

**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,	:	
	:	HUDALJ No. 12-M-002-FH-1
Charging Party,	:	FHEO No. 03-11-0212-8
	:	
v.	:	January 24, 2012
	:	
Young Kim, Kwang Kim, and	:	
Margaret Kim,	:	
	:	
	:	
Respondents	:	

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 (“FHCSP”) 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 November 4, 2011,¹ Charging Party issued a Charge of Discrimination (hereinafter “Charge”) against Respondents Young Kim, Kwang Kim, and Margaret Kim (hereinafter “Respondents”) alleging 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.

The Charge alleged that Respondents posted advertisements suggesting a preference against families with children, and indicated to FHCSP testers that Respondents do not rent to individuals and/or families with children. In addition, the Charge alleged that, as a result of Respondents’ discriminatory conduct, FHCSP, a non-profit fair housing organization whose mission is to educate and advocate for equal access to housing for all persons in Southeast Pennsylvania without regard to race, color, religion, national origin, disability, gender or familial status, was forced to divert

¹ Charging Party initially issued a Charge of Discrimination against Respondents in this case on September 13, 2011. To ensure that all parties were properly served, Charging Party withdrew its September 13, 2011 Charge of Discrimination and issued the current Charge on November 4, 2011.

significant time and resources away from its other fair housing advocacy and educational programs to investigate and counteract Respondents' discriminatory actions.

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 March 6, 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 and counsel 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 any residential rental property 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 Department'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 ONE THOUSAND DOLLARS (\$1,000.00) to Complainant FHCSP in monthly installments of \$100, the first of which will be paid within five days of the effective date of this Consent Order and the remainder to be paid not later than the first of each month for the following nine months. The Respondent will pay in the form of a certified check made payable to the Fair Housing Council of Suburban Philadelphia, to be sent by overnight mail or certified mail to the following address:

James Berry, Executive Director
Fair Housing Council of Suburban Philadelphia
455 Maryland Drive, Suite 190
Ft. Washington, PA 19034

- B. Within five (5) days of the date of the issuance of the checks to Complainant 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, PA 19107

- C. Within six (6) months of the effective date of this Consent Order, Respondents Young Kim, Kwang Kim, and Margaret Kim will participate in a fair housing training to be approved by HUD and to be provided to Respondents free of charge. The training will address federal, state and local fair housing laws, regulations and ordinances. Within five (5) business days of the effective date of this Consent Order, Respondent Young Kim will contact FHEO Equal Opportunity Specialist Sharese Paylor by telephone at (215) 861-7617 to schedule the training.

- D. Respondents shall provide a certificate of completion to the Department evidencing that Young Kim, Kwang Kim, and Margaret Kim have successfully completed the fair housing training, 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

- E. 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 and accompanying text in HUD regulations 24 C.F.R. § 110.25 (2011), which 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.**

- F. For a period of two years from the effective date of the Consent Order, Respondents will provide to HUD on a quarterly basis (April 1, July 1, October 1, January 1) the following information in writing: (a) Family composition (number of children under 18 years of age) residing in each unit of any residential rental property owned by Respondents; (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 via First Class Mail to HUD's Director of the Office of Fair Housing and Equal Opportunity, at 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 for Respondents' full payment of \$1,000 to Complainant FHCSF, and 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 FHCSF, 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 any residential rental property previously owned by Respondents, 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-M-002-FH-1, 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 for 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 residential rental property previously owned by Respondents, hereby forever waive, release, and covenant not to sue the Department or FHCSF 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-M-002-FH-1, 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. DISMISSAL OF CHARGE

In consideration for Respondents' full payment of \$1,000 to Complainant FHCSF, and compliance with the conditions and terms of this Consent Order and with all orders of this tribunal described herein, the Department agrees to the dismissal, without a formal determination, of the allegations that Respondents injured Complainant FHCSF 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, or to move the ALJ to set aside this Consent Order should any party fail to comply with the terms of the Consent Order.

VI. 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 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).
- F. This Consent Order is binding upon Complainant FHCSF, the Department, Respondents and their employees, heirs, successors, assigns, and all others working for or associated with Respondents who are involved in the operation of any and all residential rental properties owned by Respondents, including any subsequent owners of such residential rental properties.
- 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 (2011).
- 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.

VII. 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 any and all of Respondents' residential rental properties with reasonable notice, examine witnesses, and examine and copy of Respondents' pertinent records 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.

VIII. 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.

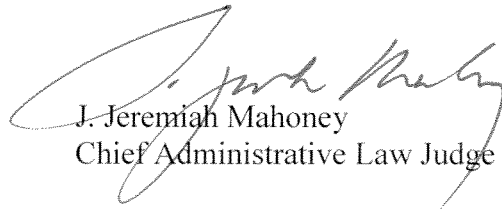
IX. COMPLIANCE

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). Moreover, if Respondents fail to make full, timely payments to Complainant FHCSF 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. Respondents hereby waive their right to object to such motion. As a sanction for the Respondents' 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 Respondents 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.

X. ORDER OF THE COURT

The hearing in this matter was scheduled for March 6, 2012, but the parties notified the court by letter on January 24, 2012 that the parties had agreed to settle the matter, and enclosed a signed Consent Order to that effect. Having reviewed the Consent Order, the Court finds that the parties' agreement appears to be in the public interest. All parties having signed, their agreement (incorporated in the foregoing Initial Decision and Consent Order) is accepted and issued, effective on January 24, 2012.

So Ordered,


J. Jeremiah Mahoney
Chief Administrative Law Judge (Acting)