

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF THE SECRETARY**

The Secretary, United States Department of  
Housing and Urban Development,  
Charging Party, on behalf of:

Delores Walker, Gregory Walker,  
by and through Delores Walker, his  
legal guardian,

Complainants,

v.

Michael Corey

Respondent.

HUDALJ 10-M-207-FH-37

June 15, 2012

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HUD OFFICE OF  
HEARINGS AND APPEALS

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For the Respondents: Fred F. Holroyd, Attorney, Holroyd & Yost, Charleston, WV

**ORDER ON SECRETARIAL REVIEW**

On May 31, 2012, the Charging Party submitted a *Petition for Review* ("Petition"), appealing the May 16, 2012, Initial Decision and Order ("Initial Decision") issued by Acting Chief Administrative Law Judge ("ALJ") J. Jeremiah Mahoney. First, the ALJ found that Respondent's statements to Complainant Delores Walker did not constitute a violation under 42 U.S.C. § 3604(c). Second, the ALJ found that the Charging Party failed to establish that Respondent's conduct constituted a violation under 42 U.S.C. § 3604(f)(1) and lastly, under 42 U.S.C. § 3604(f)(2). In its Petition, the Charging Party argues that Respondent (1) violated § 3604(c) by making facially discriminatory statements; (2) violated § 3604(f)(1) by refusing to negotiate on terms that were nondiscriminatory, thus making housing unavailable because of

disability<sup>1</sup>; and (3) violated § 3604(f)(2) by imposing burdensome application requirements because of Mr. Gregory Walker's disability. The Charging Party requests that the Secretary vacate the Initial Decision and remand the case to the ALJ.

Upon review of the entire record in this proceeding, including the Charging Party's Petition filed with the Secretary, and based on an analysis of the applicable law, I GRANT the Charging Party's Petition for the reasons set forth below. Pursuant to 24 C.F.R. § 180.675(a), I SET ASIDE the ALJ's May 16, 2012, Initial Decision. In accordance with 24 C.F.R. §§ 180.675(a) and 180.675(b)(2)-(4) and 42 U.S.C. §§ 3604(c) and 3604(f)(1)-(2), I REMAND this proceeding to the ALJ to issue an initial decision that rules on the question of damages and appropriate civil penalties based on the existing administrative record and this ORDER.

### BACKGROUND

On September 29, 2010, the Charging Party filed a Charge of Discrimination ("Charge") on behalf of Delores Walker and Gregory Walker, by and through Delores Walker, his legal guardian ("Complainants") alleging that Michael Corey ("Respondent") discriminated based on disability in violation of the Fair Housing Act, as amended 42 U.S.C. §§ 3601 *et seq.*, by making facially discriminatory statements in violation of 42 U.S.C. § 3604(c); making housing unavailable because of disability in violation of 42 U.S.C. § 3604(f)(1); and imposing discriminatory terms and conditions because of disability in violation of 42 U.S.C. § 3604(f)(2). Specifically, the Charging Party alleged that after Ms. Walker informed Respondent that she wanted to rent the property with her autistic and mentally retarded brother, Mr. Walker, Respondent violated the Fair Housing Act by requiring Ms. Walker to (1) purchase a \$1 million liability insurance policy to cover damages or injuries caused by Mr. Walker; (2) sign a paper assuming liability for damages caused by Mr. Walker; and (3) obtain a doctor's note from Mr. Walker's doctor. On November 10, 2010, Respondent filed his *Answer* to the Charge. The hearing was held on November 29 and 30, 2011. Post-hearing briefs were submitted on January 17, 2012 and reply briefs were submitted on January 30 and 31, 2012.

On May 16, 2012, the ALJ issued an Initial Decision. First, the ALJ considered whether Respondent's statements constituted direct evidence of discrimination in violation of §§ 3604(f)(1)-(2). See Initial Decision at 10-13. Based on Respondent's testimony, the ALJ concluded that the oral and written statements did not individually or collectively constitute direct evidence because the requirements reflected a concern that Mr. Walker, as a tenant, could present a threat to persons or property. Id. at 11. The ALJ then considered whether the Respondent's statements provided indirect evidence in violation of §§ 3604(f)(1)-(2). Id. at 14-20. The ALJ held that the Charging Party failed to prove a prima facie case of housing discrimination because Complainants (1) did not apply to rent the property and (2) were not financially qualified to rent the property. See id. at 14-15, 17. Lastly, the ALJ considered whether Respondent's statements indicated a preference based on disability under § 3604(c). See id. at 18-20. Based on the record, the ALJ held that Respondent's statements were nondiscriminatory and reasonable requests for information that would determine whether Mr. Walker was a threat to persons or property. See id. at 20.

