Ohio Civil Rights Commission

Memo

To: Desmon Martin, Director of Enforcement & Compliance

From: Denise M. Johnson, Chief Administrative Law Judge

Date: 10/17/2013

Re: *Fair Housing Resource Center v. Richard Bien and Rose Bien*

2009 22A-2010-02459F **Complaint No. 10-HOU-CLE-40132**

CONSIDERATION OF ADMINISTRATIVE LAW JUDGE'S REPORT

ALJ RECOMMENDS CEASE AND DESIST

Report Issued: October 17, 2013

Report Mailed: October 17, 2013

*****Objections Due:*** November 11, 2013**

Ohio Civil Rights Commission

Governor
John Kasich

Board of Commissioners
Leonard J. Hubert, Chairman
Stephanie M. Mercado, Esq.
William W. Patmon, III
Tom Roberts
Rashmi N. Yajnik

G. Michael Payton, Executive Director

October 17, 2013

Patricia A. Kidd, Director
Fair Housing Resource Center
70 West Erie Street, Suite 260
Painesville, Ohio 44077

Donald Mausar, Esq.
323 W. Lakeside Avenue, Ste 200
Cleveland, Ohio 44119

Re: ***Fair Housing Resource Center v. Richard Bien and Rose Bien***
2009 22A-2010-02459F Complaint No 10-HOU-CLE-40132

Enclosed is a copy of the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendation(s) ALJ's Report). You may submit a Statement of Objections to the ALJ's Report within twenty three (23) days from the mailing date of this report. A request to appear before the Commission must also be submitted by this date.

Pursuant to Ohio Admin. Code § 4112-1-02, your Statement of Objections must be **received** by the Commission no later than **November 11, 2013**. *No extension of time will be granted.*

Any objections received after this date will be untimely filed and cannot be considered by the Ohio Civil Rights Commission.

Please send the original Statement of Objections to: **Desmon Martin, Director of Enforcement and Compliance, Ohio Civil Rights Commission, State Office Tower, 5th Floor, 30 East Broad Street, Columbus, OH 43215-3414**. *All parties and the Administrative Law Judge should receive copies of your Statement of Objections.*

FOR THE COMMISSION:

Desmon Martin / apo

Desmon Martin
Director of Enforcement and Compliance

Enclosure

DM:*apo*
Cc: Lori A. Anthony – **Chief Civil Rights Section**/Marilyn Tobocman, **Principal AAG**/ Donald Mausar, Esq. /Patricia A. Kidd, Director of Complainant / Denise M. Johnson – **Chief Administrative Law Judge**

OHIO CIVIL RIGHTS COMMISSION

IN THE MATTER OF:

Fair Housing Resource Center

Complainant

Complaint No. 10-HOU-CLE-40132

v.

Richard Bien and Rose Bien

Respondent

CHIEF ADMINISTRATIVE LAW JUDGE'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS

MIKE DeWine
ATTORNEY GENERAL

Marilyn Tobocman, Esq.
Principal Assistant Attorney General
Attorney General Mike DeWine
Civil Rights Section
615 West Superior Avenue, 11th Floor
Cleveland, Ohio 44113-1899

Counsel for the Commission

Donald Mausar, Esq.
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Cleveland, Ohio 44119

Counsel for the Respondent

Patricia A. Kidd, Director
Fair Housing Resource Center
70 West Erie Street, Suite 260
Painesville, Ohio 44077

Complainant

ALJ'S REPORT BY:

Chief Administrative Law Judge
Denise M. Johnson,
Ohio Civil Rights Commission
Rhodes Office Tower, 5th Floor
30 East Broad Street,
Columbus, OH 43215-3414
Ph. (614) 466-6684
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INTRODUCTION AND PROCEDURAL HISTORY

Fair Housing Resource Center (Complainant) filed a sworn charge affidavit with the Ohio Civil Rights Commission (Commission) on January 25, 2010.

The Commission investigated and found probable cause that unlawful discriminatory practices had been engaged in by Richard and Rose Bien (Respondents) in violation of R.C. 4112.02(H).

The Commission attempted but failed to resolve this matter by informal methods of conciliation. The Commission issued the Complaint, Notice of Hearing, and Right of Election November 18, 2010.

The Complaint alleged that Respondents subjected prospective tenants to unequal terms and conditions of rental because of disability and familial status.

