

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)	
XXXX, XXXX, and their minor)	
children,)	
)	
Charging Party,)	HUDALJ No.
)	FHEO No. 08-11-0199-8
v.)	
)	
Thea Morgan,)	
)	
Respondent.)	
)	
)	

CHARGE OF DISCRIMINATION

I. **JURISDICTION**

On July 25, 2011, XXXX and XXXX filed a verified complaint with the United States Department of Housing and Urban Development (“the Department” or “HUD”), alleging that Respondent Thea Morgan discriminated against them because of familial status in violation of subsections 804(a) and 804(c) of the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (“Charge”) on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary of HUD has delegated to the General Counsel (24 C.F.R. § 103.400(a)(2)(i) and § 103.405), who has redelegated to the Assistant General Counsel for Fair Housing Enforcement (76 Fed. Reg. 42465 (July 18, 2011)), the authority to issue a Charge.

The Regional Director of the Office of Fair Housing and Equal Opportunity (FHEO) for Region VIII, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case because of familial status and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and the Determination of Reasonable Cause, Respondent Thea Morgan is charged with discrimination because of familial status as follows:

- 1) It is unlawful to refuse to rent after the making of a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny, a dwelling to any person because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(1), (b)(3), 100.60(a), (b)(2).
- 2) It is unlawful to make statements with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a), (c)(1), (2).
- 3) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with (a) a parent or another person having legal custody of such individual or individuals or (b) the designee of such parent or other person having such custody, with the written permission of such parent or other person. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.
- 4) Complainants XXXX and XXXX are the parents of three minor children who, at all relevant times, lived with Complainants. Complainants, at all relevant times, were eligible to rent the subject property. Complainants and their minor children are aggrieved persons, as defined by 42 U.S.C. § 3602(i).
- 5) Respondent, at all relevant times, resided in Cody, WY and was the sole owner of the subject property located at XXXX, Cody, WY 82414.
- 6) The subject property is a three-bedroom townhouse in a housing complex. The subject property contains a basement, main level, and second level with a flight of stairs connecting each floor. The subject property is a dwelling as defined by 42 U.S.C. § 3602(b).
- 7) In late May 2011, Respondent made the subject property available for rent by having her son, Kevin Morgan, place an advertisement in a local newspaper, The Cody Enterprise. The advertisement read:

3 bedroom 2.5 bathroom Town-home with nice back deck/yard with view

and privacy fence. autosprinklers/dishwasher/washer/dryer Included.
Small dog extra on Deposit. \$750/Month, \$750/deposit no smoking/no
cats. Email kc@lgradio.com for Pictures/Application or Call (307) 527-
6021.

- 8) On or about June 10, 2011, Complainants were living in LaGrange, WY and sought to move to Cody, WY. Complainant XXXX called a telephone number in the advertisement with the intent to rent the property sight-unseen due to the lack of adequate rentals in the city of Cody. Respondent answered her telephone call.
- 9) When Complainant XXXX asked about renting the subject property, Respondent asked how many people were in her family. Complainant XXXX replied her family included her husband, Complainant XXXX, and their three children.
- 10) Upon learning that Complainants had children, Respondent asked for their ages. Complainant XXXX replied that their ages did not matter. Respondent stated that the children's ages did matter because she would not rent to anyone who had small children. Respondent stated that the children could get injured on the stairs in the subject property and the children's safety was her responsibility.
- 11) Complainant XXXX informed Respondent that the children's safety was Complainants' responsibility and that the Respondent could not refuse to rent to her because of her children, regardless of their ages. Respondent replied, "Oh yes I can, and oh yes I will" or words to that effect. Respondent then abruptly ended the conversation by hanging up the telephone. Respondent took no further action to rent the subject property to Complainants.
- 12) Several days later, Complainant XXXX placed a second call and spoke with Respondent's son. Respondent's son confirmed that the subject property was still available for rent. Respondent's son placed additional advertisements for the subject property in the Cody Enterprise on June 15 and June 20, 2011.
- 13) Approximately 20 families with children called Respondent to inquire about the subject property.
- 14) On or about July 1, 2011, Respondent rented the subject property to a couple without children.
- 15) As a result of Respondent's discriminatory conduct, Complainants suffered actual damages, including a lost housing opportunity, economic loss, inconvenience, and emotional distress. For example, upon learning they could not live in the subject property, Complainants experienced considerable emotional distress. Due to the lack of suitable housing in the city of Cody, where Complainant XXXX was employed, Complainants and their children were forced to move to Clark, WY. Complainant XXXX must now commute close to forty miles to work and

Complainants pay about \$250 more in monthly rent than they would have at the subject property.

- 16) By refusing to negotiate with Complainants, Respondent made housing unavailable to them because of familial status in violation of 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(1), (b)(3), 100.60(a), (b)(2).
- 17) By making oral statements indicating an unwillingness to rent to Complainants because they had minor children, Respondent violated 42 U.S.C. § 3604(c) and 24 C.F.R. §§ 100.75(a), (c)(1), (2).

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondent Thea Morgan with engaging in discriminatory housing practices in violation of subsections 804(a) and (c) of the Act, and prays that an Order be issued that:

- 1) Declares that Respondent's discriminatory housing practices, as set forth above, violate the Act, and its implementing regulations;
- 2) Enjoins Respondent, her agents, her employees and successors, and all other persons in active concert or participation with her from discriminating because of familial status in violation of the Act against any person in any aspect of the rental of a dwelling pursuant to 42 U.S.C. § 3612(g)(3);
- 3) Awards such damages as will fully compensate Complainants and their children, including but not limited to, emotional distress damages and financial costs associated with Respondent's discriminatory conduct in violation of 42 U.S.C. § 3604(a) and (c);
- 4) Assesses a civil penalty against Respondent for each violation of the Act that Respondent has committed pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(a); and
- 5) Provides any such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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Associate General Counsel for Fair Housing

_____/s/_____
KATHLEEN M. PENNINGTON
Assistant General Counsel for
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_____/s/_____
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_____/s/_____
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Date: September 30, 2011