



STATE OF NEW JERSEY  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION ON CIVIL RIGHTS  
DCR DOCKET NO.: HC28BW-06257  
HUD NO.: 02-08-0042-8

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

Complainants,

v.

LAKE VALLEY ASSOCIATES, LLC  
t/a UNIVERSITY PARK APARTMENTS,

Respondents,

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**FINDING OF PROBABLE CAUSE**

Consistent with a Verified Complaint filed on September 28, 2007, and Amendment to the Verified Complaint, the above-named Respondent has 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)(5) because of familial status.

J. Frank Vespa-Papaleo (Director) is the Director of the Division on Civil Rights and, in the public interest, has intervened as a Complainant in this matter pursuant to N.J.A.C. 13:4-2.2 (e).

**SUMMARY OF COMPLAINT**

Complainant alleged that Respondent denied him the opportunity to rent an apartment based on his familial status<sup>1</sup> (two children ages 6 and 9). Complainant claimed that Respondent's Property Manager, Mary Ann Drinkwater, informed him that he could not rent a one-bedroom apartment because he had visitation rights with his children. Complainant further alleged that Respondent denied him the opportunity to rent a second floor two-bedroom apartment, based on Respondent's policy of prohibiting children under the age of 10 to occupy a second floor apartment.

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<sup>1</sup>The New Jersey Law Against Discrimination prohibits housing discrimination against families with children under 18 years of age, N.J.S.A. 10:5-12 (g) (5).

### **SUMMARY OF RESPONSE**

Respondent denied discriminating against Complainant for any unlawful reason including his familial status. Respondent indicated that Complainant initially filed an application for a one-bedroom apartment for himself. Respondent asserted that it later found out Complainant was going through a divorce and had children. Respondent asserted that it explained to Complainant that its policy does not permit children in one-bedroom apartments. Respondent asserted that since there were no first floor two-bedroom units available, Complainant was offered a two-bedroom apartment at another complex it owned and operated. Respondent asserted that Complainant viewed this unit, did not like it and was placed on its waiting list for a two-bedroom unit at University Park Apartments.

### **BACKGROUND**

Respondent operates a 456-unit apartment complex located in Pemberton, Burlington County, New Jersey. Complainant sought to rent and occupy an apartment for himself. Complainant was in the process of obtaining a divorce and had two children that lived with his wife, but he had visitation rights with his children.

### **SUMMARY OF INVESTIGATION**

This investigation established sufficient evidence to support a reasonable suspicion that Respondent engaged in unlawful housing discrimination based on familial status. The investigation disclosed that Respondent represented that apartments were not available for rent, when in fact they were available at the time of Complainant's inquiry and during the period he was placed on a waiting list. Further, the investigation revealed sufficient evidence that Respondent had written rental policies that had a disparate impact against families with children.

There was no dispute that on June 19, 2007, Complainant went to Respondent's rental office and inquired about available apartments. During an interview with the Division's Investigator, Complainant stated that he initially asked for a two-bedroom apartment, but Respondent stated there were none available. Complainant stated that the Rental Agent, identified during the investigation as, Toby L. Andrus, informed him that since he was the only one renting he could be placed into a one-bedroom apartment. Complainant informed the Investigator that he told the agent he would take a one-bedroom for the interim, but was still interested in a two-bedroom apartment and asked to be placed on a waiting list.

Respondent submitted a copy of the rental application signed by Complainant on June 19, 2007. Complainant asserted that about one week after his initial visit he received

a call from Respondent concerning his application. Complainant stated that he went to the office and was told by Respondent's Property Manager, Mary Ann Drinkwater, he could not rent a one-bedroom apartment because he had children. Complainant stated that he explained to Ms. Drinkwater that he was going through a divorce and his children, a son age 6 and a daughter 9, would not be living with him. Complainant stated that Ms. Drinkwater explained to him that he would have to rent a two-bedroom apartment on the first floor because of the age of his children. Moreover, Complainant stated he was informed that he would be contacted once a two-bedroom apartment became available, but was never contacted by Respondent.

