

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

The Secretary, United States Department of
Housing and Urban Development, on behalf
of Mauricio Bravo,

Charging Party,

v.

Gayle Gruen,

HUDALJ 05-99-1375-8
Issued: February 27, 2003

Respondent.

Gail Gruen, *pro se*

Courtney Minor, Esq.,
Regional Counsel

Elizabeth Crowder, Esq., and
Barbara Sliwa, Esq.,
For the Charging Party and the Aggrieved Person

Before: ROBERT A. ANDRETTA
Administrative Law Judge

INITIAL DECISION

Jurisdiction and Procedure

This matter arose as a result of a complaint filed by Mauricio Bravo (the “Aggrieved Person”) on August 14, 1999, alleging that Gail Gruen (“Respondent”) had refused to rent a dwelling to him on the basis of his familial status and had stated an intention to make a preference in renting the unit based on familial status. (S 1; T 5, 19)¹

¹ The Secretary’s exhibits are identified with a capital S and an exhibit number; those of the Respondent are identified with an R. Facts from the Charge of Discrimination are identified with a

capital C and a paragraph number. The transcript of the hearing is cited with a capital T and a page number. The Secretary's Post-Hearing Brief is cited with an M and a page number.

Such refusal to rent and statements of preference are in violation of the Fair Housing Act (“the Act”), as amended. 42 U.S.C. Sections 3601-3619. This case is adjudicated in accordance with Section 3612(b) of the Act and the regulations of the Department of Housing and Urban Development (“HUD”) that are codified at 24 CFR Part 104, and jurisdiction is thereby obtained.

On May 24, 2001, following an investigation of the allegations and a determination that reasonable cause existed to believe that discriminatory housing practices had taken place, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination against the Respondent and on behalf of the Aggrieved Person. The Charge alleges that Gail Gruen engaged in discriminatory conduct on the basis of familial status by refusing to rent her available dwelling to the Aggrieved Person on the basis of familial status and by making oral statements with respect to the renting of a dwelling that indicated and expressed an intention to make a preference and limitation, and thus to commit discrimination based on the presence of a child, in violation of 42 U.S.C. §§ 3604(a) and (c), respectively.

Respondent filed her Answer to the Charge on July 5, 2001, admitting that she maintained “basically an adult building.” (S 3(b)(1)). The hearing in this case, then set for September 18, 2001, was continued indefinitely by my Order of September 13, 2001, because of the lack of certainty regarding transport that followed the attacks on Washington and New York on September 11, 2001. After numerous failed attempts to reach the Respondent by phone for the purpose of re-scheduling the hearing date and location, including Respondent’s failure to reply to letters and recorded messages left on her phone answering machine, the staff assistant of this forum sent a letter dated October 18, 2001, to Respondent requiring her to return the phone calls. There was no response to the letter.

On November 29, 2001, the Charging Party filed a Motion for Entry of Default Decision based on Respondent’s “failure to cooperate in the furtherance of these proceedings” and the fact that she admits in her Answer that her building is an “adult building” as alleged in the Charge of Discrimination. In response, I issued an Order To Show Cause to the Respondent on February 21, 2002, ordering her to file a response to the Order by March 13, 2002, showing cause why I should not issue a default judgment in this matter in which all facts alleged would be found to be true and the amounts demanded for damages and penalties by the Secretary would be granted. The Order further contained the warning that a failure to respond adequately and timely to the Order would constitute Respondent’s consent to entry of such a default judgment. There was no response to the Order from Respondent. Because it was found that the Order To Show Cause had mistakenly been sent to Respondent’s previous address, on March 27, 2002, I

issued an Order extending the time within which to answer the Order To Show Cause to April 17, 2002. There was no response from the Respondent. Accordingly, on April 19, 2002, I issued a Default Judgment.

A hearing to determine the appropriate relief to be awarded to the Charging Party and the Aggrieved Person was conducted in Chicago, Illinois, on October 24, 2002. Respondent did not appear at the hearing. Post-Hearing briefs were required to be submitted by January 13, 2003. The Charging Party timely filed its Post-Hearing brief, but the Respondent did not. Thus, the record was closed and this case was ripe for decision on the last-named date.

