

CHARGE OF DISCRIMINATION

I. JURISDICTION

Between June 24, 2022, and June 3, 2023, Complainants filed fifty-three timely Complaints with the U.S. Department of Housing and Urban Development (“HUD”), that were amended between September 13, 2023 and November 8, 2023. The Complaints, as amended alleged that Providence Homeowners Association Inc. (“PHOA”), the president of its board Jennifer Dautrich, its property management company, FirstService Residential Texas, Inc. (“FirstService”), and its property manager Cody Watson discriminated because of race and color in violation of the Fair Housing Act (“Act”) through the enactment and enforcement of rental rules that prohibited, inter alia, homeowners from renting to tenants who receive assistance through the Housing Choice Voucher (“HCV”) Program.¹

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (“Charge”) on behalf of aggrieved persons following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. *See* 42 U.S.C. § 3604(g)(1)-(2); 24 C.F.R. § 103.400(a). The Secretary has delegated that authority to the General Counsel, 24 C.F.R. §§ 103.400, 103.405, who has re-delegated that authority to the Associate General Counsel for Fair Housing and the Assistant General Counsel for Fair Housing Enforcement. 76 Fed. Reg. 42,462, 42,465 (July 18, 2011).

By a Determination of Reasonable Cause and No Reasonable Cause issued contemporaneously with this Charge, the Regional Director of the Office of Fair Housing and Equal Opportunity for Region VI has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case and has authorized and directed the issuance of this Charge. *See* 42 U.S.C. § 3610(g)(1) and (2)(A); 24 C.F.R. § 103.400(a).

II. LEGAL AUTHORITY AND FACTUAL BASIS FOR THIS CHARGE

Based on the Department’s investigation of the allegations contained in the aforementioned Complaints and the Determination of Reasonable Cause and No Reasonable Cause, Respondents are charged with violating the Act as follows:

A. Legal Authority

1. It is unlawful to make a dwelling unavailable because of race or color. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.50(b)(3).
2. It is unlawful “[t]o discriminate against any person in the terms, conditions, or privileges of ... rental of a dwelling, or in the provision of services ... in connection therewith” because of race or color. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65(a).

¹ The Complaints also alleged discrimination based on sex, national origin, familial status, and disability, but the Department issued a no reasonable cause determination on these bases due to lack of information supporting such claims at this time.

3. It is unlawful “to interfere with any person ... on account of his having exercised ... any right granted or protected” by the substantive provisions of the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b). Such prohibited conduct includes “[r]etaliating against any person because that person has made a complaint ... under the Fair Housing Act.” 24 C.F.R. § 100.400(c)(5).

4. Intimidation and harassment because of race or color or because of engagement in an activity protected by the Fair Housing Act is unlawful. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b), (c)(2), (c)(4), 100.600. This prohibited conduct includes third parties failing to take prompt action to correct and end such intimidation and harassment when they knew or should have known of the intimidation or harassment and had the power to correct it. 24 C.F.R. § 100.7(a)(1)(iii).

B. Parties

5. Forty Complainants (belonging to thirty-six households) are tenants who receive HCVs and reside in Providence Village, or did so at the time of the events discussed in this Determination. Those Complainants are Shantell Jernigan, Jacqueline Grant, Shanna Jones, Robert Copeland III, Kenecia Reeves, Allisha Wilson,² LaBrasha Franklin, Kimberly McFarland, Lakeisha Johnson, Caprecia Hardemon, NaTosha James, Samantha Wallace, Toryona Lobley, Edmond Nicholas, Erica Nicholas, Angel Royce, Takeya Taylor, Valarie Hooper, Sheilla Tutson, Alonzo Tutson, Shalonda Vida, Melissa Sykes, L.R., C.B., Sheneka Morris, Janay Curry, Terrika Billingsley, Valencia Butler, Amia Wadley, Dewanna Johanson, C.H., E.T., Tequila Bailey, Shaquana Savage, Evora Skyes, Jeanetta Fountain, R.S., Lisa Johnson, Stephen Smith Jr., and Shermea Billingsley.³ All of these Complainants except Shanna Jones and Lisa Johnson are Black.