Respondent filed their Answer on March 22, 2011, admitting certain procedural allegations but denying that they had engaged in any unlawful discriminatory practices.

A public hearing was held on September 20, 2011 at the Lake County Courthouse, 47 North Park Place, Painesville, Ohio.

The record consists of the previously described pleadings; a transcript consisting of 164 pages of testimony; exhibits admitted into evidence at the hearing; and the post-hearing briefs filed by the Commission on December 19, 2011; by Respondent on January 27, 2012; and the Commission's reply brief filed February 3, 2012.

FINDINGS OF FACT

The following Findings of Fact are based, in part, upon the Administrative Law Judge's (ALJ) assessment of the credibility of the witnesses who testified before her in this matter. The ALJ has applied the tests of worthiness of belief used in current Ohio practice. For example, she considered each witness's appearance and demeanor while testifying. She considered whether a witness was evasive and whether his or her testimony appeared to consist of subjective opinion rather than factual recitation. She further considered the opportunity each witness had to observe and know the things discussed; each witness's strength of memory; frankness or the lack of frankness; and the bias, prejudice, and interest of each witness. Finally, the ALJ considered the extent to which each witness's testimony was supported or contradicted by reliable documentary evidence.

1. The Respondents own two properties located at 6269 Chestnut Street, Painesville, Ohio 44077 and 6261 Chestnut Street, Painesville, Ohio 44077. (Comm. Exh. 21)

2. The properties are two –family residences consisting of two floors with each suite having two (2) bedrooms. (Comm. Exh. 21)

3. Respondents have owned the properties for fifteen (15) years. (Comm. Exh. 21)

4. Respondents have never received any training regarding fair housing laws. (Comm. Exh. 21)

5. Complainant is a non-profit advocacy organization and its mission is to prevent and eliminate housing discrimination and promote equal housing opportunity.

6. Patricia Kidd (Kidd) is Executive Director of Complainant.

7. Kidd is an attorney with a wide breadth of experience in working for fair housing organizations and training testers.

8. Complainant provides a broad range of technical services on a contractual or consultant basis:

- Foreclosure Mitigation Program
- Emergency Mortgage Assistance Program (ERMA)
- Foreclosure Housing Impediment Analysis
- Drafting of Fair Housing Ordinances
- Consulting Services
- Seminars and Training
- Housing Counseling
- Reasonable Accommodation Requests
- Discrimination Complaint Service
- Systemic/Complaint-based Testing Program
- Education and Outreach (Commission Exh. 16)

9. Complainant conducts tests based on random audits or when complaints are made by individuals seeking housing within the Complainant's geographic boundaries.

10. The purpose of the test is to identify a housing provider's practices which may be in violation of state, federal, and local laws.

11. Paul Tate (Tate), is the Program Manager and Housing Counselor for Complainant. One of Tate's duties is the responsibility for the completion of systematic testing. (Comm. Ex. 14)

12. Tate decides what protected classes are presented to property owners by the tester, the municipalities that the test are conducted in, and the target properties based on advertisements in newspapers. Tate also participates in the training and recruitment of the testers.

13. Tate makes testing assignments to trained testers, debriefs the testers and compares and contrasts the tester reports. Tr. 65

14. Tester Matthew Butler (Butler) received a testing assignment from Tate on April 7, 2009.

15. Butler was assigned the role of a single man with an anxiety disorder and an emotional support animal prescribed by a doctor. Butler's role was to inquire about a two bedroom unit in Concord with the contact number of (440) 256-8929. (Comm. Exh. 9)

16. Butler made three telephone calls to (440) 256-8929 and made contact with two people, one identifying herself as "Rose" and another individual who identified himself as "Rose's husband. (Tr. 34)

17. The Respondents' residential phone number is (440) 256-2529. (Comm. Exh. 21)

18. The first two calls Butler made the Respondents said that they had a prospective tenant but had not made up their minds.

19. The third call Butler made he was asked to fill out an application. It was at that time that Butler informed the Respondents of his anxiety disorder and prescribed assistance animal, a dog.

20. Butler asked the Respondents if the dog would be okay. The Respondents replied that it wouldn't be oaky because the unit was a duplex and the noise might be an issue. (Tr. 35, Comm. Ex. 12

21. In April 2009 tester Kellie Butler (K. Butler) was assigned the role of looking for a two bedroom unit for her visually impaired brother who has an assistance animal.

