

visited 6/3/2009

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)
Roziel Reyes,)
)
Charging Party,)
)
v.)
)
Michael Bassali,)
)

Respondent.)

HUD ALJ No.: 07-044-FH
FHEO No.: 05-04-1459-8

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

This matter arose from a complaint of familial status discrimination filed by Complainant Roziel Reyes on September 30, 2004, with the United States Department of Housing and Urban Development (hereinafter known as the "Department" or "HUD"), pursuant to the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601, *et seq.* (hereinafter the "Act"). On July 9, 2007, the Charging Party issued a Charge of Discrimination (hereinafter "Charge") against Respondent Michael Bassali ("Respondent") for violations of 42 U.S.C. §§ 3604(a) and (c), which prohibits, *inter alia*, the making of discriminatory statements and otherwise making housing unavailable on the basis of familial status.

In or around August 2004, Complainant Reyes, and her partner, Aquiles Catalan ("Catalan"), and their three minor children, began looking for an apartment after Complainant Reyes' landlords¹ notified her that they would be remodeling her unit and she would need to move out as soon as possible. On or about September 15, 2004, Complainant Reyes saw a rental ad posted on the internet website "craigslist.com" for rental property in the city of Evanston.

On or about September 18, 2004, Complainant Reyes contacted the person that posted the ad, who later identified himself as "Michael Bassali," and scheduled an appointment to view a unit that same day. Later that day, Complainant Reyes, Catalan

¹ Complainant Reyes' landlords at the time were relatives, and as a result, Complainant Reyes had been paying rent that was lower than market rate.

and a friend, Enma Vasquez ("Vasquez"), viewed the property located at 1112 Garnett Place, Evanston, Illinois 60201 ("subject property"). After Complainant Reyes, Catalan and Vasquez saw how large the unit was, they all agreed that Vasquez would share the unit with Complainant Reyes and her family. On or about September 20, 2004, Complainant Reyes and Vasquez again viewed the subject property. After Complainant Reyes decided that the unit was ideal for her and her family, Complainant Reyes signed a lease and paid the security deposit.

A few days later, on or about September 23, 2004, Respondent Bassali informed Complainant Reyes that he was no longer able to rent to her because he had safety concerns related to her children occupying the subject property. Later that day, Complainant Reyes met with Respondent Bassali who said that he was concerned about safety issues at the subject property, including the plumbing, the stairwell and the possible presence of lead-based paint and/or mold in the unit. Subsequently, Respondent Bassali returned Complainant Reyes' security deposit and terminated the lease. As a result of the termination of the lease, Complainant Reyes was forced to find another apartment for her family to rent, where Complainant Reyes paid more for her share of the rent.

As a result of Respondent Bassali's discriminatory acts against Complainant Reyes and her family, the loss of the opportunity to rent the subject property was emotionally stressful for Complainant Reyes, Catalan and their three children. Finding subsequent housing took more time and was difficult because Complainant Reyes was renting from family at a lower rent. Complainant Reyes' emotional distress manifested itself mentally in the form of increased stress and anxiety and caused tension in her immediate and extended family.

Respondent Bassali failed to file an answer to the Charge, which was due on or before August 8, 2007. As a result, on August 13, 2007, Charging Party filed a Motion for Entry of Default Decision. On September 18, 2007, the Office of Administrative Law Judges entered a Default Judgment in this matter. A hearing on the matter of damages was scheduled for November 13, 2007. However, to avoid uncertain and costly litigation, Respondent Bassali agreed to resolve the above-captioned case with Complainant Reyes without the need for a hearing to adjudicate damages. Respondent Bassali and Complainant Reyes have consented to the entry of this Initial Decision and Consent Order (hereinafter "Consent Order"), as indicated by the signature of the parties and counsel below.

II. GENERAL INJUNCTION

It is hereby ORDERED that during the effective period of this Consent Order, Respondent, his heirs, executors, assigns, agents, employees, and successors, and all other persons in active concert or participation with him in the ownership or operation of the subject property and any other properties owned or managed by him, are permanently enjoined from discrimination against any person on the basis of familial status, in any aspect of rental or sale of a dwelling, pursuant to §§ 3604 (f)(2)(A) and (f)(3)(B) of the

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Act. Respondent hereinafter promises and agrees to comply with all the provisions of the Act relevant to the subject property and any other properties owned and/or managed by him.