6. Eleven Complainants own properties in Providence Village and rent to tenants receiving HCVs. Those Complainants are Melissa Kabler, Hai Le, Huaguo Wang, Michael Guerrero, Scott Kamra, Xiao Xiao, Alecia Bowen-Mackey, Yan Cai, Lanette Melo, Alvin Melo, and Rahul Sethiya.

7. Two Complainants are Housing Authorities that administer HCVs in Providence Village. Those Complainants are the McKinney Housing Authority and the Denton Housing Authority.

8. Four Complainants are residents of Providence Village who opposed the actions described in this Determination and the loss of the important benefits from living in a racially integrated community that they allege these actions will cause. These Complainants are Joyce Vann, Moriah Anderson, Daniel Puffer, and Erin Tyler Gentry. Ms. Gentry and Ms. Anderson are Black. Mr. Puffer and Ms. Vann are White.

² This Complainant filed her Complaint using the name Allisha Johnson, but later informed HUD that she now uses the last name “Wilson.”

³ Five Complainants are subject to protective orders under the Violence Against Women Act. For that reason, this Charge identifies them by their initials rather than their full names.

9. At least twelve additional adult household members and seventy-eight minor children of Complainants are “aggrieved persons” as defined by Subsection 802(i) of the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

10. Respondent PHOA is a homeowners’ association for a neighborhood in Providence Village, Texas and a non-profit corporation, incorporated under Texas law on June 12, 2022.

11. Respondent Jennifer Dautrich has been the president of PHOA since April 7, 2022, before which she was its vice president.

12. Respondent FirstService provides property management services to PHOA.

13. Respondent Cody Watson is a FirstService employee who was the property manager for PHOA from 2009 until December 31, 2022.

C. Factual Allegations

14. The Town of Providence Village is an outer-ring suburb of Dallas, Texas, containing five Homeowners Associations, one of which is PHOA which includes over 2,250 houses.⁴

15. Providence Village has several unofficial social media groups that often contain explicitly racist and threatening posts. PHOA Board members belong to and actively engage with content in these groups.

16. From 2018 through 2022, the number and concentration of Black residents in Providence Village was increasing. As of 2022, households were 74% White and 14% Black.

17. Around July 2021, following an altercation between a Black teenager and a White teenager, residents began blaming voucher-holders for crime and other problems in Providence Village, often using racial language, such as “ghetto.”

18. At the time, only 4% of households in Providence Village used Housing Choice Vouchers. Ninety-three percent of voucher-households in Providence Village are Black.

19. Over the next few months, Mr. Watson and the Board worked together to draft the Rental and Leasing Rules (the “Rules”). The Rules prohibited owners from renting to HCV tenants, and imposed other restrictions on rental housing, such as allowing only one rental per property owner. Mr. Watson and the Board acted despite initially being told by the mayor and others that such restrictions might violate fair housing laws.

⁴From this point forward, “Providence Village” and the “Town” are used to refer to the portion that belongs to PHOA.

20. The Board’s governing documents did not give it the authority to directly enact the Rules; rather a vote by a majority of property owners was needed. On November 30, 2021, Ms. Dautrich proposed amending PHOA’s governing documents to give the Board the authority “to adopt rules for the rental, leasing, and tenant occupancy” (the “Amendment”) instead of conducting a vote on the Rules themselves.

21. In support of the Rules, Ms. Dautrich discussed property maintenance and crime in the general area, but she did not support her conclusions with any data. Respondents have since claimed that the Rules were necessary to address crime, maintenance issues, and property values, but Respondents had no comprehensive sources of information showing these to be real problems – let alone problems caused by voucher-holders – when they began pursuing the Rules, nor have they acquired such information to date.

22. Voting for the Amendment opened on February 7, 2022. The Board planned to hold the vote open until enough votes were received for the Amendment to pass, which they had not done for prior amendments.