22. On April 29, 2009 K. Butler called regarding a unit at (440)256-8929 and a man answered.

23. K. Butler inquired about whether or not the apartment listed in the paper was available for rental.

24. The Respondent responded that it had already been rented.

25. K. Butler asked the Respondent if they were to have an apartment to become available, she has a brother who would be interested in renting who is visually impaired and has an assistance dog.

26. Respondent responded that he does not allow dogs. (Comm. Exh. 11, Tr. 23)

27. On May 19, 2009 tester Terri Davis (Davis) was assigned the role of a single female seeking a two-bedroom unit in Concord who suffers from a severe anxiety disorder that affects her sleeping. The tester profile also includes having a prescribed emotional support dog. (Tr. 42-42)

28. Davis contacted Respondents on May 22, 2009 and was given an appointment to inspect the unit on June 3, 2009.

29. When Davis identified herself as having a prescribed support animal, Respondent Richard Bien responded that there are no pets allowed.

30. Davis said that she was an excellent tenant and Respondent Richard Bien talked about making an exception for Davis and that she should bring her dog with her to inspect the unit on June 3rd. (Tr. 44-45, Comm. Exh. 13)

31. On June 3rd Respondents and their pet Chihuahua met Davis and her dog, a Yorkie, at the vacant unit.[1]

32. The Respondents inquired where would Davis' dog be during the day, whether he barked or made a lot of noise. The reason given by the Biens was they did not let their other tenants have any pets so they wanted to check with the neighbor next door to the vacant unit. (Tr. 48)

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1 Davis has a Yorkie because her fiancé has allergies and Yorkies are non-shedding dogs. (Tr. 50)

33. Tate reviewed the testers' notes and other associated documents, debriefed the testers, and compared and contrasted the test conducted by the testers.

34. Tate then made a recommendation to Kidd regarding his analysis and conclusion.

CONCLUSIONS OF LAW AND DISCUSSION

All proposed findings, conclusions, and supporting arguments of the parties have been considered. To the extent that the proposed findings and conclusions submitted by the parties and the arguments made by them are in accordance with the findings, conclusions, and views stated herein, they have been accepted; to the extent they are inconsistent therewith, they have been rejected. Certain proposed findings and conclusions have been omitted as not relevant or as not necessary to a proper determination of the material issues presented.

1. The Complaint alleges that Respondents' practice and policies regarding households with people with disabilities violate R.C. 4112.02(H)(1), (7), (15), and (19).

2. These allegations, if proven, would constitute violations of R.C. 4112.02(H)(1), (7), (15), and (19) which provides that it is an unlawful discriminatory practice for any person to:

> (1) Refuse to (...), rent, lease, sublease, (...), refuse to negotiate for (...) rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of (...), disability, (...);
>
> (7) (..) make or cause to be made any statement or advertisement, relating (...), rental, lease, sublease, or acquisition of any housing accommodations, (...), that indicates any preference, limitation, specification, or discrimination based upon (...), , familial status, (...), disability, or (...), or an intention to make any such preference, limitation, specification, or discrimination;
>
> (15) Discriminate in the (...) rental of, or otherwise make unavailable or deny, housing accommodations to any (...) renter because of a disability (...).
>
> (19) Refuse to make reasonable accommodations in rules, policies, practices,

> or services when necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;

3. The Commission has the burden of proof in cases brought under R.C. Chapter 4112. The Commission must prove a violation of R.C. 4112.02(H) by a preponderance of reliable, probative, and substantial evidence. R.C. 4112.05(E) and (G).

4. Federal case law applies to alleged violations of R.C. Chapter 4112. *Little Forest Med. Ctr. of Akron v. Ohio Civil Rights Comm.,* (1991), 61 Ohio St. 3d 607. Therefore, reliable, probative, and substantial evidence means evidence sufficient to support a finding of unlawful discrimination under the federal Fair Housing Act of 1968 (Title VIII), as amended. *See e.g. Howard v. City of Beavercreek*, 108 F. Supp. 2d 866, 876 S.D. Ohio 2000) (applying FHAA analysis to state-law fair housing claims where language of the relevant provisions of the two statues was similar).