Respondent acknowledges that the Act makes it unlawful to:

- A. Make unavailable or deny a dwelling unit to any person because of race, color, religion, national origin, sex, disability, or familial status; or refuse or fail to provide or offer information about a dwelling unit or to show or rent a dwelling unit to any person because of race, color, religion, national origin, sex, disability or familial status.
- B. Discriminate against any person in the terms, conditions, or privileges of rental of a dwelling unit, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, sex, disability or familial status.
- C. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the rental of a dwelling unit that states any preference, limitation or discrimination based upon race, color, religion, national origin, sex, disability or familial status.
- D. Represent to any person because of race, color, religion, national origin, sex, disability or familial status, that any dwelling unit is not available for inspection or rental when such dwelling unit is, in fact, so available.

III. SPECIFIC RELIEF

In exchange for the Charging Party's agreement to dismiss this Charge, Respondent Michael Bassali shall:

- A. Pay the total sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) to Complainant Roziel Reyes.
- B. Pay a civil penalty to the Government in the total sum of TWO THOUSAND DOLLARS (\$2,000.00).
- C. Pursuant to 24 C.F.R. §180.450, within ninety (90) days of the entry of this Consent Order by the Administrative Law Judge, make the payment described in Paragraph "A," above, in two separate payments.
 - 1. The first payment shall be made within forty-five (45) days of the entry of this Consent Order by the Administrative Law Judge in the amount of SEVENTY FIVE HUNDRED DOLLARS (\$7,500.00) in the form of a certified check or money order made payable to "Roziel Reyes."

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2. The second payment shall be made within ninety (90) days of the entry of this Consent Order by the Administrative Law Judge in the amount of SEVENTY FIVE HUNDRED DOLLARS (\$7,500.00) in the form of a check or money order made payable to "Roziel Reyes."
3. Each of the above-mentioned payments in Section III, Paragraphs (B)(1) and (2), shall be mailed to Complainant Reyes by Federal Express or certified mail to the following address:

Roziel Reyes
1619 W. Foster Avenue
Chicago, IL 60640

A copy of the certified checks made payable to Complainant Reyes shall be sent to the HUD's Regional Counsel at the following address:

Courtney Minor, Regional Counsel, Region V
U.S. Department of Housing and Urban Development
Office of the Regional Counsel
77 West Jackson Boulevard, Room 2617
Chicago, Illinois 60604-3507

4. Pursuant to 24 C.F.R. §180.450, within ninety (90) days of the entry of this Consent Order by the Administrative Law Judge, make the payment described in Paragraph "B," above, by certified or cashier's check made payable to "U.S. Department of Housing & Urban Development." Accompanying the check should be a cover letter indicating that the check is for the civil penalty and referencing both case numbers, HUD ALJ No. 07-044-FH and FHEO Case No. 05-04-1459-8, on both the cover letter and the check. The aforementioned payment should be mailed by Federal Express or certified mail to the following address:

Bank of America
PO Box 277303
Atlanta, GA 30384

A copy of the check for the above civil penalty shall be sent to HUD's Regional Counsel at the following address:

Courtney Minor, Regional Counsel, Region V
U.S. Department of Housing and Urban Development
Office of the Regional Counsel
77 West Jackson Boulevard, Room 2617
Chicago, Illinois 60604-3507

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- C. Within six (6) months of the entry of this Consent Order, Respondent Michael Bassali must attend fair housing training to be conducted by a qualified fair housing enforcement agency. The training must cover his responsibility under federal, state and local fair housing laws, regulations and ordinances. Respondent is responsible for any and all costs, if any, associated with such fair housing training. Respondent may contact HUD Trial Attorney Barbara Sliwa at (312) 353-6236, extension 2613, for assistance in locating a qualified fair housing enforcement agency to conduct the required training.

