

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 Tiffani Ann Alvera,)

Charging Party,)

v.)

HUDALJ 10-99-0538-8

The CBM Group, Inc., Karen)
Mock, Inez Corenevsky,)
Creekside Village Apartments,)
Edward MacKay and Dorian)
MacKay,)

Respondents.)

CHARGE OF DISCRIMINATION

I. JURISDICTION

On October 22, 1999, Complainant Tiffani Ann Alvera, an aggrieved person, filed a timely, verified complaint with the United States Department of Housing and Urban Development (hereinafter, "HUD"). Complainant alleges that Respondents, CBM Property Management, Karen Mock, Inez Corenevsky, Creekside Village Apartments, Edward MacKay and Dorian MacKay,¹ the managers and owners of the subject property, discriminated against her by making an apartment unavailable to her and applying different terms and conditions of tenancy to her because of her sex, in violation of the Fair Housing Act, as amended, 42

¹ The complaint also named Tina Williams as a respondent. Ms. Williams is hereby dismissed from this action and, therefore, is not named as a respondent herein.

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U.S.C. §§ 3601-3619 ("the Act"). The subject property is a 40-unit apartment complex. HUD's efforts to conciliate the complaint were unsuccessful.

The Act authorizes issuance of a charge of discrimination on behalf of aggrieved persons following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610 (g) (1) - (2). The Secretary has delegated to the Assistant Secretary for Fair Housing and Equal Opportunity the authority to make such a determination. 59 Fed. Reg. 39,955 (Aug. 9, 1994), as modified by 59 Fed. Reg. 46,759 (Sept. 12, 1994). The Assistant Secretary has redelegated this authority to each of the FHEO HUB Directors. 63 Fed. Reg. 11,904 (Mar. 11, 1998). The General Counsel has delegated to the Field Assistant General Counsel the authority to issue such a charge on his behalf. 59 Fed. Reg. 53,552 (Oct. 24, 1994).

The Director of the FHEO HUB for the Northwest/Alaska area has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and has authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the complaint and the attached determination of reasonable cause, the Assistant General Counsel for Northwest/Alaska charges Respondents with violations of the Fair Housing Act, specifically 42 U.S.C. §3604(a) and (b). The following allegations support this Charge of Discrimination.

1. It is unlawful to refuse to rent, to refuse to negotiate for the rental of, or otherwise make unavailable or deny, a dwelling to any person because of the person's sex. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(1), (b)(3) and 100.60. Prohibited actions include evicting a tenant because of the tenant's sex. 24 C.F.R. § 100.60(b)(5).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, because of the person's sex. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2) and 100.65.

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3. The subject property, which is known as Creekside Village Apartments, is a 40-unit apartment complex located at 1952 Spruce Drive, Seaside, Oregon 97138. The subject property is subsidized by Rural Development funds through the United States Department of Agriculture.
4. At all times relevant herein, Complainant, Tiffani Ann Alvera, a female, was a resident of the subject property.
5. At all times relevant herein, Respondent The CBM Group, Inc. ("CBM"), a California corporation, through its Property Management Division, was the property management company responsible for managing the subject property.
6. At all times relevant herein, Respondent Karen Mock was the resident manager of the subject property and an employee of Respondent CBM.
7. At all times relevant herein, Respondent Inez Corenevsky was the property manager for the subject property and an employee of Respondent CBM.
8. At all times relevant herein, Respondent Creekside Village Apartments, a California Limited Partnership, was the owner of the subject property.
9. At all times relevant herein, Respondents Edward MacKay and Dorian MacKay were the General Partners of Creekside Village Apartments, a California Limited Partnership.
10. In November 1998, Complainant and her husband, Humberto Mota, moved into Apartment 21, a two-bedroom unit at the subject property.
11. On or about August 2, 1999, at approximately 5:30 a.m., Complainant was physically assaulted by her husband in their apartment. Complainant escaped to her mother's apartment in the same complex. Her mother called emergency services, and Complainant was taken by ambulance to the hospital.
12. About 6:00 a.m., Complainant's mother went to Respondent-manager Karen Mock's apartment to inform her of the incident

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and obtain a key to Complainant's apartment so the police could enter.

13. Later, Respondent Mock completed an incident report form, stating that Complainant had been assaulted by her husband and taken to the hospital, and the police had been called. She faxed the report to Respondent-Property Manager Inez Corenevsky.
14. Respondent Corenevsky advised Respondent Mock to serve Complainant with a 24-hour notice of termination of tenancy.
15. The same morning, after Complainant was released from the hospital, she sought and obtained a restraining order against her husband. The order prohibited Mr. Mota from contacting Complainant or coming within 100 feet of her. The order also required that Mr. Mota move from and not return to their residence, Apartment 21 at the subject property.
16. Later on August 2, 1999, Complainant gave the resident manager, Respondent Mock, a copy of the restraining order and requested that Mr. Mota be taken off the lease.
17. Respondent Mock informed Complainant that her supervisor had told her to serve Complainant with a 24-hour notice to vacate because of the domestic violence incident.
18. On August 4, 1999, Complainant was personally served with a 24-Hour Notice terminating her tenancy effective midnight August 5, 1999. The notice stated, "Pursuant to Oregon Landlord/Tenant law, this notice is to inform you that your occupancy will terminate because: You, someone in your control, or your pet, has seriously threatened immediately to inflict personal injury, or has inflicted substantial personal injury upon the landlord or other tenants." The notice further stated, "Specific details: On August 2, 1999, at approximately 6:00 a.m., Humberto Mota reportedly physically attacked Tiffani Alvera in their apartment. Subsequently, Police were called in." The Notice was signed by Respondent Mock as agent for Respondent Creekside Village Apartments.

