

STATE OF NORTH DAKOTA
COUNTY OF MORTON

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

State of North Dakota, by North
Department of Labor, for the
benefit of Fair Housing of the Dakotas,

Plaintiff,

vs.

Lillian Bachmeier, individually and
d/b/a Landmark Management,
Leonard Bachmeier, individually and
d/b/a Landmark Management, and The
Bachmeier LLLP,

Defendants.

COMPLAINT

Civil No. _____

The Plaintiff, by and through its undersigned counsel, alleges as its Complaint:

I.

Lisa K. Fair McEvers is the duly appointed, qualified, and current Commissioner of Labor for the State of North Dakota.

II.

North Dakota Century Code chapter 14-02.5 mandates the North Dakota Department of Labor ("Department") to investigate complaints of alleged discriminatory housing practices and to bring suit upon election by a complainant, a respondent, or an aggrieved person.

III.

On January 24, 2006, Fair Housing of the Dakotas ("complainant") filed a housing discrimination complaint as complainant and aggrieved party with the Department alleging Lillian Bachmeier, Leonard Bachmeier, Landmark Management, and The Bachmeier LLLP, ("defendants"), committed discriminatory acts. Exhibit ("Exh.") 1.

IV.

The complainant's complaint alleged defendants committed fair housing discrimination by making discriminatory advertisements, statements, and notices in violation of N.D.C.C. ch. 14-02.5 and 42 U.S.C. § 3604 *et seq.* Exh. 1.

V.

Leonard and Lillian Bachmeier ("Bachmeiers") are married. The Bachmeiers own, manage, and operate rental properties in Mandan, ND. The Bachmeier LLLP is a business related to the rental properties of the Bachmeiers; it is controlled by the Bachmeiers. The Bachmeiers use Landmark Management to manage and operate their rental properties.

VI.

The Department issued a Determination of Reasonable Cause on October 3, 2006, pursuant to N.D.C.C. § 14-02.5-25, after conducting and completing its investigation. Exh. 2. A Charge of Discrimination was issued on October 3, 2006, pursuant to N.D.C.C. § 14-02.5-26. Exh. 3.

VII.

The Department determined that reasonable cause existed to substantiate the complainant's claim that defendants discriminated against tenants by publishing a statement indicating a preference not to rent to individuals in the protected categories of national origin and disability, in violation of N.D.C.C. § 14-02.5-03 and 42 U.S.C. § 3604. Exhs. 2 and 3.

VIII.

Pursuant to the charge and determination being issued on October 3, 2006, complainants elected to have the claims asserted in the charge to be decided in a civil action as provided by N.D.C.C. § 14-02.5-36. Exh. 4.

WHEREFORE, the Plaintiff requests that the Court enter judgment on its Complaint as follows:

1. Declare that the actions of the defendants as set forth above, and determined by the Department in its reasonable cause determination, violated N.D.C.C. ch. 14-02.5 and 42 U.S.C. § 3604, *et seq.*

2. Awards such damages as will fully compensate complainant for losses pursuant to N.D.C.C. ch. 14-02.5;

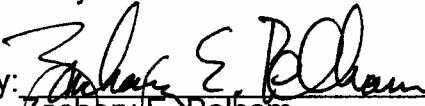
3. Assess any applicable and appropriate penalties pursuant to N.D.C.C. ch. 14-02.5 against defendants for the discriminatory housing practices and;

4. Award any additional relief, including attorney fees and costs, as may be appropriate under N.D.C.C. ch. 14-02.5.

Dated this 7th day of November, 2006.

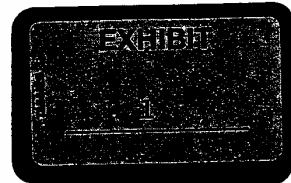
State of North Dakota
Wayne Stenehjem
Attorney General

By: _____


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Attorneys for Plaintiff.

NORTH DAKOTA DEPARTMENT OF LABOR
HOUSING DISCRIMINATION COMPLAINT



CASE NUMBER: ND06-07-234

1. **Complainants**

Fair Housing of the Dakotas
533 Airport Road Suite C
Bismarck, ND 58554

2. **Other Aggrieved Persons**

Potential tenants of the respondent's rental properties

3. **The following is alleged to have occurred or is about to occur:**

Discriminatory advertising, statements and notices

4. **The alleged violation occurred because of:**

National origin, disability and religion.