Respondent shall provide a certificate of completion to the Department, in the same form as that attached hereto as "Attachment A," evidencing that he has successfully completed the course. Respondent should sign and date the certificate of completion (Attachment A), and send it to HUD within thirty (30) days of completion of such course. The certificate of completion shall be mailed to the Department by regular mail to the following address:

Courtney Minor, Regional Counsel, Region V
U.S. Department of Housing and Urban Development
Office of the Regional Counsel
77 West Jackson Boulevard, Room 2617
Chicago, Illinois 60604-3507

- D. As additional consideration for Respondent's payment to Complainant, compliance with the conditions and terms of this Consent Order and with all orders of this tribunal described herein, and for other good and valuable consideration, Complainant hereby dismisses her complaint against Respondent Michael Bassali.

IV. MUTUAL RELEASE

In consideration for Respondent's payment to Complainant, compliance with the conditions and terms of this Consent Order and with all orders of this tribunal described herein, and for other good and valuable consideration, Complainant, her successors, assigns, agents, employees, and attorneys hereby forever waive, release, and covenant not to sue Respondent, his successors, heirs, executors, assigns, agents, employees, and attorneys, including any subsequent owner of the subject property with regard to any and all claims, damages, and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD ALJ No. 07-044-FH and FHEO Case No. 05-04-1459-8, or which could have been filed in any action or suit arising from said subject matter.

In consideration of the execution of this Consent Order, and other good and valuable consideration, Respondent, his successors, assigns, agents, employees, and

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attorneys, including any subsequent owner of the subject property, hereby forever waive, release, and covenant not to sue the Department or Complainant or their officers, successors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD ALJ No. 07-044-FH and FHEO Case No. 05-04-1459-8, or which could have been filed in any action or suit arising from said subject matter.

V. GENERAL PROVISIONS

- A. The parties acknowledge that this Consent Order is a voluntary and full settlement of the Charge. No party has been coerced, intimidated, threatened, or in any way forced to become a party to the Consent Order. The parties have read and fully understand the significance of all the terms set forth herein.
- B. The parties and their counsel agree that, in the interest of prompt conclusion of this matter, the execution of this Consent Order by the parties may be accomplished by separate execution of consents (the original executed Consent and Signature Pages) to be attached to the body of this Consent Order to constitute one document.
- C. The signatures of the parties to this Consent Order may be executed by way of facsimile transmission and shall be deemed to be an executed and admissible Consent Order for all purposes as may be necessary under the terms of this Consent Order.
- D. The parties and their counsel agree that if the situation arises where a party to this agreement needs an extension of time in order to satisfy a deadline provided herein, such extension must be obtained by mutual agreement of the parties and all signatories or their successors in writing.
- E. This Consent Order shall govern the conduct of the parties to it for a period of two (2) years following the date this Consent Order becomes final pursuant to 42 U.S.C. §3612(h).
- F. This Consent Order is binding upon Complainant, Respondent and his employees, heirs, successors, assigns, and all others working for or associated with Respondent who are involved in the operation of the subject property, including any subsequent owners of the property.
- G. It is understood that, according to 42 U.S.C. §3610(b)(4) of the Act, this Consent Order shall be a public document.
- H. Except as provided herein, the signatures of the parties to this Consent Order further constitute a waiver of any right to apply for additional

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attorney's fees or costs pursuant to 42 U.S.C. § 3612 (p) and 24 C.F.R. § 180.705.

- I. This Consent Order does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondent made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.

VI. MONITORING BY HUD

Respondent agrees and understands that pursuant to a situation, which reasonably so warrants, the Department, on request of Complainant, or on its own motion, may review compliance with this Consent Order. As a part of such review, the Department may require written reports concerning compliance, may inspect Respondent's property identified in Section I of this Consent Order, examine witnesses, and examine and copy pertinent records of Respondent at any reasonable time between the date of the entry of this Consent Order and two (2) years from said date. Respondent agrees to provide full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Consent Order.

VII. DIMISSAL OF CHARGE

In consideration of Respondent's payment to Complainant and compliance with the terms and conditions of this Consent Order, and all orders contained herein, the Charging Party agrees to the dismissal, without a formal determination, of the allegations that Respondent injured Complainant by violating the Act. Therefore, the Charge against Respondent is hereby **DISMISSED** with prejudice. However, nothing in this paragraph should be construed to prevent any of the parties from taking action to enforce this Consent Order.