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<sup>1</sup> The term "disability" is used herein in place of, and has the same meaning as, the term "handicap" in the Act and its implementing regulations.

## DISCUSSION

### **I. The ALJ's Holding that the Charging Party Did Not Prove Respondent Violated 42 U.S.C. § 3604(c) is Erroneous.**

The Charging Party appeals the ALJ's holding that Respondent's conduct did not constitute a violation under 42 U.S.C. § 3604(c).<sup>2</sup> See Petition at 16. In Godlewski, the ALJ referred to Subsection 3604(c) of the Act as a "strict liability" statutory provision. See HUD v. Godlewski, 2007 HUD ALJ LEXIS 69 at \*9 (July 6, 2007). To establish liability under § 3604(c), the Charging Party must show: (1) Respondent made a statement; (2) the statement was made with respect to the sale or rental of a dwelling; and (3) the statement indicated a preference, limitation, or discrimination on the basis of disability. See White v. HUD, 475 F.3d 898, 904 (7th Cir. 2007). The Charging Party maintains that it established each of these factors by direct evidence and the ALJ erred by disregarding this evidence, excusing Respondent's conduct and erroneously analyzing the evidence under an improper standard. After reviewing the Petition and record, the Secretary finds that the Charging Party has proved that Respondent made discriminatory statements with respect to the rental of a dwelling that indicated a preference, limitation or discrimination on the basis of disability in violation of § 3604(c).<sup>3</sup>

A violation of the Fair Housing Act may be proved by direct evidence. See Godlewski, 2007 HUD ALJ LEXIS at \*9. Direct evidence is that "which, if believed, requires the conclusion that unlawful discrimination was at least a motivating factor in the [Defendant's] actions." See White v. Columbus Metro. Hous., Auth., 429 F.3d 232, 238 (6th Cir. 2005). In addition, expressing to prospective renters or any other persons a preference or a limitation on any renter because of a disability is prohibited. Id. Thus, if an ordinary listener believes that the statement suggests a preference against a member of a protected class, then the statement is deemed discriminatory. See White, 475 F.3d at 905-06. Prohibited actions in violation of § 3604(c) include all written or oral statements by a person engaged in the rental of a dwelling unit. See 24 C.F.R. § 100.75(b). Prohibited actions include the use of language which conveys that a unit is not available to a particular group of persons because of disability and expressing to prospective renters a limitation on any renter because of disability. See 24 C.F.R. §§ 100.75(c)(1) and (2). A respondent's motivation for making the discriminatory written or oral statements is immaterial. Discriminatory statements will violate § 3604(c) even if the speaker had no intent to discriminate. See Jancik v. HUD, 44 F.3d 553, 556 (7th Cir. 1995); Housing Rights Ctr. v. Donald Sterling Corp., 274 F. Supp. 2d 1129, 1137-38 (C.D. Cal. 2003), aff'd Housing Rights Ctr. v. Sterling, 84 Fed. Appx. 801 (9th Cir. 2003) ("Plaintiffs need not prove Defendant acted

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<sup>2</sup> Section 3604(c) of the Fair Housing Act makes it unlawful:

To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

<sup>3</sup> The Respondent's opposition to the Petition, "Respondent Michael Corey's Response to Charging Party's Petition," was not received by the Secretary until June 13, 2012, seven days after it was due. See 24 C.F.R. § 180.675(e) ("A statement in opposition to the petition for review may be filed. Such opposition must be received by the Secretary within 22 days after issuance of the initial decision.").

with a subjective intent to discriminate in order to make out a claim for violation of subsection 3604(c)."); Swinton v. Fazekas, 2008 U.S. Dist. LEXIS 20318, \*14 (W.D.N.Y. Mar. 14, 2008).