Findings of Fact by Default

The Aggrieved Person, Mauricio Bravo, is the parent of a son who was four years old at the time that these incidents took place. (T 5, 21). At that time, Mr. Bravo was in the process of obtaining joint custody of his son. (T 19). The Respondent, Gail Gruen, was at all times relevant, the owner of the 12-unit building that is the subject property located at 152 Wolcott in Barrington, Illinois. (S 1, 2; T 16).

In the summer of 1999, Bravo lived with his mother in a one-bedroom apartment in Rolling Meadows, Illinois, where their arrangement was that he slept in the living room. (T 11, 12). The judge in the custody case decided that because Mr. Bravo lived in a one-bedroom apartment with his mother his living situation was not appropriate for his son to stay overnight. (T 14, 18). Until that ruling, Bravo anticipated that his son would be with him on alternate weekends. (T 9, 18). To provide the living conditions for his son required by the court, Bravo began to seek his own two-bedroom apartment in Barrington, Illinois. (T 11-12).

Bravo soon found the subject property listed for rent in the local Barrington newspaper, the *Barrington Courier*. (T 12). He phoned about the advertisement for the apartment and spoke with Gail Gruen with whom he made an appointment to see the apartment. (T 12, 16). On August 1, 1999, Respondent showed Mr. Bravo the subject unit. (T 20). She asked him who would be occupying the unit, and in response, Bravo stated that he was in the process of obtaining joint custody and anticipated that his four-year-old son would be occupying the apartment with him on alternate weekends. (T 18, 20). At this point Mrs. Gruen closed her rental applications book and stated that she could not rent to Mr. Bravo and that the interview could not go on any further. (T 21). Mr. Bravo nonetheless requested an application. (T 21). Mrs. Gruen then stated that she could not give him an application and could not rent an apartment to him because of his four-year-old son. (T 21). Upon hearing this, Mr. Bravo told Mrs. Gruen that she was being "very discriminatory" and that it was against the law for her to refuse to give

him an application. (T 21). Mrs. Gruen responded, "I know. We're very discriminative here in Barrington." (T 24).

When Mr. Bravo went to view the subject unit he was very hopeful and optimistic about resolving the problem of how to properly house himself and his son. (T 24). When Gruen denied him the unit he felt angry, insulted and very upset. (T 24). He could not understand how such discrimination could occur in an "upper middle class neighborhood" like Barrington, Illinois; especially to a respectable person like himself. (T 24). He felt insulted and frustrated because he knew that Mrs. Gruen could not lawfully deny him an application. Bravo found it hard to believe that such discrimination was happening to him. (T 30).

In July of 2002, Mrs. Gruen placed another advertisement in the *Barrington Courier* for an apartment at the subject property that was similar to the one that Mr. Bravo sought in 1999. (S 7; T 13). It "enraged" Bravo to see that Gruen was again advertising available units in the building that he could not move to because of his familial status. (T 30).

The subject property was the perfect place for Mr. Bravo. (T 21). It was a mile and a half from where his son lived with his mother, it was a mile away from his son's school, it was a quarter of a mile from the train station, and it was in close proximity to his job. (T 25). The rent there was affordable at \$735 per month and the apartment had everything that he needed, including two bedrooms. (T 17, 19).

After the events described, Mr. Bravo remained in the one-bedroom apartment with his mother for three or four additional months before finding suitable housing in Barrington. (T 24). This location was twenty miles from where his son lived. (T 26). Mr. Bravo's mother transported Mr. Bravo in his search for suitable housing, in exchange for which he paid her for car repairs and other related expenses. (T 24). Mr. Bravo paid his mother about \$2,000 for the repairs, gas and additional rent during the time it took him to find suitable alternative housing. (T 25). Also, Mr. Bravo lost about 40 hours of work at 20 dollars per hour while seeking another apartment. (T 27).