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19. On August 4, 1999, Complainant submitted an application to rent a one-bedroom apartment at the subject property, as she, living alone, no longer qualified for a two-bedroom subsidized unit. Respondent Mock reluctantly accepted Complainant's application, but did not put her name on the waiting list for a one-bedroom unit.
20. Respondent Mock then informed Respondent Corenevsky that Complainant had applied for a one-bedroom unit. Ms. Corenevsky said she did not want Complainant as a tenant.
21. On or about August 6, 1999, Complainant attempted to pay her August rent, but Respondent Mock refused to accept her rent payment.
22. On or about August 11, 1999, Respondent Mock returned Complainant's rental application to her without a written or verbal explanation for the denial of her application.
23. Respondents also refused to accept Complainant's September rent payment and repeatedly told her that they intended to file an eviction action against her.
24. On or about October 9, 1999, Complainant submitted a second application for a one-bedroom unit. Complainant signed a lease agreement for Apartment 18, a one-bedroom unit, on October 26, effective November 1, 1999. Apartment 18 had been vacant since August 1, 1999.
25. On October 26, 1999, Respondent's attorney wrote a letter to Complainant stating, in part, "As you know, there was a recent incident of violence that took place between you and another member of your household. . . . Your conduct and the conduct of the other tenant would probably have been grounds for termination of your tenancy. . . . This letter is to advise you that if there is any type of reoccurrence of the past events described above, that Creekside would have no other alternative but to cause an eviction to take place."
26. Respondents did not receive complaints from any residents about the August 2, 1999, domestic violence incident nor had they received any complaints about Complainant or Mr. Mota. Respondents had not issued any warnings or notices to

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Complainant or Mr. Mota for rules violations or any other reasons.

27. Complainant's husband, Humberto Mota, was arrested and jailed on August 2, 1999, and purportedly left the country after his release. Complainant has had no contact with Mr. Mota since the domestic violence incident.
28. National and Oregon state statistics show that women are approximately eight (8) times more likely than men to be victims of domestic violence—violence by an intimate partner. Nationally, 90 to 95 percent of victims of domestic violence are women.
29. Respondents' policy of evicting the victim as well as the perpetrator of an incident of violence between household members has an adverse impact based on sex, due to the disproportionate number of female victims of domestic violence.
30. Respondents' policy of evicting the victim of domestic violence because of a violent incident is not justified by business necessity.
31. By terminating Complainant's tenancy at Apartment 21 and denying her application to rent a one-bedroom unit because she was a victim of domestic violence in her apartment at the subject property, Respondents refused to rent or otherwise made a dwelling unavailable to Complainant because of her sex, in violation of 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.50(b)(1), (b)(3) and 100.60(a)-(b)(2), (b)(5).
32. By adopting and enforcing a facially neutral policy of terminating the tenancy of the victim of domestic violence after an incident of violence between household members, which has a disparate impact on women who are disproportionately the victims of domestic violence, Respondents discriminated against Complainant in the terms, conditions, or privileges of the rental of a dwelling, because of her sex, in violation of 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2) and 100.65(a).

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33. Complainant Alvera has suffered damages, including economic loss, inconvenience, emotional distress and loss of an important housing opportunity as a result of Respondents' discriminatory conduct.

III. CONCLUSION

WHEREFORE, The Secretary, through the Assistant General Counsel for Northwest/Alaska and pursuant to 42 U.S.C. § 3610(g), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 and prays that an order be issued, pursuant to § 3612(g)(3), that:

- 1. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
- 2. Enjoins Respondents, their agents, employees, successors and assigns, and all other persons in active concert or participation with them, from discriminating on the basis of sex in any aspect of the rental of a dwelling;
- 3. Awards such damages as will fully compensate Complainant Alvera for her economic loss, inconvenience, emotional distress and lost housing opportunity caused by Respondents' discriminatory conduct;
- 4. Awards a civil penalty against each respondent for each discriminatory housing practice; and

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5. Awards such additional relief as appropriate.

Respectfully submitted,

David F. Morado

DAVID F. MORADO
Assistant General Counsel
for Northwest/Alaska

Jo Ann Riggs
JO ANN RIGGS
Associate Field Counsel
U.S. Department of Housing and
Urban Development
Seattle Federal Office Building
909 First Avenue, Suite 260
Seattle, Washington 98104-1000
(206) 220-5190

DATE: April 16, 2001