

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS**

The Secretary, United States)	
Department of Housing and Urban)	
Development, on behalf of the)	
Fair Housing Council of Greater)	
San Antonio,)	
)	ALJ No.
Charging Party,)	FHEO No. 06-13-0972-8
)	
v.)	
)	
Blackacre, L.L.C., Alishia Ritchey,)	
Implicity Management Company,)	
Pebble Beach Apartments, L.L.C.,)	
)	
Respondents.)	
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CHARGE OF DISCRIMINATION

I. JURISDICTION

On July 24, 2013, Complainant Fair Housing Council of Greater San Antonio ("Complainant"), a non-profit housing rights advocacy agency, c/o Sandra Tamez, Executive Director, filed a timely complaint with the U.S. Department of Housing and Urban Development ("HUD") alleging that Respondents Blackacre, L.L.C. ("Blackacre"), and Alishia Ritchey, the owner and manager of the Pebble Beach Apartments ("the subject property"), discriminated against Complainant based on familial status in violation of the Fair Housing Act, as amended ("the Act"), 42 U.S.C. § 3604(b) and 42 U.S.C. § 3604(c).

Complainant amended the complaint on December 17, 2014, to add Respondents Implicity Management Company ("Implicity"), the current management company; to add Pebble Beach Apartments, L.L.C. ("Pebble Beach"), the current owner; to identify the last name and employment status of Respondent Alishia Ritchey; to identify Respondent Blackacre as the former owner; to identify Gary Younger as the registered agent for Respondent Pebble Beach; to identify Connie Arambula as the representative for Respondent Blackacre; and to identify the most recent date of an alleged violation as November 14, 2014, and continuing.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons 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 has delegated that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405 (2014)), who has re delegated the authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

On September 30, 2014, the Director of the Office of Fair Housing and Equal Opportunity ("FHEO") for Region VI, on behalf of the Assistant Secretary for FHEO, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case and has authorized and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations in the complaint and Determination of Reasonable Cause, HUD hereby charges Respondents Blackacre, L.L.C., Alishia Ritchey, Implicity Management Company, and Pebble Beach Apartments, L.L.C., with violating the Act as follows:

A. Legal Authority

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2), 100.65(a), (b)(1) and (4).
2. It is unlawful to make, print, or publish, or cause to be made, printed, or published any notice or statement, with respect to the rental of a dwelling, that indicates any 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. §§ 100.50(b)(4), 100.75(a), (b), and (c)(2).
3. "Familial status" is defined as one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or another person having legal custody of such individual or individuals. 42 U.S.C. § 3602(k)(1); 24 C.F.R. § 100.20.

B. Parties and Subject Property

4. Complainant Fair Housing Council of Greater San Antonio is a private, non-profit 501(c)(3) corporation and fair housing organization whose mission includes promoting fair housing and eliminating discriminatory housing practices in the area of rental housing. Complainant's office is located at 4414 Centerview Drive, Suite 229, San Antonio, Texas 78228. Complainant receives federal funding from HUD.
5. Complainant is an aggrieved person as defined by the Act, 42 U.S.C. § 3602(i).

6. The Pebble Beach Apartments, which is also referred to as Pebble Beach Village Apartments (“subject property”), is a 61-unit multifamily apartment complex, located at 402 East Aviation, Universal City, Texas 78148.
7. The subject property is a dwelling as defined by the Act, 42 U.S.C. 3602(b).
8. The subject property is not covered by the housing for older persons exemption at 42 U.S.C. § 3607(b), and the subject property does not receive federal funding.
9. On the dates of Complainant’s testers’ visits to the subject property, December 16, 2012, and December 19, 2012, Respondent Blackacre owned the subject property.
10. Respondent Blackacre hired the Lynd Company (“Lynd”) on September 1, 1999, to manage the subject property.¹
11. On January 23, 2014, Respondent Blackacre sold the subject property to Respondent Pebble Beach.
12. Respondent Pebble Beach thereafter hired Respondent Implicity as the subject property’s new management company.
13. Respondent Pebble Beach owned and Respondent Implicity managed the subject property during the most recent date of violation, November 14, 2014.
14. Respondent Alishia Ritchey was hired by Lynd on November 30, 2009. Respondent Ritchey managed the subject property as the Community Director under Lynd’s employment until February 7, 2014. Until February 7, 2014, Lynd and Respondent Blackacre directed and controlled Respondent Ritchey’s conduct in the performance of her duties as the subject property’s Community Director. On or about February 7, 2014, Respondents Pebble Beach and Implicity hired Respondent Ritchey as the Property Manager for the subject property. Until about May 2014, Respondent Pebble Beach and Respondent Implicity directed and controlled Respondent Ritchey’s conduct in the performance of her duties as the subject property’s Property Manager.