Bravo eventually found a house to rent which is located at 129 Waverly in Barrington (T 27). He paid \$1,100 per month for rent there for six months before moving back with his mother for a few weeks. (T 27). He then moved to a three-bedroom apartment on East Russell in Barrington where he paid \$1,300 per month for two years until he moved out in September of 2002. (T 28). Mr. Bravo then moved into the residence he occupied at the time of the hearing, which is located at 2014 Hancock Drive in Palatine, Illinois. (T 26). Mr. Bravo has found it very difficult to find suitable rental

apartments in Barrington, which is “upper middle class,” because apartment buildings are rare and rental houses are more common. (T 22). The housing in Barrington ranges between \$500,000 and \$10 million in value. (T 22).

Discussion

The regulation found at 24 CFR 180.430 authorizes judgment by default for failure to timely respond to a Motion for Default Judgment in which good cause is shown for entry of a default judgment, and the regulation found at 24 CFR 180.545 authorizes judgment by default for failure of a party to appear at the hearing. In a default judgment all allegations in the Charge that are not denied are deemed admitted. *HUD v. Cabusora*, Fair Housing - Fair Lending, (Aspen) ¶ 25,026 at 25,288, *aff'd.*, 9 F.3d 1550 (9th Cir. 1993). Since a default judgment has been entered in this matter, the only remaining step is to determine whether the facts constitute violations of the Act and, if so, the appropriate amount of damages and other remedies to be ordered.

Violation of 42 U.S.C. § 3604(a)

The Fair Housing Act provides at § 3604(a) that it shall be unlawful:

To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin. 24 CFR 100.60 (2002).

A *prima facie* case of discrimination under these sections of the Act and HUD’s corresponding regulations is established by proving (1) that the Aggrieved Person belongs to a protected class; (2) the Aggrieved Person sought and was qualified to purchase or rent available housing; (3) that the Aggrieved Person was denied the housing or the housing was otherwise made unavailable to the Aggrieved Person; and (4) that the housing remained available thereafter. *Frazier v. Rominger*, 27 F.3d 828 (2nd Cir. 1994); *Cabrera v. Jakobovitz*, 24 F.3d 372, 377 (2nd Cir. 1994); *See HUD v. Active Agency Inc., et al*, Fair Housing - Fair Lending (Aspen) ¶ 25,141 at 26,158 (HUDALJ, Sept. 22, 1999).

Familial status is defined as one or more individuals who have not attained the age of 18 years being domiciled with a parent. 42 U.S.C. § 3602(k)(1); 24 CFR 100.20 (2002). At all times relevant to this case Mr. Bravo’s son was four years of age and it

was planned for him to reside with his father every other weekend. Thus, the Aggrieved Person is a member of a protected class because of his familial status.

During Mr. Bravo's visit to the property Respondent Gruen told him that she could not give him an application to rent the property because of his four-year-old son and her policy of maintaining an adult building. She refused to give him an application and stated that the interview was therefore terminated. She further stated that there were college students in the building who required a quiet atmosphere for their studying and that there were no facilities for childhood play or toys. By refusing to provide the Aggrieved Person with a rental application or to further discuss the rental of the apartment with him, Respondent refused to negotiate for the rental of, or otherwise made unavailable or denied, a dwelling to the Aggrieved Person because of familial status within the meaning of the Act. Thus, there is direct evidence of discrimination against a member of a class of persons protected by the Act, and it follows that it is not necessary to consider each element of the prima facie case.

Violation of 42 U.S.C. § 3604(c)

The Fair Housing Act provides at § 3604(c) that it shall be 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 ... familial status ... or an intention to make any such preference, limitation, or discrimination. 24 CFR 100.75 (2002).

Statements expressing a landlord's stereotypical beliefs about a protected group are direct evidence of that landlord's intent to discriminate against members of that group.

