



engaged in discriminatory housing practices, and the Director has authorized and directed the issuance of this Charge of Discrimination by the Regional Counsel. 42 U.S.C. § 3610(g)(2).

## **II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE**

Based upon HUD's investigation of the allegations contained in the aforementioned complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents MSM Brothers and Kim Hughes with violating the Act as follows:

### **A. LEGAL AUTHORITY**

1. It is unlawful to refuse to rent or negotiate to rent 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. §§ 100.60(a) and (b)(2).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65(b)(4).
3. It is unlawful to make statements or publish advertisements with respect to the rental of a dwelling that indicate 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. §§ 100.75(a) and (c)(1).
4. "Familial status" means one or more individuals under the age of eighteen being domiciled with a parent or legal guardian. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
5. Pursuant to the Act, an "aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
6. Pursuant to the Act, "dwelling" means any building, structure, or portion thereof which is occupied as, or designated or intended for occupancy as, a residence by one or more families. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

### **B. PARTIES AND SUBJECT PROPERTY**

7. The property that is the subject of the discriminatory housing practices, White Cliffs at Dover ("subject property"), is located at 510 Martha's Way, in Dover, New Hampshire.
8. The subject property constitutes a dwelling within the meaning of 42 U.S.C. § 3602(b) and does not qualify for any exemptions under the Act.

9. Complainant [REDACTED] is the parent of a child who was approximately three months old on the date of Complainant [REDACTED] visit to the subject property for the purpose of submitting an application to rent an apartment.
10. Complainant and her child are “aggrieved persons” as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
11. Respondent MSM Brothers owns the subject property.
12. Respondent Kim Hughes is employed by Respondent MSM Brothers in the role of operations manager for the subject property.

### **C. FACTUAL ALLEGATIONS**

13. In October of 2015, Complainant telephoned the subject property to ask about available units. She was told that there were two two-bedroom units available and encouraged to complete an application.
14. She traveled to the rental office at the subject property to complete a rental application and met with Respondent Hughes there.
15. Respondent Hughes reviewed Complainant’s rental application, and noticing that Complainant had listed her minor child as a prospective occupant, Respondent Hughes informed Complainant of the policy of Respondent MSM Brothers to place families with children under ten years old in first-floor units only.
16. Respondent Hughes further informed Complainant that none of the units then available were on the first floor, and that there was no availability on the waiting list for such units, and Complainant would need to check back again in the future to inquire about available first-floor units.
17. Complainant recounted her visit to the subject property to [REDACTED] an employee of the Dover Housing Authority, which is the local entity responsible for administering Complainant’s housing voucher.
18. [REDACTED] noted that Complainant was distraught over the imminent expiration of her housing voucher on November 3, 2015, and the stress of securing suitable family housing while caring for her infant child.
19. On January 8, 2016, one of two trained testers engaged by the New Hampshire Legal Assistance Fair Housing Project (“NHLA”) called the subject property to inquire about available rental units. During that call, the woman who answered the phone, who identified herself as “Kim,” asked Tester #1 for whom the apartment would be rented.

20. When told by Tester #1 that the unit would be occupied by the tester and her five-year-old daughter, Kim told the tester that children under ten years of age must reside on the ground floor.
21. On June 21, 2016, a second NHLA tester called the subject property to inquire about available rental units. The woman who answered the call, who later in the conversation identified herself as "Kim," informed Tester #2 that there was no availability at the property, and also informed the tester that there were "quite a few" names on the waiting list.
22. Tester #2 then mentioned that she required a two-bedroom unit since she was the parent of a daughter. After Kim asked about the child's age, the tester stated that her daughter was nine years old, to which Kim remarked that normally White Cliffs' policy was that "children under 8 need to be on ground units," and that made the age of the Second Tester's daughter kind of borderline.
23. Accordingly, testing performed by NHLA testers in January and June of 2016 corroborates the existence of a discriminatory policy at White Cliffs.
24. Respondents' records establish that two-bedroom apartments were available on the second and third floors of buildings at the subject property during the relevant time period.
25. As a result of Respondents' actions, Complainant suffered damages including but not limited to the loss of a housing opportunity, emotional distress, inconvenience, and frustration.

#### **D. FAIR HOUSING ACT VIOLATIONS**

26. Respondent MSM Brothers and Respondent Hughes violated the Act by refusing to negotiate the rental of a dwelling unit and by steering Complainant away from her desired housing on the second or third floors of the subject property. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a) and (b)(2); 24 C.F.R. § 100.70(a) and § 100.70(c)(1), (2), and (4).
27. Respondent MSM Brothers and Respondent Hughes violated the Act by refusing to permit Complainant to rent an apartment on the second or third floors of the subject property while permitting families without children to live on whichever floors they pleased. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.65(b)(3) and 100.65(b)(4).
28. Respondent MSM Brothers and Respondent Hughes violated the Act when Respondent Hughes informed Complainant of Respondent MSM Brothers' policy of placing families with children under ten years old in first-floor units only. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.75(a), (b), (c)(1), and (c)(2)

### **III. CONCLUSION**

WHEREFORE, the Secretary of HUD, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a), (b), and (c), and prays that an order be issued that:

- A. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. Sections 3601- 3619;
- B. Enjoins Respondents from further violations of 42 U.S.C. §§ 3604(a), (b) and (c);
- C. Awards such damages as will fully compensate Complainant for her loss of housing opportunities, emotional distress, inconvenience, and frustration caused by Respondents' actions in violation of 42 U.S.C. §§ 3604(a), (b) and (c);
- D. Awards a civil penalty against each Respondent for every violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3); and
- E. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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