C. Factual Allegations

15. Complainant conducted an investigation of the subject property on December 16, 2012, and December 19, 2012. Complainant had two testers conduct site visits to determine whether the subject property’s ownership and management established community rules that unreasonably restricted children’s use of amenities.

¹ Lynd managed the subject property until or about the end of January 2014. Lynd is not a named respondent in this case because it is a named respondent under a separate consolidated HUD case, 06-13-0966-8.

16. On December 16, 2012, the first tester visited the subject property and met with Respondent Ritchey. The tester observed a sign posted at the pool that stated, "Children under the age of 14 should not use the pool without an adult in attendance."
17. On December 20, 2012, the second tester visited Respondent Ritchey. Respondent Ritchey stated that no child under 14 could use the pool without the supervision of someone at least 18 years old. The tester also indicated that she saw a pool sign that said those over 17 could swim unsupervised.
18. Respondents provided HUD a sample lease used at the subject property, dated June 1, 2012. Three provisions in the lease state that rules and community policies are a part of the lease and violation of those rules are grounds for eviction. Specifically, the lease states,

18. COMMUNITY POLICIES OR RULES. You and all guests and occupants must comply with any written apartment rules and community policies, including instructions for care of our property. Our rules are considered part of this Lease Contract. We may make reasonable changes to written rules, effective immediately . . .

19. LIMITATIONS ON CONDUCT. . . . Any swimming pools, saunas, spas, tanning beds, exercise rooms, storerooms, laundry rooms, and similar areas must be used with care in accordance with apartment rules and posted signs. . . .

32. DEFAULT BY RESIDENT. You'll be in default if: . . . (2) you or any guest or occupant violates this Lease Contract, apartment rules . . . Eviction. If you default . . . , we may end your right of occupancy . . .

19. On November 14, 2014, HUD investigators observed a pool sign that stated: "CHILDREN UNDER 12 YRS OLD MUST BE ACCOMPANIED BY AN ADULT."
20. On November 14, 2014, Respondent Implicity's Regional Manager, Sonia Torres, gave HUD investigators Implicity's Welcome Letter and Community Policies and Addendums Packet used at the subject property. It stated that the policies and procedures contained in the packet were an addendum to the lease contract and violating the policies would result in lease termination. Several sections discuss limitations on the activity of children, specifically:

9. POOL RULES: . . . Persons under 12 years of age must be accompanied by an adult.

10. LAUNDRY ROOMS: . . . Persons under the age of 16 must be accompanied by an adult.

11. MINOR PERSONS: For safety reasons, persons under the age of 16 are not permitted in the swimming pool unless accompanied by an adult. Persons under the age of 16 should not be left unsupervised in an apartment. . . . Failure of an adult resident to provide such access and supervision will be considered a breach of the lease agreement. . . . Please do not leave your children unattended. Parking lots are not to be used as playgrounds, if your children are left playing in the street with their bikes, scooters, etc you will be given a 24 hour notice to vacate.

21. Respondent Implicity's Welcome Packet includes a document entitled SWIMMING POOL/SPA ADDENDUM AND ACKNOWLEDGEMENT, which states, in part: "2) Resident agrees that persons under sixteen (16) years of age must be accompanied by an adult who is trained in swimming."
22. Respondent Implicity's Welcome Packet includes a document entitled POOL POLICIES AND RULES, which also states, in part: "5. Children under the age of twelve (12) must be accompanied by a responsible adult. CHILDREN MAY NOT WATCH CHILDREN!"
23. In addition, Respondent Implicity's Welcome Packet includes a document entitled POOL RULES ADDENDUM, which states, in part: "2. No children under the age of 12 allowed in pool area without adult supervision."
24. On November 14, 2014, Ms. Torres stated to HUD's investigators that the pool restriction for 12 year olds was another company's policy. Lisa Dillard, Implicity's Property Manager, said the current rule is that an adult must accompany those under 12 at the pool, but the old rule was 16.
25. On December 1, 2014, Respondent Ritchey stated a person had to be 18 years old to use the pool unsupervised, and residents knew this.
26. Read together, the child supervision and other community policies communicated the following specific rules placing restrictions on families with children and were discriminatory on their face based on familial status:
 - (i) Children under age 16 must be supervised by an adult at all times, including inside the apartment and throughout the community;
 - (ii) Inconsistent rules requiring adult supervision for children under age 16 and younger at the pool;
 - (iii) Children under age 16 cannot use the laundry facilities without adult supervision;
 - (iv) Unsupervised children cannot ride bicycles, skateboards, scooters, etc. in the parking lot or on the street.