In this case, Respondent admitted that he imposed conditions upon Complainants' tenancy because of Mr. Walker's disability. See GX<sup>4</sup> 39 at pp. 22-26. Respondent's conditions included (1) a \$1 million liability insurance policy to cover damages or injuries caused by Mr. Walker; (2) a signed document stating that Ms. Walker assumed ability for damages caused by Mr. Walker; and (3) a note from a doctor about Mr. Walker's condition. See id. In addition, Respondent testified that he provided Ms. Walker with a handwritten note that listed these same conditions. See GX 7, See also GX at pp. 33-35. Respondent also acknowledged that his statements were a result of his assumption that Mr. Walker could cause damage to his property or neighbors because of his disability. See GX 39 at pp. 26-27. The Secretary finds that the Respondent's statements would suggest to an ordinary listener that Respondent held a preference or limitation against Complainants' tenancy because of Mr. Walker's disability. Therefore, the Secretary concludes that the Charging Party offered direct evidence sufficient to prove a § 3604(c) violation.

**II. The ALJ's Holding that Charging Party Did Not Establish a Prima Facie Case Pursuant to 42 U.S.C. §§ 3604(f)(1) and (2) and Respondent Established a Direct Threat Exception Under 42 U.S.C. § 3604(f)(9) is Erroneous.**

**A. The Charging Party Proved Respondent Violated §§ 3604 (f)(1) and (2) by Direct Evidence.**

The Charging Party appeals the ALJ's holding that Respondent's conduct did not constitute a violation under §§ 3604(f)(1)<sup>5</sup>-(2)<sup>6</sup> of the Fair Housing Act. The Fair Housing Act prohibits discrimination based on disability. Among the housing practices prohibited are making housing unavailable. See 42 U.S.C. §§ 3604(f)(1)-(2). In addition, the Act contains a narrow exception to the prohibitions on disability discrimination. Specifically, the Act provides:

Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. See 42 U.S.C. §

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<sup>4</sup> "GX" refers to Government Exhibit.

<sup>5</sup> Section 3604(f)(1) of the Fair Housing Act makes it unlawful for a person:

To discriminate in the sale or rental, or otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of (A) that buyer or renter; (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (C) any person associated with that buyer. See 42 U.S.C. § 3604(f)(1).

<sup>6</sup> Section 3604(f)(2) of the Fair Housing Act makes it unlawful for a person:

To discriminate against any person in the terms, conditions, or privileges of a sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of (A) that buyer or renter; (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (C) any person associated with that buyer. See 42 U.S.C. § 3604(f)(2).

3604(f)(9).

The Charging Party argues the ALJ erred by rejecting well-established legal authority on the use of this exception and approved the use of unfounded stereotypes as the basis for justifying illegal housing practices. After reviewing the Petition and record, the Secretary finds that the Charging Party has proven that Respondent violated §§ 3604(f)(1) and (2).

As previously noted, in this case, Respondent's oral and written statements demonstrate a bias towards Complainants because of Mr. Walker's disability. See GX 39 at pp. 22-26, 33-35. Respondent imposed three written discriminatory conditions upon the Complainants: (1) "1,000,000 Ins policy to protect landowner from any problems that might exist due to her brother's condition. Tenant is to sign a paper to be responsible for any damages caused by her brother. Note from doctor about brother's condition." See GX 7; See also GX 39 at pp. 33, 34, 45. In addition, Respondent admits in his testimony that he set these conditions because of Mr. Walker's disability. See GX 39 at pp. 26-27. Further, Respondent admitted, "I was looking for a letter telling me that he was no danger to himself, no danger to the property, and no danger to the surrounding neighbors, and that he was not capable of setting the house on fire or any other damage due to his condition." See GX 39 at p. 40. Respondent also admitted that, in his view, "persons diagnosed with autism and mental retardation pose a greater risk in terms of liability." See GX 18, # 27; See also GX 19. Respondent also admitted that he does not typically require liability insurance, doctor's notes, or hold harmless statements from his tenants and that he imposed no such conditions on the nondisabled tenant to whom he rented instead of Complainants. See GX 39 at pp. 28, 30, 39; Tr.<sup>7</sup> 146. Therefore, the Secretary concludes that the Charging Party offered direct evidence sufficient to prove Respondent violated §§ 3604(f)(1)-(2) of the Fair Housing Act.