VIII. COMPLIANCE

Respondent's failure to satisfy the terms of this Consent Order is a breach of the Consent Order, which may be enforced in the United States Court of Appeals pursuant to 42 U.S.C. §§ 3612(j) and (m).

IX. ADMINISTRATION

This Consent Order is entered into pursuant to the Fair Housing Act, 42 U.S.C. §3612(g)(3), and shall become final upon the expiration of thirty (30) days or by confirmation of the Secretary within that time. *See* 42 U.S.C. §3612(h). The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period and

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a waiver of any right to challenge the validity of this Consent Order at any time.

SIGNED this 13th day of November, 2007.

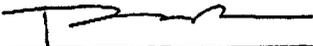
Constance T. O'Bryant
UNITED STATES ADMINISTRATIVE LAW JUDGE

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CONSENT AND SIGNATURE PAGES

The undersigned party has read the foregoing Consent Order, HUD ALJ No. 07-044-FH and FHEO Case No. 05-04-1459-8, and willingly consents to it with a full understanding of the rights it confers and the responsibilities it imposes on her, as signified by her signature below:

FOR COMPLAINANT ROZIEL REYES:



ROZIEL REYES

Date: 11/9/07

CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 07-044-FH and FHEO Case No. 05-04-1459-8, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes on him, as signified by his signature below:

FOR RESPONDENT:

Michael Bassali
MICHAEL BASSALI

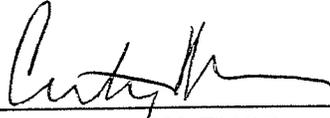
Date: 11/9/07

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CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 07-044-FH and FHEO Case No. 05-04-1459-8, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes on them, as signified by their signatures and that of their counsel, below:

FOR THE DEPARTMENT:



COURTNEY MINOR
Regional Counsel
Region V

11/9/07

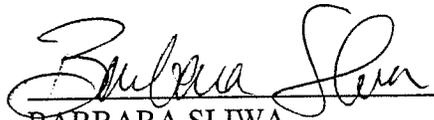
Date



LISA M. DANNA-BRENNAN
Supervisory Attorney-Advisor
for Fair Housing

11/9/07

Date



BARBARA SLIWA
Trial Attorney

11/9/07

Date

U.S. Department of Housing
and Urban Development
Office of Regional Counsel
Region V
77 West Jackson Boulevard, #2617
Chicago, Illinois 60604-3507
(312) 353-6236, Ext. 2613
FAX: (312) 886-4944

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ATTACHMENT A

I, MICHAEL BASSALI, hereby certify that I attended the training session on fair housing law given by a qualified fair housing enforcement agency on _____, 200__, pursuant to Section III in the foregoing Consent Order, HUD ALJ No. 07-044-FH and FHEO Case No. 05-04-1459-8.

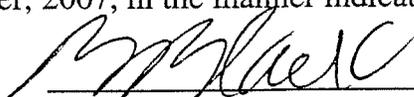
Signature

Date: _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of this ORDER issued by CONSTANCE T. O'BRYANT, Administrative Law Judge, in HUDALJ 04-044-FH, were sent to the following parties on this 13th day of November, 2007, in the manner indicated:



Chief Docket Clerk

REGULAR MAIL:

Roziel Reyes
1619 West Foster Avenue
Chicago, IL 60640

Michael Bassali
1516 Hinman Avenue, Apt. 809
Evanston, IL 60201-4665

Gregory L. Goldstein, Esq.
407 S. Dearborn Street, Ste. 1125
Chicago, IL 60605
Fax: (312) 583-9000

Barbara Sliwa, Esq.
Office of Regional Counsel
U.S. Department of Housing and
Urban Development
77 West Jackson Boulevard, Rm. 2617
Chicago, IL 60604-3507
Fax: (312) 886-4944

INTEROFFICE MESSENGER:

Kim Kendrick, Deputy Assistant Secretary
for Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 7th Street, S.W., Room 5204
Washington, D.C. 20410

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Joseph Pelletier, Deputy Assistant General Counsel for
Fair Housing Enforcement Division
U.S. Department of Housing and Urban Development
451 7th Street, S.W., Room 10270
Washington, D.C. 20410