5. O.A.C. 4112-5-07 amplifies the statutory provisions that prohibit housing discrimination against disabled individuals and the housing providers affirmative duties regarding providing reasonable accommodations to such individuals:

> (A)(1)(b) Refuse to negotiate for the (...) renting (...) of private housing accommodations because of a person's disability.
>
> (c) Every disabled person who has an animal assistant or who obtains an animal assistant shall be entitled to keep the animal assistant on the premises (...) rented (...) by such disabled person. He or she shall not be required to pay any extra charge for such animal assistant but shall be liable for damage done by the animal assistant to the premises.
>
> (D) (...) Reasonable accommodations in rules, policies, practices, or services shall also be made when such accommodations are necessary to afford a disabled person equal opportunity to use and enjoy a premises.
>
> (E) Burden of proof. If an applicant, because of disability, is refused housing accommodations or discriminated against in any term, condition or privilege in the sale, assignment, transfer, renting, subleasing, or

> financing of housing accommodations, the owner, landlord, proprietor, or agent shall have the burden of establishing the basis for such refusal or discrimination.

6. The Commission presented direct evidence that Respondents treated Complainant's testers, who presented themselves as prospective renters with disabilities, differently based upon the protected characteristics of disability.

> Direct evidence is "evidence" which if believed, requires the conclusion that unlawful discrimination [i.e., the unlawful characteristic] was at least a motivating factor in the [Respondents'] actions.

White v. Columbus Metropolitan Housing Authority, 429 F.3d 232, 238 (6th Cir. 2005)

> Evidence that testers were treated disparately based upon protected characteristics (disability, familial status) constitutes direct evidence sufficient to sustain a claim under R.C. 4112.

Walker v. Todd Village, LLC, (D. Md. 2006), 419 F. Supp.2d 743, 748-49.

7. The Commission need not prove malice or discriminatory animus of a Respondent to make out a case of intentional discrimination where the defendant expressly treats someone protected by R.C. 4112.02(H) in a different manner than others who are not members of a protected class under state and federal law. *Janick v. Department of Housing & Urban Dev.*, 44 F.3d 553, 556 (7th Cir. 1995)

8. Respondents acknowledge that a landlord cannot deny an assistance animal to a person with a disability relying on a vague reference to federal housing regulations:

> "(...) Furthermore, in assessing a tenant's request for emotional support animal as a reasonable accommodation, we as landlords are entitled by law to consider the administrative and other repercussions of allowing an animal onto the premises, including the potential disturbance to other tenants. We know in its internal regulations governing HUD specifically states that allowing an assistive animal does not constitute an undue burden, however our initial hesitation in approving a person with a companion dog resulted from the fact that we have had a tenant next door, who is recognized to be allergic to dogs and we had to take into consideration that person's medical requirements as well. (...) (Comm. Exhibit 22, Respondent's Position Statement)

9. Veronica Renfro (Renfro), has been one of Respondents' tenants since 2008.

10. The Respondents defense is that they did not rent one of their units to a disabled person with a prescribed animal based on Renfro having a son with allergies. Renting to a disabled person with a prescribed animal would require Renfro to vacate the unit. This was a manufactured reason not supported by the credible evidence.

11. Renfro was never asked by Respondents if they rented the unit next to her to somebody with a dog would she continue her tenancy. Tr. 101-103

12. Another tenant, Debra Mahoney (Mahoney), rented a unit from the Respondents in the summer of 2009. She has a son with severe allergies. Tr. 122-123

13. During Mahoney's inspection of the unit, there was evidence that animals had occupied the unit. Before she moved in the Respondents replaced carpeting, painted everything, and cleaned out all of the ductwork. Tr. 127-128

14. The credible evidence supports a determination that Respondents have engaged in illegal conduct in violation of R.C. 4112.02(H). Complainant is therefore entitled to relief as a matter of law.

DAMAGES

1. When there is a violation of R.C. 4112.02(H), the statute requires an award of actual damages shown to have resulted from the discriminatory action, as well as reasonable attorney's fees. R.C. 4112.05(G)(1). The statute also provides that the Commission, in its discretion, may award punitive damages.

ACTUAL DAMAGES

2. The purpose of an award of actual damages in a fair housing case, as in employment discrimination cases, "is to put the plaintiff in the same position, so far as money can do it, as (...) [the plaintiff] would have been, had there been no injury or breach of duty ..." *Lee v. Southern Home Sites Corp.*, 429 F.2d 290, 293 (5th Cir. 1970) (citations omitted).

3. A fair housing organization that has suffered an injury in fact to the organization's activities with a consequent drain on the

organization's resources constitutes a setback to the organization's goals and interests sufficient to establish standing. *Havens Realty Corp. v. Coleman,* (1982), 455 U.S. 363, 373-379.