**B. Respondent Did Not Produce Objective Evidence Necessary to Assert a Direct Threat Defense Pursuant to § 3604(f)(9).**

In response to a showing of discriminatory conduct a Respondent may assert a direct threat defense; however, in this case, Respondent did not prove that his conduct was justified under the direct threat exception in § 3604(f)(9). As an ALJ noted in Pheasant Ridge Assocs. Ltd., a landlord may reject an applicant with a disability only if the rejection is based upon "objective evidence that is sufficiently recent to be credible, and not from unsubstantiated inferences, that the applicant will pose a direct threat to the health or safety of others." HUD v. Pheasant Ridge Assocs., Ltd., 1996 HUD ALJ LEXIS 63, \*20 (Oct. 25, 1996); See also, e.g., South Middlesex Opportunity Council, Inc. v. Town of Framingham, 752 F. Supp 2d 85, 109 (D. Mass. 2008) (quoting United States v. Mass. Indus. Fin. Agency, 910 F. Supp. 21, 27 (D. Mass. 1996) (rejecting town officials' claim of direct threat defense because "their inferences are 'unsubstantiated' and unsupported by 'objective evidence.'"); HUD v. Country Manor Apartments, 2001 HUD ALJ LEXIS 79, \*21 (Sept. 20, 2001)(implementation of policy requiring liability insurance for motorized wheelchairs without supporting evidence amounts to improperly stereotyping motorized wheelchair operators as dangerous); Wirtz Realty Corp. v. Freund, 721 N.E.2d 589, 597 (111. App. 1999) (stating that the trial court erred in its interpretation of the statute by using subjective proof of harm rather than an

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<sup>7</sup> "TR" refers to Trial Transcript.

objective standard). Proof of diagnosis alone is insufficient to justify discrimination based on disability. See e.g., City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 450 (1985) (concerns that allowing the establishment of a group home for citizens with mental retardation would physically endanger community were unfounded— similar concerns attached to locating apartment and fraternity houses in same location). Moreover, the evidence of direct threat must be individualized, i.e., the specific person at issue must be a threat. See e.g., Bangerter v. Orem City Corp., 46 F.3d 1491, 1503 (10th Cir. 1995) (noting that restrictions predicated on safety concerns “cannot be based on blanket stereotypes about the handicapped, but must be tailored to particularized concerns about individual residents.”).

In this case, rather than providing objective evidence that Mr. Walker was a threat, Respondent and the ALJ relied on the fact that a red flag went off in Respondent’s head when he heard that Mr. Walker had a disability. See GX 39 at pp. 26-27. To support this alarm the Respondent stated that he had seen autistic children “flailing their arms and hollering and screaming in outrage.” See Tr. 122. He had observed autistic children “running into walls and running around in the kitchen and making noise and that sort of thing, so it sent up a red flag.” See id. Further, when asked why he would be concerned that Gregory Walker would start a fire, Respondent stated: “Because of the word ‘severe,’ I didn’t know what he was capable of or what not he was capable of. I’d never met him.” See id. at 123). It is telling that Respondent indicated that he did not “know what [Mr. Walker] was capable of or what he [Mr. Walker] was not capable of. I’d never met [Mr. Walker],” because it demonstrates that Respondent knew himself that he had no objective basis for forming an opinion about Mr. Walker’s behavior other than the fact that Mr. Walker had a disability. See id. Further, Respondent admitted that he does not typically require liability insurance, doctor’s notes, or hold harmless statements from his tenants and that he imposed no such conditions on the non-disabled tenant to whom he rented instead of Complainants. (GX 39 at pp. 28, 30, 39; Tr. 146).<sup>8</sup> Respondent’s conclusions about Mr. Walker’s disability were nothing more than unfounded speculation, which was the very type of conduct that Congress sought to ban when amending the Fair Housing Act in 1988. Congress explained that the purpose of the exception was to “require that the landlord or property owner establish that there is a nexus between the fact of the individual’s tenancy and the asserted direct threat.” H.R. Rep. No. 100-711 at 29 (1988). Congress explicitly stated “[g]eneralized perceptions about disabilities and unfounded speculations about threats to safety are specifically rejected grounds to justify exclusion.” H.R. Rep. at 29. Further, Respondent offered no objective evidence that Complainants’ tenancy posed a direct threat to the property or surrounding neighbors. For these reasons, the Secretary concludes that the Respondent may not avail himself of the direct threat exception to justify his discriminatory conduct.