5. **Address and location of the property in question (or if no property is involved, the city and state where the discrimination occurred):**

3700 42nd St. NW
Mandan, ND 58554

305 Collins Ave.
Mandan, ND 58554

510 2nd St. NW
Mandan, ND 58554

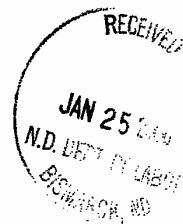
110 3rd Ave. NE
Mandan, ND 58554

309 3rd Ave. NW
Mandan, ND 58554

311 1st Ave. NE
Mandan, ND 58554

6. **Respondents**

Leonard Bachmeier
8260 Willow Road NE
Mandan, ND 58554



Lillian Bachmeier
8620 Willow Road NE
Mandan, ND 58554

Landmark Management
PO Box 30
114 2nd Ave NW
Mandan, ND 58554

The Bachmeier LLLP
8260 Willow Road NE
Mandan, ND 58554

7. The following is a brief and concise statement of the facts regarding the alleged violation:

In December, 2005, Leonard and Lillian Bachmeier distributed a holiday letter to tenants at their properties. Included in this letter were the following statements:

- "The anxiety and trepidation during this beautiful season is caused by the discrimination complaint filed to the Labor Dept. by our tenant. In court, you are innocent until proven guilty, but with landlords, you are guilty until we prove were innocent. We usually can overcome all obstacles, but this one is another unsolvable problem as we are being forced to take everyone who comes along which does not bode well for the future."
- "This summer we had to evict the tenant at 203 3rd Ave. NW. The loss from damages, attorney fees, and lost rent leaves no profit for the year. We were forced to take her because of the Fair Housing laws. She would not let us in, we must have absolute proof for a reason to enter, so we couldn't. As a result, the heating system was neglected and we continue to have problems. The anxiety, work, and harassment leading up to an eviction is unbelievable! We cannot turn utilities off or evict in the wintertime. The city is not concerned. They just bill the landlord for the water or put it on our specials."
- "We did have one discrimination case years ago. A (well-known) Mandan woman brought this young man to rent the apartment. "It was perfect!" she said. She then, let me know he was mentally disabled. Because of discrimination, I had no choice, I had to take him. He phoned me at least 4 times a day, thought the other tenant was there to take care of him (a duplex). He didn't know how to cook, putting the entire plastic bag of peas in the water, once went out in 30 below weather without mittens, cap, coat open, to walk some distance downtown. The caring teaching in the other unit phoned Enable, Inc. They said, "Haven't your children gone outside undressed?" They would not give any assistance. This guy had access to the furnace and was pushing parts around where the gas line came in. We repeatedly told him not to do it as the place could blow up. He wouldn't listen. We notified him that he would have to be evicted. The advocates swarmed in to help him. In a conversation, I told them someone this handicapped needed a different unit not near the furnace. "Ah-ha!" I said the word, "handicapped." It was an offense. You are suppose to say "mentally challenged." Meanwhile, the parking lot at Kirkwood still had the signs up, "Handicap parking." (Now changed) Brad wanted new clothes for a wedding and the advocates used this carrot to push for charges against me. They wanted \$500.00. I refused to give them one dime. A negotiator (at tax-payer's

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N.D. DEPT. OF LABOR

expense) came from Denver. He saw it was a sham and said, Just pay \$50.00 to let it go away, which we did. The aggravating part of his whole story is that unknowingly, he was released from the group home, placed in our apartment without our knowing this. After moving to one other apartment, he was moved back to the group home where he lives today.

- "Drugs are a huge problem. The tenants around this one apartment, were sure this one tenant was doing drugs. Despite the fact that all the windows are covered with blankets, the doors have 3 locks that they added, we must have better skills than detectives to enter that apartment or they will cry "discrimination." We finally got them out but the damage from drugs is huge."
- "A new one is we have foreigners in our buildings, one from India and one from Vietnam. The spices that they use to cook with are penetrating the halls and seeps into other people's apartments. The halls stink most of the time! The good tenants move out and we can't do a thing as it is discrimination."
- "We are thankful for 98% of the tenants that are really good."
- Several references to Christianity were also included in the letter.

The FHD alleges that the Respondents are discriminating due to disability, national origin and religion through their statements and advertisements.

The goals of the FHD are to prevent and eliminate housing discrimination. The FHD represents the constituents of North Dakota and is aggrieved by the actions of the Respondent. The Respondent's actions frustrate our efforts to achieve equal housing through education, counseling, referral services, and/or enforcement (testing) activities. The FHD is a regional organization whose constituents are residents of the Mandan housing market area where the discrimination occurred. The FHD, its members, and constituents, is thereby deprived of, or threatened by living in a nonsegregated community.

