

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

701-29 A 13 00  
FEDERAL REGISTER  
ADMINISTRATIVE

The Secretary, United States )  
Department of Housing and Urban )  
Development, on behalf of )  
Austin Tenants' Council, )  
 )  
Charging Party, )  
 )  
v. )  
 )  
Kay Rios, )  
Respondent. )

FHEO No. 06-08-0935-8

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about June 17, 2008, Complainant Austin Tenants' Council ("ATC") filed a verified complaint with the United States Department of Housing and Urban Development ("HUD") alleging that Respondent Kay Rios violated the Fair Housing Act ("Act"), 42 U.S.C. §§ 3601-19, by discriminating based on familial status, in violation of 42 U.S.C. § 3604(c). The complaint was amended on or about November 6, 2008 to include sex as an additional basis. The complaint was again amended on or about January 14, 2009 to clarify the allegations of the complaint.

The Act authorizes the issuance of 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 has delegated to the General Counsel, who has re-delegated to the Assistant General Counsel for Fair Housing Enforcement, the authority to issue such a Charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee. 73 Fed. Reg. 68441, 68442 (Nov. 18, 2008).

The Director of the Office of Fair Housing and Equal Opportunity for Region VI, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on familial status, and has authorized and directed the issuance of this Charge of Discrimination.

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

Based on HUD's investigation of the allegations contained in the aforementioned complaint and Determination of Reasonable Cause, Respondent Kay Rios is charged with violating 42 U.S.C. § 3604(c) as described below.

1. It is unlawful to 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 that indicates any preference, limitation, or discrimination based on familial status. 42 U.S.C. § 3604(c).
2. Complainant Austin Tenants Council, an aggrieved person under the Act, is a non-profit corporation organized to educate and promote the enforcement of housing rights in Texas. ATC's vision is to make Texas communities open to all without discrimination and free of landlord-tenant disputes. ATC is located at 1640-B East 2nd Street, Suite 150, Austin, Texas.
3. Respondent Rios owns or co-owns at least 13 residential properties within the Wichita Falls, Texas area, including the subject properties. The subject properties consist of: (1) two efficiencies with a shared bathroom, and (2) a two-bedroom house.
4. The efficiencies are located in a detached garage on Rios' principal residence. The address of the principal residence is 694 U.S. Business Highway 287 North, Wichita Falls, Texas. The two efficiencies are dwellings within the meaning of 42 U.S.C. § 3602(b).
5. The two-bedroom house is located at 1324 38th Street, Wichita Falls, Texas. This house is a dwelling within the meaning of 42 U.S.C. § 3602(b).
6. On or about April 24 and April 29, 2008, Respondent posted an advertisement on the Thrifty Nickel/American Classified website. The advertisement read as follows:

Country Place Efficiency, one room. Share bath. Male –  
Deposit, no pets or children. House – two bedroom, deposit.  
Must have job, references, no drugs, no pets, no children. 940  
322-3128, 940 761-2926.
7. On or about April 24, 2008, ATC viewed the advertisement described in the foregoing paragraph online.
8. Respondent caused to be published the advertisement described in paragraph six above as late as May 8, 2008.

9. By causing to be published advertisements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination because of familial status, Respondent Rios discriminated against ATC in violation of 42 U.S.C. § 3604(c).
10. Because of Respondent Rios' discriminatory conduct, ATC has suffered damages, including economic loss due to diversion of its resources and a frustration of its mission. ATC was unable to spend as much time recruiting testers as intended because its resources were devoted to reviewing, testing, and developing this case to combat discriminatory advertising.

### **III. CONCLUSION**

WHEREFORE, the Secretary of the United States 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 Rios with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(c), and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondent Rios, as set forth above, violated subsection 3604(c) of the Act. 42 U.S.C. § 3604(c);
2. Enjoins Respondent Rios, her agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating in violation of the Act against any person in any aspect of the purchase or rental of a dwelling;
3. Awards such damages as will fully compensate Complainant ATC, an aggrieved person, for damages, including compensation for economic loss for diversion of resources and frustration of mission caused by Respondent Rios' discriminatory conduct; and
4. Awards a civil penalty against Respondent Rios for each violation of the Act committed, pursuant to 42 U.S.C. § 3612(g)(3); 24 C.F.R. § 180.671(a)(1).

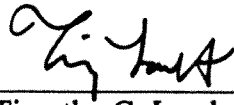
The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 29th day of September, 2009.



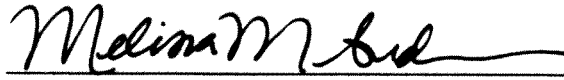
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