23. In response to dozens of emails, on February 15, 2022, FirstService included a “Q&A” about the Amendment and a link to the draft Rules in its weekly email newsletter. The Q&A made clear that “No lease, Section 8 or otherwise, will be terminated immediately.” FirstService included the full Q&A in its newsletter at least a dozen more times.

24. Landlords with HCV tenants reached out to the Board to ask that if crime or maintenance issues were truly the concern the Board provide them with additional details so they could address any specific problems. The Board never responded to these requests.

25. While voting was ongoing, posts about voucher-holders in the Town’s unofficial social media groups were rampant. For example, one post showed the mug shots and arrest record for a Black man, who the poster presumed was a voucher-holder, with the caption “Damn this ghetto ass neighborhood is on a roll!!! Hide Your kids cause section 8 is on the loose!!!”⁵ The post garnered about 100 comments, many of them using extreme language in talking about voucher-holders, such as one referring to the man as a “the dumb ass sec 8 pos” and another referencing “ghetto trashy areas that are full of pos renters and section 8.”⁶ Ms. Dautrich joined the comments on this post to promote the Amendment.

26. Around April 2022, Ms. Dautrich organized a group of twenty-three homeowners – including another Board member – to form an Amendment Committee, which went door-to-door trying to persuade owners to vote for the Amendment. Mr. Watson and the Board were in contact daily to track how many more votes were needed, who voted, how they voted, and which houses the Committee should target next.

⁵ All online posts appear as written, including original typographical errors.

⁶ “Pos” is a slang term meaning piece of shit.

27. The Board and FirstService inundated owners with automated email reminders, the frequency of which Mr. Watson increased to daily. Board and Committee members also promoted the Rules heavily on social media.

28. No prior amendment efforts prompted the formation of a special committee, a coordinated canvassing campaign, or this level of promotion by FirstService or the Board.

29. In May 2022, the Amendment received enough votes to pass, so Mr. Watson closed online voting. On June 1, 2022, in a special open meeting the Board provided owners one last chance to vote even though they knew that the Amendment had already passed.

30. On June 6, 2022, in another open meeting, the Board voted unanimously to approve a revised version of the Rules, and on June 14, 2022 they were finalized and recorded. Despite earlier pledges not to displace residents immediately, the Rules as enacted did not preclude this. The Board announced that enforcement would begin in ninety days, and Mr. Watson told some residents it would begin in as little as thirty days.

31. Although the Board later said that current residents could finish their lease terms up to twelve months, landlords had already started telling HCV tenants that they had to move immediately, leading to frantic searches for alternative housing. In the wake of the Rules' enactment, nineteen voucher-households have moved away from Providence Village, while others who remain continue to live in fear.

32. On June 8, 2022, several residents who opposed the Amendment gathered in a park by a lake to discuss the vote. An Amendment Committee member photographed the group, which included children, and another resident posted the photograph to social media with the caption "Here's a great pic depicting the very Fucking Idiots that help to Ruin our lovely town of Providence Village!!"

33. Complainant Puffer reported the incident to Mr. Watson and the Board, explaining the fear it and other social media posts had caused him and his wife. Mr. Watson and the Board had mediated other neighborhood disputes, but the only action they took in response to Mr. Puffer's complaint was to put a reminder in their weekly newsletter about "our communal obligation to each other to uphold community standards."

34. After the Rules' passage, racist posts continued to fill the Town's unofficial social media groups. Sometimes these posts specifically named residents who had opposed the Amendment. These posts also often contained negative stereotypes of Black people and many were threatening. For example, one resident referred to voucher-holders as "wild animals" and "lazy entitled leeching TR@SH," while another post referenced "the hood mentality." Someone else posted an image of a Halloween costume labeled "Providence Village Renter." The label showed a photo of a Black woman, lists a "sassy attitude," "weapons," "a section 8 voucher," and "24 hours to live," and says "PREVIOUS FELONY CONVICTIONS INCLUDED!!!!"