8. The most recent date on which the alleged discrimination occurred:

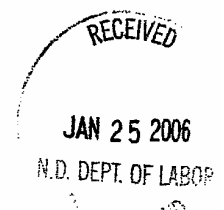
December 20, 2005, and is continuing

9. Types of Federal Funds identified:

None

10. The acts alleged in this complaint, if proven, may constitute a violation of the following:

North Dakota Century Code Chapter 14-02.5 and Section 804c of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988



John Hoeven
Governor

Lisa K. Fair McEvers
Commissioner



State Capitol - 13th Floor
600 E Boulevard Ave Dept 406
Bismarck, ND 58505-0340

nd.gov/labor
nd.gov/humanrights

Fair Housing of the Dakotas (Complainant)

v.

Leonard Bachmeier (Respondent)

and

CHARGE OF DISCRIMINATION

Lillian Bachmeier (Respondent)

and

Landmark Management (Respondent)

and

The Bachmeier L.L.L.P. (Respondent)

I. Jurisdiction

On January 25, 2006, the Complainant filed a complaint with the North Dakota Department of Labor (NDDOL). The Complainant alleged that the Respondents were responsible for discriminatory advertising, statements and notices. It is alleged that the Respondents' acts were based on national origin and disability. The alleged acts are in violation of North Dakota Century Code (NDCC) section 14-02.5-03 and Section 804c of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

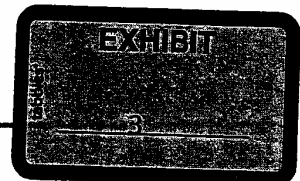
NDCC section 14-02.5-25 (2) authorizes the Department of Labor to issue a charge of discrimination on behalf of aggrieved persons following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred.

The Department of Labor has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and, therefore, authorizes the issuance of this Charge.

II. Summary of the Allegations in Support of this Charge

A. Statutory and Regulatory Provisions

1. It is unlawful to make, print, or publish a notice, statement, or advertisement that is about a rental of a dwelling, and that indicates any preference, limitation or discrimination because of familial status. NDCC section 14-02.5-03



2. Section 804c of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Act of 1988.

B. Factual Allegations

1. Under state and federal fair housing laws, a violation occurs if a housing-related advertisement, notice or statement indicates discrimination to an “ordinary listener or reader” regardless of the reason for the communication. Intent on the part of the Respondent does not have to be shown. In other words, the only evidence necessary to show liability on the part of a Respondent is that the advertisement, notice or statement be made with respect to a sale or rental of a dwelling and indicates discrimination based on a protected category.

By conducting an analysis using the “ordinary listener or reader” standard, the evidence demonstrates that the RPs printed statements in a letter which was distributed to the RPs’ family and particular tenants and which indicated a preference for not renting to individuals in the protected categories of national origin and disability.

2. The CP, as an organization, was harmed when the actions taken by the RPs frustrated their efforts to achieve equal housing through education, counseling, referral services, and/or enforcement (testing) activities. The CP provided evidence of its harm in terms of monetary damages for diversion of resources.

III. Final Investigative Report

The information which supports the determination that reasonable cause exists to believe that discriminatory practices have occurred and which serves as the basis for this charge of discrimination is contained in the Final Investigative Report completed for this case.


IV. Conclusion

The North Dakota Department of Labor charges the Respondents with engaging in discriminatory housing practices in violation of NDCC chapter 14-02.5. The department requests that an order be issued that:

- A. Declares that the discriminatory housing practices of the Respondents as set forth above violates NDCC chapter 14-02.5,
- B. Awards such damages as will fully compensate the Complainant for losses pursuant to NDCC chapter 14-02.5,
- C. Assesses any applicable and appropriate penalties pursuant to NDCC chapter 14-02.5 against the Respondents for the discriminatory housing practice, and
- D. Awards any additional relief as may be appropriate under NDCC chapter 14-02.5.

V. Election of Judicial Determination

A Complainant, a Respondent, or an aggrieved person on whose behalf a complaint was filed may elect to have the claims asserted in the charge decided in a civil action as provided by NDCC section 14-02.5-36. The election must be made no later than the twentieth day after the date the person having the election receives notice of the charge. The person making the election shall give notice to the Department of Labor and to all other Complainants and Respondents to whom the charge relates. If a timely election is not made, the department will provide for an administrative hearing on the charge.


Kathy Kulesa, Human Rights Director
North Dakota Department of Labor

10-03-06
Date