4. To that end, a fair housing organization's costs related to pre-litigation investigation can form the basis for standing. *Fair Housing Council v. Village of Olde St. Andrews*, (6th Cir. 2006), 210 Fed. Appx. 460, 475.

5. When a fair housing organization diverts its resources from other efforts to promote awareness of and compliance with federal and state laws, such evidence is sufficient to establish standing. *Smith v. Pacific Properties and Development Corp.*, 358 F.3d 1097 at 1105-1106 (*citing Fair Housing of Marin v. Combs*, 285 F.3d 899, 905 (9th Cir. 2002), *cert. denied,* 537 U.S. 1018, 123 S. Ct. 536, 154 L. Ed. 2d 425 (2002).

6. In this case, the Commission presented evidence that

Respondents' discriminatory actions caused Complainant FHRC to expend resources in pre-litigation expenses, diversion of resources, and frustration of mission which includes education and outreach in the amount of $2, 212.39

PUNITIVE DAMAGES

7. The purpose of an award of punitive damages pursuant to R.C. 4112.05(G) is to deter future illegal conduct. O.A.C. 4112-6-02. Thus, punitive damages are appropriate "as a deterrent measure" even when there is no proof of actual malice. *Schoenfelt v. Ohio Civil Right Comm.,* (1995), 105 Ohio App.3d 379, 385, *citing and quoting, Marr v. Rife,* 503 F.2d 735, 744 (6th Cir. 1974).

8. The amount of punitive damages depends on a number of factors, including:

- The nature of Respondents' conduct;

- Respondents' prior history of discrimination;
- Respondents' size and profitability;
- Respondents' cooperation or lack of cooperation during the investigation of the charge; and
- The effect Respondents' actions had upon Complainant.[2] O.A.C. 4112-6-01.

9. Applying the foregoing criteria to this case:

- Respondents' conduct showed a blatant disregard for the law and its goal of eliminating housing discrimination. Respondent's Position Statement to the Commission during it's investigation shows that although Respondents attempted to find out what their legal rights and responsibilities are toward people with disabilities under federal housing law, they made an excuse not supported by the law as to why the law did not apply to them under the circumstances.

- The random testing by Complainant is done on the basis of sampling the available housing rental stock in the Lake County Area through advertisements. Individuals looking to rent property who have disabilities use the same or similar method to identify available housing opportunities.

- The Commission did not present a prior history of discrimination by Respondents;

[2] This criterion is more appropriately considered when determining actual damages.

- The Commission presented evidence regarding property owned by Respondents however Respondents did not provide income tax returns as requested by the Commission for the years. (Comm. Exh. 21)[3]

- The Respondent's have owned rental property for fifteen (15) years without receiving any fair housing training.

- The effect of the Respondents' conduct was to make property unavailable in the Lake County Area to individuals with disabilities.

Based on the foregoing criteria Respondents' should pay punitive damages in the amount of $800.00.

ATTORNEY'S FEES

1. The Commission and Complainant FHRC are entitled to attorney's fees. R.C. 4112.05(G)(1); *Schoenfelt, supra*, at 386. If the parties cannot agree on the amount of attorney's fees, the parties shall present evidence in the form of affidavits.

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3 There is no evidence of record that the Commission sought to compel the production of the Complainant's income tax returns.

2. In order to create a record regarding attorney's fees, the Commission should file affidavits from plaintiffs' attorneys in Lake County, Ohio regarding the reasonable and customary hourly fees they charge in housing discrimination cases. Also, a detailed accounting of the time spent on this case must be provided and served upon Respondents. Respondents may respond with counter-affidavits and other arguments regarding the amount of attorney's fees in this case.

3. If the Commission adopts the ALJ's Report and the parties cannot agree on the amount of attorney's fees, the Commission should file an Application for Attorney's Fees within 30 days after the ALJ's Report is adopted. Respondents may respond to the Commission's Application for Attorney's fees within 30 days from their receipt of the Commission's and Complainant's Applications.

4. Meanwhile, any objections to this Report should be filed pursuant to the Ohio Administrative Code. Any objections to the recommendation of attorney's fees can be filed with the

Commission's Compliance Unit after the ALJ makes her Supplemental Recommendation to the Commission Regarding Attorney's Fees.

