



STATE OF NEW JERSEY
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO.: AJ06BT-01567

J. FRANK VESPA-PAPALEO, DIRECTOR,
NEW JERSEY DIVISION ON CIVIL RIGHTS,

Complainants,

v.

RAWDA B., LLC and BADAUWY M. BADAUWY

Respondents,

FINDING OF PROBABLE CAUSE

Consistent with a Verified Complaint filed on April 19, 2006, by Complainant J. Frank Vespa-Papaleo., Director of the New Jersey Division on Civil Rights, the above-named Respondents have been charged with unlawful housing discrimination within the meaning of the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1, et seq.) and specifically within the meaning of N.J.S.A. 10:5-4, and 10:5-12 (g) (1), (3) and (5) of said law based on familial status (children under the age of 18).

SUMMARY OF COMPLAINT

Complainant alleged that Respondents violated the New Jersey Law Against Discrimination (LAD), personally or through their agents, when they printed, published, circulated, issued, displayed, posted or mailed, or caused to be printed, published, circulated, issued, displayed, posted or mailed a statement, advertisement or publication which expressed directly, a limitation, specification or discrimination upon families which include children under 18 years of age. Specifically, Complainant alleged that Respondents or through their agents, violated the LAD when they placed an advertisement on the Website "Craigslist" for the rental of an apartment that expressly provided: "no children."

Additionally, Complainant alleged that Respondents, personally or through their agents, inquire in connection with the prospective rental of property whether potential tenants have children under 18 years of age. Moreover, when Respondents determine that applicants who apply to rent property at 2738 Kennedy Boulevard in Jersey City have families that include children under 18 years of age, Respondents, personally or through their agents, advise such applicants that they cannot rent the property.

SUMMARY OF RESPONSE

Respondents denied that they have engaged in any discriminatory housing practices as alleged in the Verified Complaint. Specifically, the Respondents stated that they have relied on the advice of Fausto Diaz, Realtor Associate with the office of Century 21, On The River Realty, who never advised that to restrict the rental to families with children under 18 years of age would constitute housing discrimination.

BACKGROUND:

Respondents Rawda B., LLC and Badawy M. Badawy (hereinafter Dr. Badawy) are the owners of property at 2738 Kennedy Boulevard, Hudson County, Jersey City, New Jersey. On or about April 4, 2006, Dr. Badawy listed an apartment for rent at his property with Century 21, On The River Realty, located at 725 River Road, Suite 101A, Edgewater, New Jersey. The listing salesperson was Fausto Diaz.

SUMMARY OF INVESTIGATION

This investigation established sufficient evidence to support a reasonable suspicion that Respondents engaged in unlawful housing discrimination by directing their agent, Century 21, On The River Realty, deny families with children the opportunity to rent their apartment. Additionally, Respondents through their agent Century 21, On The River Realty, posted an advertisement for the rental of their apartment that explicitly placed a discriminatory limitation of a protected class that excluded families with children. Finally, Respondents and/or their agents made discriminatory inquiries in connection with the prospective rental of the apartment which expressed directly a limitation as to the age of the children. Respondents' actions were in violation of N.J.S.A. 10:5-12 (g) (1), (3) and (5).

The investigation supported that Respondents did not want to rent their apartment to families with children. Respondents' May 7, 2006, written answer to the Verified Complaint stated in part that they did not think it *"would be appropriate to rent the second floor residential unit at the property to a family with young children, because of the property's location on Kennedy Boulevard, a very heavily traveled street in Jersey City."* In a letter to the Division dated June 17, 2006, Fausto Diaz, did not dispute that he and Century 21, On The River Realty improperly listed, advertised and showed Respondents' apartment at 2738 Kennedy Boulevard, Jersey City, New Jersey. Mr. Diaz indicated that he was acting on behalf of his client's request (Dr. Badawy) to rent the apartment to people without children. In a separate letter dated June 7, 2006, from Century 21, On The River Realty, it stated in part that its salesperson (Fausto Diaz) apparently attempted to honor the request of the owner (Dr. Badawy) without recognizing the magnitude and ramifications of the ultimate conduct.

The investigation discovered that Respondents through their agent Century 21, On The River Realty, caused to be posted an advertisement for the rental of their apartment that excluded families with children. On April 4, 2006, an Investigator of the Housing Investigations Unit of the Division on Civil Rights accessed the domain, www.newjersey.craigslist.org (Craigslist). Within that

domain he accessed the following Web Page: <http://newjersey.craigslist.org/apa/148117612.html>. This page described an advertisement for the rental of Respondents' two-bedroom apartment which stated in part:

*"Bright and charming two bedroom apartment just blocks away from Journal Square. Easy commuting to NYC. Dishwasher and refrigerator included, small pet okay! **no children** (Emphasis added), no dogs. To view contact Century 21 On the River Realty 201 943 9003"*

Records obtained from Craigslist revealed that the above described advertisement was posted on April 4, 2004, from the email address SANDRA.LUNA@CENTERY21.COM. The records confirmed that the email address belonged to an employee of Century 21, On The River Realty, Sandra Luna, Office Administrator, and the advertisement was posted from the Company's IP address 72.43.116.79.

