

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DOCKET NUMBER: HT10WW-60167
HUD NUMBER: 02-018000-8

FAIR HOUSING COUNCIL OF
NORTHERN NEW JERSEY,
LEE PORTER

Complainant

-vs-

KIMBERWYCK VILLAGE AND
KIMBERWYCK ASSOCIATES

Respondent

NEGOTIATED SETTLEMENT
AGREEMENT

WHEREAS, the named complainant, Fair Housing Council of Northern New Jersey, has filed a Verified Complaint with the Division on Civil Rights and the U.S. Department of Housing and Urban Development, alleging that the named Respondent, Kimberwyck Village and Kimberwyck Associates, has committed unlawful housing discrimination; and

WHEREAS, the named respondent, Kimberwyck Village and Kimberwyck Associates, having an apartment complex, located at 4 Bloomingdale Drive, Hillsborough, Somerset County, New Jersey, and as such is subject to the provisions of N.J.S.A. 10:5-1 et seq.; and

WHEREAS, the named Respondent do not admit that an act of unlawful discrimination occurred; and

WHEREAS, the Director of the Division on Civil Rights has not made any findings based upon the merits of this matter; and

WHEREAS, all parties desire to resolve the matter without the necessity of further litigation; and

WHEREAS, the Director of the Division on Civil Rights shall execute this Negotiated Settlement Agreement to certify that the covenants contained herein are appropriate to resolve and to insure that all covenants are implemented.



NOW THEREFORE, it is on this 29th day of Oct 2009 agreed between the parties heretofore mentioned that:

1. The named Respondents shall continue to comply with the provisions of N.J.S.A. 10:5-1 et seq.

2. Respondent agrees to pay Complainant, the Fair Housing Council of Northern New Jersey, the sum of \$30,000.00 in full settlement of all claims made by the named complainant. In that connection, the named respondents agree to submit to the Division a check in the amount of \$30,000.00, made payable to the Fair Housing Council of Northern New Jersey, within five (5) days of the signed of this Agreement.


3. Respondent agrees to contact the Division Trainer, Ester Nevarez, Bureau of Prevention and Community Relations, 973-648-4816, to schedule a training session, ~~at this respondent's~~ for Fair Housing training, within two (2) weeks following the signing of this Agreement.

4. Respondent agrees to mail Complainant a list of rental vacancies, if any, once a month, of the vacancies for that month. Said rental availability notices shall be sent for one (1) year following the execution of this Agreement. Specifically, from November 1, 2009 through October 31, 2010.

5. Respondent agrees to publish and disseminate a company-wide non-discrimination policy with language to be provided by Fair Housing Council.

6. Respondent agrees to display non-discrimination signage on all subject properties, in public areas visible to prospective tenants consisting of the posters distributed by the New Jersey Division on Civil Rights, in English and Spanish.

7. Respondant shall include the following language in all advertisement for vacancies: "This property is rented without regard to race, national origin, or familial status and is in compliance with all fair housing laws."

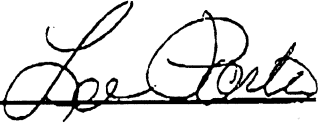


8. Respondent agrees to maintain records of current and prospective tenants with regard to race, national origin, and familial status.

9. Complainant agrees not to pursue further litigation against the named Respondents regarding allegations that gave rise to the filing of his complaint.

10. The named respondents and the named complainant agree not to engage in any retaliatory conduct against each other or any participant in these proceedings nor will the named respondent knowingly allow any of his employees to engage in any such conduct.


This Negotiated Settlement Agreement shall operate as a complete and final disposition of the aforesaid Verified Complaint and any U.S. Department of Housing and Urban Development charge which may be pending subject only to the fulfillment of all the foregoing provisions.



Lee Porter, Executive Director

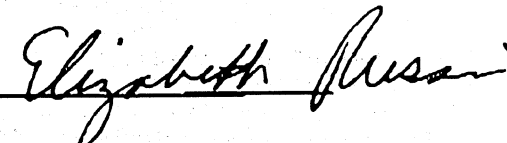
DATED 11/2/09

Fair Housing Council of Northern New Jersey
Complainant



DATED 10/27/09

Respondents Representative

FOR THE DIVISION: 

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DOCKET NUMBER: HT10WW-60167
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FAIR HOUSING COUNCIL OF)
NORTHERN NEW JERSEY,)
LEE PORTER)

COMPLAINANT,)

-vs-)

KIMBERWYCK VILLAGE AND)
KIMBERWYCK ASSOCIATES)

RESPONDENT(S).)

VERIFIED COMPLAINT

Received and Recorded

Date: 10/ 6/08

Department of Law and Public Safety

Division on Civil Rights

By: Suzanne E. Paletta

1. The Complainant resides at:

131 Main Street Suite 140
Hackensack, NJ 07061
Bergen County

2. To the best of Complainants knowledge and belief, the Respondents are known as:

Kimberwyck Village and
Kimberwyck Associates

and is located at:

4 Bloomingdale Drive
Hillsborough, NJ 08844
Somerset County

3. The above named Respondent(s) is/are hereby 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 (x), 10:5-4.1 (), and 10:5-12 () () of said law because of **race (X)**, creed (), color (), **national origin (X)**, ancestry (), sex (), nationality (), affectional or sexual orientation (), marital status () **familial status (X)**, mental handicap (), source of lawful income used for rental or mortgage payments(), or reprisal ().

4. **PERSONAL HARM:**

Complainant, Fair Housing Council of Northern New Jersey, alleges that Respondent discriminates against rental applicants based on their race, national origin and familial status and otherwise discriminates against in the terms, conditions or privileges of the rental of said real property.