Secretary of HUD v. Leiner, 2 Fair Housing - Fair Lending (Aspen) ¶ 25,021 (HUDALJ Jan. 3, 1992). Section 3604(c) of the Act has been said to be a "strict liability" statutory provision. All that is required to establish liability is that the challenged statement was made with respect to the rental of a dwelling and that it indicates discrimination based on a prohibited factor. Robert G. Schwemm, *Discriminatory Housing Statements and § 3604(c): A New Look at the Fair Housing Act's Most Intriguing Provision*, 29 Forham Urban Law Journal 187, 217 (2001).

Prohibited actions covered under § 3604(c) include statements made by a person engaged in the rental of a dwelling, including the use of words or phrases which convey that dwellings are not available to a particular group or person because of familial status. 24 CFR 100.75(c)(2). In addition, expressing to prospective renters or any other persons

a preference or a limitation on any renter because of familial status is prohibited. *Id.* The test used to determine whether a statement is discriminatory is whether it suggests to an “ordinary listener that a particular protected class is preferred or dispreferred [*sic.*] for the housing.”² *Terrizzi v. Dellipaoli*, 1997 WL 8260 at 3, *citing HUD v. Gwizdz*, Fair Lending - Fair Lending (Aspen) ¶ 25,086 at 25,793 (HUDALJ Nov. 1, 1994); *Soules v. HUD*, 967 F.2d 817, 824 (2nd Cir. 1992); *see also, Guider v. Bauer*, 865 F. Supp. 492, 495 (N.D. Ill., 1994).

Respondent Gail Gruen violated the Act when she said to Mr. Bravo that she would not allow him to rent her apartment because his four-year-old son would be staying with him from time to time. (T 21). Mrs. Gruen stated that college students lived and studied in the apartment house and she did not want any small children making noise in the property.³ Respondent further stated to Mr. Bravo that her rental policy was to rent “basically to adults only” and that the subject property was “primarily adults only [*sic.*].” (S 2). Respondent confirmed in her Answer to the Complaint and the Charge of Discrimination that she did not want young children in the apartment. (S 3). An ordinary listener to Gruen’s words spoken to Mr. Bravo would interpret her statements as expressing a preference against and discouraging families with children in her housing unit so as to steer them away from the premises, and an ordinary reader would interpret the statements in Gruen’s Answer the same way. Furthermore, when Mr. Bravo told Respondent that she “was being very discriminatory,” Mrs. Gruen’s response was, “I know. We’re very discriminative here in Barrington.” (T 21). These words are unmistakable in their intent to exclude in general seekers of housing who fit into Mrs. Gruen’s categories of “dispreferred” people and Bravo in particular because of the anticipated presence of his young son. Thus, Respondent is found by direct evidence to have violated § 3604(c) of the Act.

Remedies

Damages for Emotional Distress

Upon finding that a Respondent has violated the Act, the Administrative Law Judge assigned to the case shall order appropriate relief, including “actual damages suffered by the aggrieved person[s].” 42 U.S.C. § 3612(g)(3). The purpose of an award

² The “ordinary listener” is “neither the most suspicious nor the most insensitive.” *Ragin v. New York Times Co.*, 923 F.2d 995 at 1002 (2nd Cir. 1991).

³ By not attending the hearing Mrs. Gruen missed her opportunity for stating why she thought one four-year-old would be noisier and more bothersome than a group of college students to other people studying in the building.

of actual damages in a fair housing case, as in civil litigation generally, is to put the aggrieved person in the same position, so far as money can do it, as he would have been had there been no injury or breach of duty; *i.e.*, to compensate the aggrieved person for the injury sustained. Schwemm, *Housing Discrimination: Law & Litigation*, p. 25, and cases cited therein. Actual damages that are compensable include tangible losses, emotional distress, and inconvenience.

Tangible Losses

It took Mr. Bravo approximately three to four months after Respondent's discrimination to find alternative housing. (T 24). During this time he lived with his mother and paid her approximately \$2,000 in rent, other living expenses, gas for her car and repairs to the car. (T 25). Mr. Bravo also lost approximately 40 hours of work, at \$20 per hour, or \$800, while searching further for housing. (T 27).