### **C. Charging Party Proved Respondent Violated § 3604(f)(1) by Indirect Evidence.**

Even though it has been established that the Charging Party proved by direct evidence that Respondent violated §§ 3604(f)(1) and (2), indirect evidence may also be used to prove a violation of the Fair Housing Act. See eg., Secretary of HUD v. Blackwell, 908 F.2d 864, 870(11th Cir. 1990). If the evidence of discrimination is indirect, the analytical framework to be applied is the

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<sup>8</sup> As the Petitioner notes, housing providers are not prohibited from obtaining information to determine whether a prospective tenant may be violent or destructive, but housing providers who wish to determine whether prospective tenants pose a direct threat to property or persons must ask such questions, of all applicants, not just those applicants who have disabilities as in the case at hand. See H.R. Rep. No. 100-711, at 29-30; 54 Fed. Reg. 3247. Petition at p.14 note 13.



McDonnell Douglas burden shifting standard. See McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973); see also Mencer v. Princeton Square Apartments, 228 F.3d 631, 634 (6th Cir. 2000) (recognizing that courts have adapted the McDonnell Douglas standard for Fair Housing claims). Under this standard, the plaintiff has the burden of proving a prima facie case of discrimination by a preponderance of evidence. *Id.* To establish a violation of the Fair Housing Act during the application phase, the Charging Party must show that (1) Complainant is a member of a protected class; (2) Complainant applied and was qualified to rent the property; (3) Complainant was rejected; and (4) the property remained available thereafter. See Mencer, 228 F.3d at 634-35. If the plaintiff establishes a prima facie case, the burden shifts to the defendant to "articulate some legitimate, nondiscriminatory reason" for its action. See also McDonnell Douglas, 411 U.S. at 802. If the defendant satisfies this burden, the plaintiff has the opportunity to prove by a preponderance of evidence that the legitimate reasons asserted by defendant are in fact mere pretext. See *id.* at 802-04. However, the elements of a prima facie case are not fixed, but rather depend on the particular discrimination that is alleged. See *id.* at 802 ("the specification of the prima facie proof required from respondent is not necessarily applicable in every respect to differing factual situation.).

The ALJ analyzed the discrimination in this case based on the Mencer elements. However, based on the record, Respondent made discriminatory statements and imposed discriminatory conditions prior to the application phase. See GX 39 at pp. 22-26. The ALJ noted in the Findings of Fact that Ms. Walker took an application from Respondent, but never submitted it. See also Initial Decision at 7. Because the discrimination in this case occurred at the outset of the application process, the Charging Party need not prove that Complainants applied and qualified for the property, Complainants were rejected, and the property remained available after the rejection as prima facie elements of a § 3604(f)(1) violation. Therefore, the Secretary finds that the ALJ analyzed the facts using the wrong standard. The appropriate standard for a § 3604(f)(1) violation in this case is laid out in HUD v. Ro, 1995 HUD ALJ LEXIS 46 (June 2, 1995) (complainant's qualifications were not at issue at the time of the discrimination at issue). To establish liability at the outset of the application stage, the Charging Party must prove (1) Complainant is a member of a protected class; (2) Complainant made an inquiry about or "attempted to rent" the apartment; (3) Respondent refused to negotiate the rental with Complainant, or otherwise made it unavailable to Complainant; and (4) Respondent expressed a willingness to rent the apartment to a person who is not in the same protected class as the Complainant. See Ro at \*5.