The charge is based on the following:

Complainant, the Fair Housing Council of Northern New Jersey (hereinafter "Fair Housing Council"), alleges that respondent Kimberwyck Village, by and through its agents, has engaged in an unlawful pattern of housing discrimination on the basis of applicants' race, national origin, and familial status in the operation of respondent's rental property.

Complainant, Fair Housing Council, sent nine (9) testers to respondent's complex located at 4 Bloomingdale Drive, Hillsborough, New Jersey, from January 16, 2007 through June 19, 2008 and uncovered a pattern of discriminatory treatment on the basis of race, national origin and familial status.

On January 16 and 18, 2007, a black tester and a white tester were subjected to differential treatment by the respondent's agent. While the agent showed both testers the same one bedroom unit that needed to be cleaned, she showed the white tester a two bedroom townhouse unit that was cleaned, painted, and ready for move-in and told the white tester that she could hold the unit for him. In contrast, the agent showed the black tester a different two bedroom unit which was not yet cleaned and repainted, and she did not offer to hold a unit for the black tester.

On September 20, 2007, two testers that the Fair Housing Council sent to the respondents' complex found evidence of discrimination based on race, familial status, and national origin. The white tester was seen at 12:15 pm, and the black tester was seen at 1:00 pm.

First, the black tester was told about and shown only one unit, (which was described as being in "fair condition") and was told that the unit would be available on November 1, 2007. In contrast, the white tester was shown a unit in "good condition" with an availability date of October 15th, 2007, with the next available unit after that being November 1st.

Second, the black tester was told almost immediately upon entering the rental office that there was a minimum income requirement of \$40,000 to rent a unit at the complex and was not told that the income requirement could include the combined income of both spouses (after having told the agent that she was married.) In contrast, the white tester was not told about income requirements until after he was shown a unit and only in response to his specific question to which agent responded: "Yes, but that can be combined income, for two people."

Third, during the visits with both testers, the agent made discriminatory remarks with respect to race, national origin or color, and with regard to familial status, all of which indicated a preference or limitation regarding occupancy. The agent told both testers that she wanted "absolutely no children" in a one-bedroom unit, and in fact, a recorded message on the complex's answering machine stated that there was a one-bedroom for only "two adults." The agent told the black tester that she had told four Mexican applicants a higher minimum income requirement than she generally requires, "because [she] knew they were not able to provide pay stubs stating that they made \$45,000." and she told the white tester that Mexican applicants "come here and they expect to live anyway they want." With respect to an Indian family, the agent made the following statement to the black tester: "these damn dot heads have a lot of nerve, they think they can just have guests stay in their apartment anytime they want."

On October 2, 2007, a tester sent by Fair Housing Council uncovered respondents' policy of discriminating on the basis of familial status in its occupancy policy of limiting families with children to the two bedroom units, even when the family consists of one adult and one child. The tester inquired about an available one bedroom apartment for himself and his grandson. Respondent agent replied that "families with children must rent two bedroom units".

Similarly, on May 14, 2008 two testers visited the site and were told by the respondent agent that children were not allowed to reside in one-bedroom units or in upstairs units.

On June 19, 2008, a black tester and a white tester were subjected to differential treatment on the basis of race because the agent did not tell the black tester about a one-bedroom unit that she told the white testers about, and the agent did not tell the black tester about a rental special that she told the white tester about a short time later.

Based upon the results of respondents' treatment of testers sent by the Fair Housing Council and based on statements that respondent's agent made to the testers, Fair Housing Council alleges that respondents are engaging in discriminatory treatment of potential applicants based on race, familial status and national origin in violation of the Fair Housing Act. Specifically, respondents have treated black and white applicants differently with regard to the provision of information on available units and amenities, they have discriminated against applicants because of familial status by enforcing occupancy rules that prohibit families with children from renting one-bedroom units and by limiting families with children to downstairs apartments. Finally, the respondents have made discriminatory statements regarding applicants with regard to national origin and familial status which indicate a limitation on or preference against certain applicants of protected classes. As a

result of respondent's actions, Fair Housing Council has suffered economic injuries and injuries to its abilities to carry out its mission.

5. RESPONDENT'S REASON FOR ADVERSE ACTION:

Respondent gave Complainant no reason for discriminating against them.

6. DISCRIMINATION STATEMENT:

Complainant alleges discrimination based on race, national origin, and familial status. Specifically, the Fair Housing Council of Northern New Jersey believe that they have established a clear pattern of discriminatory practices conducted during testing. Their discriminatory practices have frustrated the mission of the Fair Housing Council to ensure that all citizens of the State of New Jersey have equal access to housing free of discrimination.

7. Said acts of discrimination occurred in the County of **Somerset** in the State of New Jersey.
8. Complainant requests whatever relief is provided by law including, but not limited to, compensatory damages for economic loss, humiliation, and mental pain and suffering.
9. Complainant has not instituted action in any court, either criminal or civil, regarding this matter.

Lee Porter
COMPLAINANT

STATE OF NEW JERSEY)
) SS:
COUNTY OF BERGEN)

Lee Porter, of full age, being duly sworn according to law deposes and says; that she is the Complainant herein; that she has read the foregoing Complaint and knows the content thereof; that to the best of her knowledge, information and belief, the facts alleged therein are true.

Lee Porter
COMPLAINANT

Sworn to and subscribed before me

this 2nd day of October 2008
~~December 2005.~~

[Signature]
NOTARY PUBLIC OF NEW JERSEY

DAVID WHRITENOUR
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 6/11/2010