Mr. Bravo should also be compensated for the difference in rent he was forced to pay when he subsequently moved to the 129 Waverly address in Barrington for six months. (T 27). The monthly rent at the subject property was \$750, while at Waverly it was \$1,100. (T 17, 27). The difference for the six months was therefore \$2,190. Bravo subsequently moved to 336 East Russell, Barrington, where the monthly rent on his two-year lease was \$1,300. (T 28; S 5). This difference in rent for the two years is worth \$13,560. Mr. Bravo's consequent losses of \$18,550 will be ordered compensated by the Respondent in the Order at the end of this Initial Decision.

Intangible Losses

As to Respondent's injuries due to emotional distress, courts have long recognized the "indignity associated with housing discrimination." *Phillips v. Hunter Trails Community Assn.*, 685 F.2d 184 (7th Cir. 1982); *Miller v. Apts. and Homes*, 646 F. 2d 101 (3rd Cir. 1981). Because emotional distress is difficult to quantify, courts have not required proof of the actual dollar value of that injury. Heifetz and Heinz, *Separating the Objective, the Subjective, and the Speculative: Assessing Compensatory Damages in Fair Housing Adjudications*, 26 J. Marshall L. Rev. 3, 17 (1992). Judges are afforded wide discretion in ascertaining emotional distress damages, limited by two critical factors: the egregiousness of the Respondent's behavior and the effect of that behavior on the Aggrieved Person. *HUD v. Sams*, Fair Housing - Fair Lending (Aspen), ¶ 25,069 at 25, 651 (Mar. 11, 1994); *see, e.g., Marable v. Walker*, 704 F. 2d 1219, 1220 (11th Cir. 1983); *Block v. R.H. Macy & Co.*, 712 F.2d 1241, 1245 (8th Cir. 1983).

The application of these two factors produces awards for damages for emotional distress in these cases in a range from a relatively small amount; *e.g.*, \$150 in *HUD v. Murphy*, Fair Housing - Fair Lending (Aspen) ¶ 25,002, at 25,079, awarded to a party who “suffered the threshold level of cognizable and compensable emotional distress” to substantial amounts; *e.g.*, \$175,000 in the case of *HUD et al. v. Edith Marie Johnson*, Fair Housing - Fair Lending (Aspen) ¶ 25,076 at 24,704 (Jul. 26, 1994). In *HUD v. Dellipaoli*, Fair Housing - Fair Lending (Aspen) ¶ 25,127 at 26,072 (Jan. 7, 1997), the administrative law judge awarded the Aggrieved Person \$500 for her emotional reaction to the Respondent’s discriminatory statement regarding familial status. In that case the Respondent was caught in the anomalous situation of being exempt from the requirements of the Act to rent to all classes of people because the subject dwelling was an apartment in the Respondent’s residence, and yet banned by § 3604(c) from stating a preference, *e.g.*, for a single tenant with no children. As in *Dellipaoli*, Respondents’ behavior in the instant case is not considered egregious, but I find there is greater significance to stating a preference for who should live in an apartment building than stating one regarding one’s own residence.

As to the effect of Respondent’s behavior on the Aggrieved Person, Mr. Bravo credibly testified that after hearing that Respondent would not rent to him because of his son he became “very upset,” “angry,” and “insulted.” (T 24). Before viewing the apartment Mr. Bravo was hopeful and optimistic that he would be able to have an apartment that met his needs and, most importantly, would fulfill the requirements set by the court for him to have joint custody of his son; all of this in an area where it is very difficult to find such housing. Thus, it is obvious that being told he could not have the apartment because of the very son he was desperately trying to accommodate must have been frustrating. He said he was “very angry” and “very hurt” and I find these statements more than credible. Bravo is further hurt every time he sees units in the same apartment building being advertised again.