27. Respondents' above-enumerated rules placed unduly restrictive limitations on families with children that were not motivated by legitimate concerns for the health and safety of residents.
28. Respondents unlawfully imposed overly broad and unduly burdensome policies related to children that were not the least restrictive means to ensure safety and enjoyment of the premises by all tenants.
29. Respondents' above-cited policies were directed specifically at children, and families with children, living at the subject property.

D. Legal Allegations

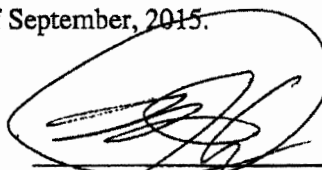
30. By maintaining the overly restrictive policies cited in paragraphs 17-26, Respondents discriminated against Complainant and families with children in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of familial status in violation of 42 U.S.C. § 3604(b).
31. By publishing discriminatory statements in community policies and lease addenda and on amenity signs throughout the subject property that indicated a limitation or discrimination against families with children, Respondents violated 42 U.S.C. § 3604(c).
32. By communicating to Complainant's tester pool rules that indicated a limitation or discrimination against families with children, Respondents Blackacre and Ritchey violated 42 U.S.C. § 3604(c).
33. As a result of Respondents' discriminatory conduct, Complainant has suffered damages, including economic loss due to diversion of its resources and frustration of mission: 1) to investigate and determine the existence, nature, and extent of Respondents' discriminatory housing practices; 2) to educate and perform outreach to counteract the effects of Respondents' discrimination; and 3) to protect the fair housing rights of Complainant's members, associates, and constituents from Respondents' discrimination. This diversion of Complainant's resources and Respondents' discriminatory housing practices frustrated Complainant's mission to promote fair housing and eliminate discriminatory rental housing practices.

III. CONCLUSION

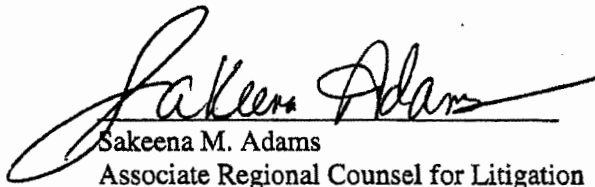
WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(b) and (c), and requests that an Order be issued that:

- a. Declares that the discriminatory housing practices of Respondents, as set forth above, violate §§ 804(b) and (c) of the Act, as amended, 42 U.S.C. §§ 3601 *et seq.* and its implementing regulations;
- b. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating against any person because of familial status in any aspect of the rental of a dwelling;
- c. Awards such monetary damages as will fully compensate Complainant for any and all damages caused by Respondents' discriminatory conduct;
- d. Assesses a civil penalty against each Respondent for their violations of the Act pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
- e. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

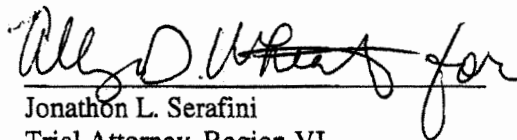
Respectfully submitted on this 30th day of September, 2015.



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing "*Important Notice*", *Charge of Discrimination*", and "*Determination of Reasonable Cause*", in HUD/FHCOGSA v. Pebble Beach Apartments, et al, FHEO Case No. 06-13-0972-8, were sent on the 30th day of September, 2015 to the following in the manner indicated:

By UPS Next Day Air, Email and Facsimile

Docket Clerk
Office of Administrative Law Judges
U.S. Department of Housing and
Urban Development
409 3rd Street, SW, Suite 201
Washington, DC 20024
Alj.alj@hud.gov
Facsimile: (202) 619-7304

By UPS Next Day Air - Signature requested

Complainant:

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San Antonio, TX 78228

By UPS Next Day Air - Signature requested

Respondents:

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San Antonio, TX 78230

Alishia Ritchey
Pebble Beach Apartments
6033 De Zavala Rd.
San Antonio, TX 78249

Implicit Management Company
8603 North New Braunfels, Suite 101
San Antonio, TX 78217

Pebble Beach Apartments, L.L.C.
c/o Pebble Beach Apartments
402 E. Aviation Blvd.
Universal City, TX 78148

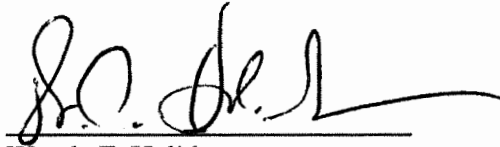
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