, NPR, etc.), which have a potential to reach an audience of five hundred thousand (500,000) or more individuals in the Philadelphia area.
2. Advertisements in print media, if they are placed in the Philadelphia Inquirer and/or Metro newspapers. If an advertisement is placed in the Philadelphia Inquirer, the parties agree that it will be at least 1/8 page size and the advertisement will be in color in the Sunday newspaper. If an advertisement is placed in the Metro, the parties agree that it will be at least 1/4 page size or an insert advertisement.

F. Within one (1) month of the effective date of this Consent Order, Respondent shall insert in all rental documents, advertisements, and application forms used by Respondent the following: the fair housing logo and language described in HUD regulations at 24 C.F.R. § 110.25 (2012). The language in the regulation states:

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,
FAMILIAL STATUS (HAVING ONE OR MORE CHILDREN), OR
NATIONAL ORIGIN:**

- In the sale or rental of housing or residential lots.
- In advertising the sale or rental of housing.
- In the financing of housing.

- In the appraisal of housing.
- In the provision of real estate brokerage services.
- Blockbusting is also illegal.

Anyone who feels he or she has been discriminated against should send a complaint to:

U.S. Department of Housing and Urban Development, Assistant Secretary
for Fair Housing and Equal Opportunity, Washington, D.C. 20410

or

U.S. Department of Housing and Urban Development, Office of Fair
Housing and Equal Opportunity, Region III, The Wanamaker Building,
100 Penn Square East, Philadelphia, PA 19107

- G. For a period of three (3) years from the effective date of the Consent Order, Respondent will provide to HUD, on an annual basis, 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. Respondent's first submission shall be within one (1) month of the effective date of this Consent Order. Subsequent submissions will occur in January of 2014, 2015, and 2016. The information shall be mailed to the Department by regular mail to the following address:

Melody Taylor-Blancher
Director
Office of Fair Housing and Equal Opportunity, 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 of Respondent's payment to FHRCSF, 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 FHRCSF, its successors, assigns, agents, employees, and attorneys hereby forever waive, release, and covenant not to sue Respondent, his 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. 12-AF-064-FH-24, 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, Respondent, his 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 FHRCSP 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. 12-AF-064-FH-24, 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 effective date of this Consent Order pursuant to 24 C.F.R. § 180.450 (2012).
- F. This Consent Order is binding upon FHRCSP, Respondent and their employees, heirs, successors, assigns, and all others working for or associated with Respondent who are involved in the operation of any residential rental property owned or operated by Respondent.
- 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 (2012).
- I. This Consent Order does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondent made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.

VI. MONITORING BY HUD

Respondent agrees and understands that pursuant to a situation which reasonably so warrants, the Department, on request of the Complainant, or on its own motion, may review compliance with this Consent Order. As a part of such review, the Department may require written reports concerning compliance, may inspect, with reasonable notice, any and all residential rental properties owned or operated by Respondent, examine witnesses, and examine and copy pertinent records of Respondent at any reasonable time between the effective date of the Consent Order and three (3) years from said date. Respondent agrees to fully cooperate in any monitoring review undertaken by the Department to ensure compliance with this Consent Order.

VII. DISMISSAL OF CHARGE

In consideration of Respondent's payment to the Complainant 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 Respondent injured FHRCSP by violating the Act. Therefore, as of the effective date of this Consent Order, the Charge against Respondent 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

Respondent's 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). Moreover, if Respondent fails to make full, timely payments to Complainant FHRCSP or otherwise comply with this order, the ALJ will retain jurisdiction to hear a motion by the Charging Party to set aside this Consent Order and set a hearing on the merits of the Charge. Respondent hereby waives his right to object to such motion. As a sanction for the Respondent's breach of this Consent Order, should the Charging Party move to conduct such hearing, and should such motion be granted and a hearing occur, the Respondent shall be liable to the Charging Party for the Charging Party's reasonable attorney's fees and costs in making such motion and conducting such hearing.

IX. ADMINISTRATION

This Consent Order is entered into pursuant to the Fair Housing Act and its implementing regulations, 24 C.F.R. § 180.450 (2012). This Consent Order shall remain in effect for a period of three (3) years from its effective date. The effective date of the Consent Order shall be the date on which it is approved and entered by the Court.

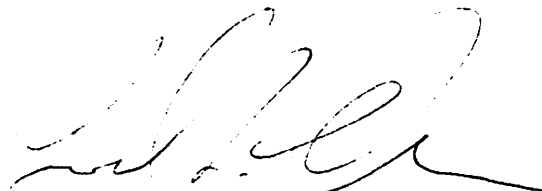
X. CONSENT AND SIGNATURE PAGES

The undersigned party has read the foregoing Consent Order, HUD ALJ No. 12-AF-064-FH-24, and willingly consents to it with a full understanding of the rights it confers and the responsibilities it imposes on him, as signified by his signature and those of his counsel below:

FOR RESPONDENT GARY M. ABRAHAM:


GARY M. ABRAHAM 2/21/13

Date: _____


LEONARD F. REUTER, ESQUIRE
Attorney for Respondent Gary M. Abraham

Date: 2/21/2013

CONSENT AND SIGNATURE PAGES

The undersigned party has read the foregoing Consent Order, HUD ALJ No. 12-AF-064-FH-24, 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 COMPLAINANT FAIR HOUSING RIGHTS CENTER IN SOUTHEASTERN PENNSYLVANIA:

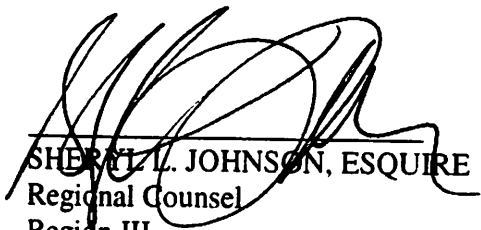

ANGELA MCIVER
Executive Director

Date: February 15, 2013


CONSENT AND SIGNATURE PAGES

The undersigned party has read the foregoing Consent Order, HUD ALJ No. 12-AF-064-FH-24, 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:


SHERELL L. JOHNSON, ESQUIRE
Regional Counsel
Region III

2/27/13
Date

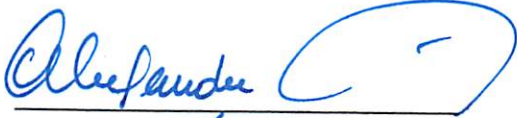

PATRICIA MCGARVEY KNEBELS, ESQUIRE
Trial Attorney
U.S. Department of Housing
and Urban Development
Office of Regional Counsel
Region III
The Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3380
Telephone: (215) 430-6664
Fax: (215) 656-3446

2/27/13
Date

XI. ORDER OF THE COURT

This Consent Order settling HUD ALJ Case No. 12-AF-064-FH-24 has been signed by all parties and appears to be in the public interest. Accordingly, the terms of the Consent Order are hereby entered.

SO ORDERED this 28th day of February, 2013.

A handwritten signature in blue ink, appearing to read "Alexander Fernández", followed by a large, stylized circular flourish.

Alexander Fernández
ADMINISTRATIVE LAW JUDGE