RECOMMENDATIONS

For all of the foregoing reasons, it is recommended in Complaint No. 10-HOU-CLE-40132 that:

1. The Commission order Respondents to cease and desist from all discriminatory practices in violation of Chapter 4112 of the Revised Code;

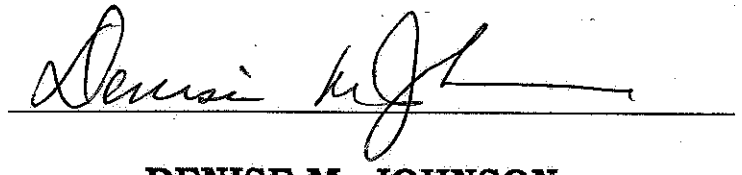
2. The Commission order Respondents to pay Complainant FHRC $2,212. 39 in actual damages;

3. The Commission orders Respondents to pay Complainant FHRC $800.00 in punitive damages;

4. The Commission orders Respondents, within six (6) months of the date of the Commission's Final Order, to receive training regarding the anti-discrimination fair housing laws of the State of Ohio. As proof of their participation in fair housing training, Respondents shall submit certification from the trainer or provider

of services that Respondents have successfully completed the training; and

5. The Commission orders Respondents, within seven (7) months of the Commission's Final Order, to submit its Letter of Certification of Training to the Commission's Compliance Department.



DENISE M. JOHNSON
CHIEF ADMINISTRATIVE LAW JUDGE

October 17, 2013

Ohio Civil Rights Commission

Governor
John Kasich

Board of Commissioners
Leonard J. Hubert, Chairman
Lori Barreras
William Patmon, III
Stephanie M. Mercado, Esq.
Tom Roberts

G. Michael Payton, Executive Director

March 13, 2014

Patricia Kidd, Executive Director
Fair Housing Resource Center
1100 Mentor Avenue
Painesville, OH 44077

RE: Fair Housing Resource Center, In. v. Richard & Rose Bien
CLEH4(40132)01252010
05-10-0691-8
22A-2010-02459F
Complaint No. 10-HOU-CLE-40132

At its meeting on March 13, 2014, the Ohio Civil rights Commission ratified the **Conciliation Agreement and Consent Order** in the above captioned matter.

The Commission has determined that this case is conciliated and closed under Ohio Administrative Code § 4112-3-03(D). However, the Commission may conduct compliance reviews as needed.

This is a Final Order of the Commission.

FOR THE COMMISSION

Desmon Martin/pjw

Director of Enforcement & Compliance
Ohio Civil Rights Commission

DM/pjw
Enclosure

cc: Denise M. Johnson, Chief Administrative Law Judge
Lori A. Anthony, Esq., Chief – Civil Rights Section

Ohio Civil Rights Commission

Governor
John Kasich

Board of Commissioners
Leonard J. Hubert, Chairman
Lori Barreras
William Patmon, III
Stephanie M. Mercado, Esq.
Tom Roberts

G. Michael Payton, Executive Director

March 13, 2014

Richard and Rose Bien
8209 Kirtland Chardon Road
Kirtland, OH 44094-8605

RE: Fair Housing Resource Center, Inc. v. Richard & Rose Bien
CLEH4(40132)01252010
05-10-0691-8
22A-2010-02459F
Complaint No. 11-HOU-CLE-40132

At its meeting on March 13, 2014, the Ohio Civil rights Commission ratified the **Conciliation Agreement and Consent Order** in the above captioned matter.

The Commission has determined that this case is conciliated and closed under Ohio Administrative Code § 4112-3-03(D). However, the Commission may conduct compliance reviews as needed.

This is a Final Order of the Commission.

FOR THE COMMISSION

Desmon Martin/pjw

Director of Enforcement & Compliance
Ohio Civil Rights Commission

DM/pjw
Enclosure

cc: Denise M. Johnson, Chief Administrative Law Judge
Lori A. Anthony, Esq., Chief – Civil Rights Section

John Kasich, Governor

IN THE MATTER OF:	)	CHARGE NO. CLEH4 (40132) 01252010
	)	05-10-0691-8
Richard and Rose Bien.	)	22A-2010-02459F
	)	COMPLAINT NO. 10-HOU-CLE-40132
Respondent.	)	

CONCILIATION AGREEMENT AND CONSENT ORDER

I. GENERAL PROVISIONS

A. This Conciliation Agreement and Consent Order is made between the Ohio Civil Rights Commission (hereinafter referred to as the "Commission"); the Fair Housing Resource Center (hereinafter referred to as the "Complainant") and Richard and Rose Bien (hereinafter referred to as "Respondents") and Respondents' heirs, representatives, officers, agents, employees, successors, or assignees.