The Charging Party requests an award of \$20,000 in damages for Mr. Bravo’s emotional injuries and humiliation, but it has failed to show why that amount is appropriate. As discussed above, the emotional harm to Mr. Bravo is neither at a mere threshold of what is cognizable and compensable nor of the most egregious in nature that we consider in this forum. With this in mind and while considering the fact that Mr. Bravo appeared to be a person of strong constitution, and also in view of the awards for emotional harm made in numerous other cases, I conclude that an award of \$10,000 for Mr. Bravo’s emotional distress is appropriate. That amount will be ordered paid by the Respondent to the Aggrieved Person in the Order that follows at the end of this Initial Decision.

Civil Penalty

The Charging Party has also asked for the imposition of a civil penalty of \$11,000. This is the maximum that can be imposed on a Respondent who has not been adjudged to have committed any prior discriminatory housing practices. 42 U.S.C. § 3612 (g)(3)(A); 24 CFR 180.670(b)(3)(iii). In accordance with the last-cited regulation, determination of an appropriate penalty requires consideration of five factors: 1. the nature and circumstances of the violation; 2. the degree of the Respondent's culpability; 3. the goal of deterrence; 4. whether the Respondent has been previously adjudged to have committed unlawful housing discrimination; and 5. the Respondent's financial resources.

There is no evidence that Respondent has been previously found to have committed a discriminatory housing practice. Thus, \$11,000 is the maximum that can be imposed in this case. The nature and circumstances of the violations of the Act in this case are of a lower order than frequently found in cases of violation of the Fair Housing Act. *See, e.g. HUD v. Hope*, Fair Housing - Fair Lending, (Aspen) ¶ 25,160 (HUDALJ May 8, 2002). In that case Respondent threatened a black couple with his apparently vicious dogs and the possibility that he would call on his neighbor, a gun shop owner, to help deal with them if they occupied the next-door house on which they had signed a contract of purchase. In comparison, in the instant case less was done in violation of the Act, and the penalty should fit the lower order of the violation.

Assessment of a civil penalty sends a message to the Respondents penalized, and to others, that the United States Government will not tolerate discrimination against any individual on the basis of familial status. The congress approved the Act that made the acts of the Respondent unlawful long before the facts of this case arose. Thus, as to culpability, the Respondent as a real estate professional (\$ 10), surely knew or should have known that her preference for adult residents and exclusion of children should not be stated nor implemented as a reason to deny housing to a qualified applicant

There was no evidence on which to base an accurate assessment of the Respondent's financial circumstances, and it is, of course, her burden to show that a penalty would be an undue hardship. However, from her description of her management of her own 12-unit building, she would appear not to be wealthy in the ordinary sense of the word. In any event, the considerations above support the imposition of only a moderate penalty rather than the full amount permitted.

Finally, the Secretary did not offer argument persuasive of the view that the maximum permitted civil penalty of \$11,000 should be imposed. Given this fact, the

considerations above, and a general assessment of the facts and handling of this case, a civil penalty of \$4,000 appears appropriate and that amount will be part of the Order that follows.

Injunctive Relief

That part of the Fair Housing Act that is codified at 42 U.S.C. § 3612(g)(3) and the HUD regulation that is found at 24 CFR 180.670(b)(3)(ii) also authorize the Administrative Law Judge to order injunctive or other equitable relief. Injunctive relief may be imposed to ensure that the Respondents will not again discriminate on the basis of familial status, to eliminate the effects of their past discrimination, and to return the Aggrieved Person to the position he would have been in absent the discrimination shown. *See, Park View Heights Corp. v. City of Black Jack*, 605 F.2d 1033, 1036 (8th Cir. 1979), *cert. denied*, 445 U.S. 905 (1980). Once a court has determined that discrimination has occurred, it has “the power as well as the duty to ‘use any remedy to make good the wrong done.’” *Moore v. Townsend*, 525 F.2d 482, 485 (7th Cir. 1975). To that end, the Charging Party has requested that I enter a permanent injunction against Respondent that restrains her from further violations of the Act and appropriate affirmative relief to protect against recurrence of the Respondent’s discriminatory conduct. This request is well taken, however, the Charging Party has not provided any guidance as to the nature of the relief requested. Thus, injunctive relief of this forum’s own design will be set forth as part of the Order that follows.