35. On August 5, 2022, PHOA entered into an agreement with HUD staying enforcement of the Rules.

36. On June 18, 2023, Texas passed a state law barring associations from restricting property owners' choice of tenants based on the tenant's source of income, which became effective on September 1, 2023.

37. During the summer and fall of 2023, racial tensions in Providence Village related to voucherholders continued to build. In July and November 2023, the National Justice Party, a White nationalist organization protested just outside of Providence Village with fliers that said "an overwhelming majority of section 8 recipients are composed of Black Americans" who bring "unimaginable violence."

38. On February 8, 2024, Ms. Dautrich filed state court proceedings on behalf of PHOA against Complainants R.S., C.H., Evora Sykes, Sheilla Tutson, and Alonzo Tutson to take their depositions after the Department declined to disclose certain information about these Complainants. The court dismissed this action as meritless and awarded Complainants attorneys' fees. The court also ruled that the PHOA violated the Texas Citizens Participation Act by interfering with Complainants' rights to petition HUD. These proceedings caused Complainants stress and anxiety and led them to fear for their safety, as their home addresses were publicized through the court filings.

39. In February 2024, the Board met with their state representative to discuss alternative ways to get voucher-holders out of Providence Village, which included his suggestion that "Establishing caps on community rental percentage could limit Section 8 growth."

40. On May 10, 2024, the Board adopted the "Second Amended and Restated Rental and Leasing Rules," which limited owners to one rental property each. Because most voucher-holders in Providence Village rented from a few large landlords, this rule would in practice have similar results as the prior outright ban. The new rules also limited the number of rental units to twenty-five percent of the lots in Providence Village.

41. From the lead up to the Rules' enactment through its aftermath, residents directed aggressive and threatening posts at voucher-holders. For example, one post said "Back in the day, when a community didnt like someone they banned together to make said persons life a living hell to the point they left." Another resident threatened "they might just leave in a coroner's wagon!!" and "kids will get SHOT." Posts like these were also directed at residents who supported voucher-holders and opposed Rules. For example, one resident posted "I can't wait till one of these Ghetto 8 POS's harm one of the bleeding heart dipshits that supported that failed program!" Despite being well aware of such conduct, neither the Board nor FirstService ever did anything meaningful to address it.

42. As a result of Respondent's discriminatory conduct, Complainants suffered actual damages, including emotional distress.

D. Legal Allegations

43. As described above, Respondents PHOA, FirstService, Dautrich, and Watson made dwellings unavailable because of race and color in violation of Subsection 804(a) of the Act. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.50(b)(3).

44. As described above, Respondents PHOA, FirstService, Dautrich, and Watson discriminated in the terms, conditions and privileges of rental of a dwelling, and in the provision of services in connection therewith, because of race and color in violation of Subsection 804(b) of the Act. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65(a).

45. As described above, Respondents PHOA and Dautrich interfered with the rights of Complainants R.S., C.H., Evora Sykes, Sheilla Tutson, and Alonzo Tutson for engaging in a protected activity under the Act and retaliated against them for their protected activity in violation of Section 818 of the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b), (c)(5).

46. As described above, Respondents PHOA, FirstService, Dautrich, and Watson failed to take prompt corrective action for the intimidation and harassment of Complainants, in violation of Section 818 of the Act. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.7(a)(1)(iii), 100.400(b), (c)(2), (c)(4).

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a), (b), and 3617 and requests that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents as set forth above violate the Act, 42 U.S.C. §§ 3604(a), (b), 3617.
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating because of race or color against any person in the sale or rental of a dwelling;
3. Enjoins Respondents, their agents, employees, and successors, and all persons in active concert or participation with them, from coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, any right granted or protected by the Act;
4. Mandates that Respondents, their agents, employees, officers, and successors, and all other persons in active concert or participation with them, take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;
5. Awards such actual damages as will fully compensate Complainants and any other aggrieved persons for any and all injuries caused by Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3);

6. Assesses the maximum civil penalty against Respondents for each discriminatory housing practice, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(a)(1); and

7. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

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Respectfully submitted,

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