Applying the Ro standard, the record shows that Respondent violated § 3604(f)(1). The record indicates that Mr. Walker is disabled because he suffers from autism and mental retardation. See GX 39 at p. 22, See also Initial Decision at 5. Therefore, he is a member of a protected class. Second, Ms. Walker inquired about the property during an initial phone call to Respondent, Respondent gave Ms. Walker a tour of the property, and Ms. Walker accepted a rental application. See GX 39 at pp. 21-22. Thus, Ms. Walker's made an inquiry about the property. Next, the record reflects that Respondent made housing unavailable to Complainants because he required Ms. Walker to provide a note from Mr. Walker's doctor, purchase a million dollar liability insurance policy, and sign a statement acknowledging liability for damage caused by Mr. Walker, thus discouraging Complainant from applying for the property. See Petition at 24, see also GX 39 at pp 22-26. In addition, Respondent made the property unavailable because he refused to negotiate the terms of the rental by refusing Ms. Walker's offer to accept an insurance policy for half of his stated requirement. See *id.* at 27-28. Lastly, the record indicates that Respondent rented the property to a nondisabled

person and did not impose similar conditions on the nondisabled tenant. See Petition at 25; see also GX 39 at pp. 28, 30, 39, Tr. 146. Therefore, the Secretary finds that all elements of the prima facie case are met and Respondent's conduct violated § 3604(f)(1).

**D. The Charging Party Proved Respondent Violated § 3604(f)(2) by Indirect Evidence.**

The Charging Party also appeals the ALJ's holding that there was insufficient indirect evidence to show that Respondent's conduct violated § 3604(f)(2). See Initial Decision at 17. In order to establish a prima facie case of disparate treatment based on disability under § 3604(f)(2), the Charging Party must prove (1) Complainant is a person with a disability; (2) Respondent was aware of Complainant's disability; (3) Respondent subjected Complainant to terms and conditions that were less favorable than those offered to nondisabled individuals; and (4) Respondent subjected Complainant to less favorable conditions because of Complainant's disability. See Khalil v. Farash Corp., 452 F. Supp. 2d 203, 208 (W.D.N.Y. 2006) (analyzing a disparate treatment action under § 3604(b)).<sup>9</sup> The Charging Party maintains that it established all of these factors and the ALJ erred by disregarding this evidence. See Petition at 17.

According to the record, the first two elements are evident. Mr. Walker is disabled because he suffers from autism and mental retardation and Respondent knew about Mr. Walker's condition. See GX 39 at pp. 22. The third element is satisfied because Respondent admitted that nondisabled applicants were not required to purchase liability insurance, provide doctor's notes, or sign statements accepting responsibility for damages. See Petition at 26; see e.g. GX 39 at pp. 28, 30, 39. Therefore, by requiring such documents from Complainants, Respondent subjected Complainants to terms less favorable than nondisabled applicants. Lastly, the fourth element is satisfied because Respondent admitted that Mr. Walker's disability meant a rise in liability. See Petition at 26; GX 39 at p. 23. Furthermore, the additional requirements Respondent imposed upon Complainants specifically referenced Mr. Walker's disability as the reason why the requirements had to be met before the property was rented to Complainants. See Petition at 26; see also GX 39 at p. 40. Therefore, the record reflects that Respondent subjected Complainants to less favorable conditions because of Mr. Walker's disability. The Secretary finds that all elements of the prima facie case are met and Respondent did violate § 3604(f)(2).

**CONCLUSION**

Upon review of the entire record in this proceeding, including the Charging Party's Petition for Review filed with the Secretary, and based on an analysis of the applicable law, I GRANT the Charging Party's Petition for the reasons set forth above. Pursuant to 24 C.F.R. § 180.675(a), I SET ASIDE the ALJ's May 16, 2012, Initial Decision and Order. In accordance with 24 C.F.R. §§ 180.675(a) and 180.675(b)(2)-(4) and 42 U.S.C. § 3604(f)(1)-(2) and 42 U.S.C. § 3604(c), I REMAND this proceeding to the ALJ to issue an initial decision that rules on the question of damages and an appropriate civil penalty based on the existing administrative record and this ORDER.

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<sup>9</sup> The language and purpose of §§ 3604(f)(1)-(2) is substantially similar to §§ 3604(a) and 3604(b). See Youritan Constr. Corp., 370 F. Supp. 643, 648 (N.D. Cal. 1973).



IT IS SO ORDERED.

Dated this 13th day of June, 2012



Laurel Blatchford  
Secretarial Designee