ORDER

Having concluded that Respondent Gail Gruen violated provisions of the Fair Housing Act that are codified at 42 U.S.C. §§ 3604(a) and (c) as well as the regulations of the U.S. Department of Housing and Urban Development which are codified at 24 CFR 100.60 and 100.75 it is hereby

ORDERED that,

1. Respondent is permanently enjoined from discriminating against the Aggrieved Person, or any other person, with respect to housing, because of familial status, and from retaliating against or otherwise harassing him or any of his family.
2. Respondent shall institute record-keeping of the operation of the subject property which is adequate to comply with the requirements set forth in this Order, including keeping all records described in paragraph 3 of this Order. Respondent shall

permit representatives of HUD to inspect and copy all pertinent records at reasonable times after reasonable notice.

3. On the last day of every third month beginning June 30, 2003, and continuing for three years, Respondent shall submit reports containing the following information regarding the previous three months for all properties listed for sale or rent by Respondent, to HUD's Office of Regional Counsel for Region V, 77 West Jackson Boulevard, Room 2617, Chicago, Illinois 60604-3507 (Phone: 312-353-6236), provided that the Regional Counsel may modify this paragraph of this Order as deemed appropriate to make its requirements less, but not more burdensome, and is encouraged to do so if Respondent chooses to offer a rental unit to the Aggrieved Party as provided for in paragraph 6, below.

a. a duplicate of every written application, and written description of every oral application, for all persons who applied for rent or purchase of all Respondent's listed units, including a statement of each person's familial status, whether the person was rejected or accepted, the date of such action, and, if rejected, the reason for the rejection;

b. a list of vacancies at all Respondent's housing units, including the departed person's familial status, the date of termination notification, the date moved out, the date the unit was next committed to occupancy, the familial status of the new occupant, and the date that the new occupant moved in;

c. current occupancy statistics indicating which of Respondent's listed housing units are occupied by families or groups including at least one younger than 18 years of age;

d. sample copies of advertisements published or posted during the reporting period, including dates and what, if any, media was used, or a statement that no advertising was conducted;

e. a list of all persons who inquired in any manner about renting or buying one of Respondent's listed housing units, including their names, addresses, familial status, and the dates and dispositions of their inquiries; and

f. a description of any rules, regulations, leases, or other documents, or changes thereto, provided to or signed by any applicants for rental or purchase of housing units listed by Respondent.

4. Respondents shall inform all their agents and employees, including any officers and board members of their businesses, of the terms of this Order and shall educate them as to these terms and the requirements of the Fair Housing Act.

5. Within forty-five days of the date on which this Initial Decision and Order is issued, Respondent shall pay damages in the amount of \$28,550 to Mauricio Bravo to compensate him for damage and other losses that resulted from Respondent's discriminatory statements. This payment shall be by cashier's check made payable to Mauricio Bravo and delivered to the Region V Counsel.

6. Within forty-five days of the date that this Initial Decision and Order becomes final, Respondents shall pay a civil penalty of \$4,000 to the Secretary, United States Department of Housing and Urban Development. At the discretion of the Regional Counsel for Region V, in lieu of payment of this civil penalty, Respondent may choose to offer Mr. Bravo the next two-bedroom unit that becomes available in the subject property.

7. Within fifteen days of the date that this Order becomes final, Respondents shall submit a report to HUD's Office of Regional Counsel for Region V that sets forth the steps she has taken to comply with the other provisions of this Order and her preference in accordance with paragraph 6, above.

This Order is entered pursuant to the applicable section of the Fair Housing Act, which is codified at 42 U.S.C. Section 3612(g)(3), and HUD's regulation that is codified at 24 CFR 180.680. It will become final upon the expiration of 30 days or the affirmation, in whole or in part, by the Secretary for Housing and Urban Development within that time.

ROBERT A. ANDRETTA
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of this **INITIAL DECISION AND ORDER** issued by ROBERT A. ANDRETTA, Administrative Law Judge, in HUDALJ 05-99-1375-8, were sent to the following parties on this 27th day of February, 2003, in the manner indicated:

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