During the investigation, the Division utilized two undercover testers in an effort to investigate this discriminatory housing advertisement. Testers are persons who, without the intent to rent an apartment, seek information about the availability of dwellings to determine whether discriminatory housing practices are occurring.

On April 5, 2006, an employee of the Division on Civil Rights (Tester #1) called 201-943-9003, which was the contact number listed in the advertisement. When Tester #1 mentioned the ad on Craigslist she was referred to agent Fausto Diaz. Mr. Diaz asked Tester #1 who would be living in the apartment. Tester #1 told Diaz that she, her husband, and her three-year-old son would be living there. Mr. Diaz stated that the owner of the property did not want any small children living there, but said that he would confirm that fact. Mr. Diaz called Tester #1 approximately one hour later and confirmed that the property owner (Dr. Badawy) would not rent to a tenant with a child. The conversation was then terminated.

On April 5, 2006, an employee of the Division on Civil Rights (Tester #2) called 201-943-9003, which was the contact number listed in the advertisement. When Tester #2 inquired about the apartment, she was referred to agent Elizabeth Romero. Ms. Romero described the apartment to Tester #2 and asked her how many people would be renting, to which Tester #2 replied that she would be renting the apartment. An appointment was made to rent the apartment, and on April 7, 2006, Tester #2 met Ms. Romero at the apartment. The apartment was located on the second floor of the building with the first floor being the office of a medical practice for Dr. B.M. Badawy. While Ms. Romero showed Tester #2 the apartment, Dr. Badawy arrived and introduced himself as the owner of the apartment. While viewing the apartment with both Ms. Romero and Dr. Badawy, Tester #2 commented that the small bedroom would be perfect for her nine-year-old son and inquired about the nearest school where she could register her son. Dr. Badawy looked at Ms. Romero and said, *"I thought you said she had no children."* Ms. Romero then asked Tester #2, *"I thought I asked you yesterday if you had any children and you said no."* Tester #2 responded that you must have misunderstood me, I meant only one person would be on the lease. Dr. Badawy further stated to Tester #2 that he would not rent *"because kids are destructive and I work with kids in my practice downstairs, I know how they can be, they are noisy and make too much noise running around."* Dr. Badawy further stated he only wanted *"singles or a couple"* to rent the apartment. The conversation ended and Tester #2 left the apartment.

As described above, Dr. Badawy through his agents not only caused to be posted a discriminatory advertisement for rental on the Website Craigslist, but verbally reinforced his discriminatory preference to the Testers by articulating that he would not rent to families with children.

ANALYSIS

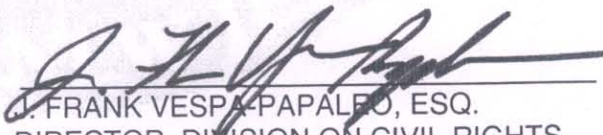
At the conclusion of the investigation, the Division is required to make a determination whether "probable cause" exists to credit a complainant's allegation of discrimination. Probable cause has been described under the New Jersey Law Against Discrimination (LAD) as a reasonable ground for suspicion supported by facts and circumstances strong enough to warrant a cautious person to believe that the law was violated and that the matter should proceed to hearing. Frank v. Ivy Club, 228 N.J. Super. 40, 56 (App. Div.1988), rev'd on other grounds, 120 N.J. 73 (1990), cert. den., 111 S.Ct. 799. A finding of probable cause is not an adjudication on the merits but, rather, an "initial culling-out process" whereby the Division makes a preliminary determination of whether further Division action is warranted. Sprague v. Glassboro State College, 161 N.J. Super. 218, 226 (App. Div.1978). See also Frank v. Ivy Club, supra, 228 N.J. Super. at 56. In making this decision, the Division must consider whether, after applying the applicable legal standard, sufficient evidence exists to support a colorable claim of discrimination under the LAD.

In this case, the evidence established sufficient evidence to support a reasonable suspicion that Respondents engaged in unlawful housing discrimination based on familial status. Respondents provided their agent Century 21, On The River Realty, with the instruction to deny families with children the opportunity to rent their apartment. Additionally, Respondents through their agent Century 21, On The River Realty, caused to be posted an advertisement for the rental of their apartment that explicitly excluded a protected class, namely, families with children.

FINDING OF PROBABLE CAUSE:

It is, therefore, determined and found that Probable Cause exists to credit the allegations of the complaint.

1/26/07
DATE


J. FRANK VESPA-PAPALEO, ESQ.
DIRECTOR, DIVISION ON CIVIL RIGHTS
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