On October 19, 2007, the Division's Investigator conducted an interview with Ms. Drinkwater, who asserted that it was Respondent's policy to not allow children in its one-bedroom apartments. Ms. Drinkwater indicated that "shift workers" whether single or married living in one-bedroom apartments do not like children and it's been Respondent's policy throughout the last 25 years. Additionally, Ms. Drinkwater stated that Respondent has a policy that does not allow families with children less than 10 years of age to reside in two-bedroom apartments on the second floor. Ms. Drinkwater explained that it was for safety reasons pertaining to the danger associated with the windows and stairs.

A review of Respondent's written rental policy contained several discriminatory provisions which states in part as follows:

1. **Absolutely no pets!**<sup>2</sup>
2. One bedroom apartments.
  - A. Occupancy of up to two adults.
  - B. No children allowed in a one bedroom.**
3. Two bedroom apartments.
  - A. Occupancy of up to 4 people.
  - B. No children under the age of 10 upstairs.**
  - C. Multiple children must be of the same sex after 2 years old. (Emphasis Added)**

As described above, Respondent's rental policy contained discriminatory provisions. The policy prohibited children in one-bedroom apartments, which in the Complainant's case,

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<sup>2</sup>The absolute prohibition of pets on the premises is a discriminatory policy and it should read that its not applicable to a service or guide dog owned by a disabled, blind or deaf tenant.

CUTBERT CASIMIR & J. FRANK VESPA-PAPALEO,  
DIRECTOR, DIVISION ON CIVIL RIGHTS v. LAKE VALLEY ASSOCIATES, LLC  
Docket No.: HC28BW-06257  
HUD NO.: 02-08-0042-8

would have been just for the purpose of temporary visitation rights with his children. Further, the policy prevented Complainant from renting a second floor two-bedroom apartment because both of his children were less than 10 years of age. Additionally, since the Complainant had a son age 6 and a daughter 9 of different sex, Respondent's policy disqualified him from renting a two-bedroom apartment on either the first or second floor. Moreover, Ms. Drinkwater's articulated safety reasons for not allowing families with children under the age of 10 to reside in second floor two-bedroom apartments were discriminatory and had a disparate impact of denying families with children available apartments.

Finally, a review of Respondent's apartment vacancy report between the period of June 2007 and August 2007, demonstrated that there were one and two-bedroom apartments available for rent. Several two-bedroom apartments were available on the second floor, however, Complainant was ineligible to rent these second floor apartments based on Respondent's discriminatory policies and practices against a parent 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.

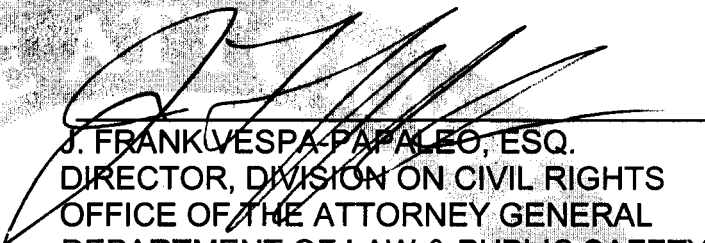
In this case, the investigation established sufficient evidence to support a reasonable suspicion that Respondent engaged in unlawful housing discrimination against the Complainant based on familial status. The investigation disclosed that Respondent has discriminatory rental policies and practices that have a disparate impact against families with children. Respondent's discriminatory policies prohibited the Complainant from renting available two-bedroom apartments on the second floor because he had two children under the age of 10 and of opposite sex. Additionally, Respondent's policy and practice prohibited children in one-bedroom apartments, which in the Complainant's case, would have been just for the temporary purpose of visitation rights with his children.

CUTBERT CASIMIR & J. FRANK VESPA-PAPALEO,  
DIRECTOR, DIVISION ON CIVIL RIGHTS v. LAKE VALLEY ASSOCIATES, LLC  
Docket No.: HC28BW-06257  
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**FINDING OF PROBABLE CAUSE:**

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

4/28/08  
DATE

  
J. FRANK VESPA-PAPALEO, ESQ.  
DIRECTOR, DIVISION ON CIVIL RIGHTS  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW & PUBLIC SAFETY