B. This Conciliation Agreement and Consent Order is designed to prevent unlawful discriminatory practices, and to assure voluntary compliance with the provisions of the Ohio Laws Against Discrimination – Ohio Revised Code Chapter 4112. *See R.C. 4112.05(A), Ohio Adm. Code 4112-3-03(D).*

C. Respondents agree to be legally bound by this Conciliation Agreement and Consent Order, and to waive a public hearing in this matter. *See Ohio Adm. Code 4112-3-10(B)(3).*

D. This Conciliation Agreement and Consent Order is a final order. *See Ohio Adm. Code 4112-3-03(D) and 4112-3-10(B)(3).*

E. This Conciliation Agreement and Consent Order does not constitute an admission by Respondents of any violation of Chapter 4112.

II. NON-DISCRIMINATION IN PRACTICES REGARDING HOUSING

A. Respondents agree that all of their practices including, but not limited to, advertising, showing to prospective tenants, permitting prospective tenants to apply, reviewing applications, and selecting tenants for purposes of leasing the rental property for which they are responsible, shall be conducted in a manner that does not discriminate or have the effect of discriminating on the basis of race, color, religion, sex, national origin, ancestry, familial status, military service, or disability in violation of Ohio Laws Against Discrimination, Revised Code Chapter 4112. *See R.C. 4112.02(H)*

B. Respondents agree not to retaliate against any person because he/she has filed a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under R.C. 4112.01 to R.C. 4112.07. *See R.C. 4112.02(I).*

III. REMEDIAL ACTION

A. Within one hundred and twenty (120) days from the date this Conciliation Agreement and Consent Order is executed by Respondents, Respondent Richard Bien agrees to attend a three-hour training session on the Ohio Laws Against Discrimination in Housing offered by The Housing Center, 2728 Euclid Avenue, Suite 200, Cleveland, OH 44115, telephone number 216-361-9240. The training shall be at the Respondents expense and must include, but need not necessarily be limited to, those policies and practices in relation to housing that the law requires in order to insure that all persons have an equal opportunity to

use and enjoy housing accommodations of their choice, regardless of race, color, religion, sex, national origin, ancestry, familial status, military status, and disability. In the event there is a cost associated with the training, Respondent agrees he will be responsible for its payment.

B. Respondent Richard Bien agrees to provide a verification of his attendance at a fair housing training session to Principal Assistant Attorney General Marilyn Tobocman at 615 W. Superior Avenue, 11th Floor, Cleveland, Ohio, 44113, (216) 787-3095, within 30 days after the training session is conducted.

C. Respondent agrees to pay the Complainant Three Thousand Five Hundred Dollars ($3,500.00) by check made out to Fair Housing Resource Center within thirty (30) days from the date this agreement is executed by Respondents. The check shall be sent to Principal Assistant Attorney General Marilyn Tobocman at 615 W. Superior Avenue, 11th Floor, Cleveland, Ohio, 44113, (216) 787-3095.

IV. ENFORCEMENT

A. The Commission may investigate whether Respondents have complied (or are complying) with the terms of this Conciliation Agreement and Consent Order. *See Ohio Adm. Code 4112-3-10(B)(2) and 4112-3-03(I).*

B. Respondents agree that upon their failure to fully comply with the provisions of this Conciliation Agreement and Consent Order, the Commission may initiate further action including, but not limited to, the filing of a complaint in an appropriate Court of Common Pleas to seek enforcement of the terms and provisions of this Conciliation Agreement and Consent Order and reimbursement for any legal fees and costs incurred in filing such enforcement action. *See R.C. 4112.06.*

OHIO CIVIL RIGHTS COMMISSION

Dated: 3/13/2014

RESPONDENT RICHARD BIEN

_____ Dated: 12-3-13

RESPONDENT ROSE BIEN

_____ Dated: 12-3-13

COMPLAINANT FAIR HOUSING RESOURCE CENTER

_____ Dated: _____

RESPONDENT RICHARD BIEN

_____ Dated: _____

RESPONDENT ROSE BIEN

_____ Dated: _____

COMPLAINANT FAIR HOUSING RESOURCE CENTER

Patricia Kidd Dated: 11-13-13