

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT  
OF PENNSYLVANIA**

FAIR HOUSING PARTNERSHIP OF  
GREATER PITTSBURGH,

Plaintiffs,

v.

EDWARD ROCHEZ and DONNA ROCHEZ,

Defendants.

Civil Action No.:

Verified Complaint 20-572

Electronically Filed

**VERIFIED COMPLAINT**

**I. PRELIMINARY STATEMENT**

1. The Fair Housing Partnership of Greater Pittsburgh brings this civil action to remedy unlawful fair housing discrimination on the basis of familial status by the Defendants, Edward and Donna Rochez.

2. The Defendants own residential investment property in Allegheny County. Relevant hereto, the Defendants advertised one of their apartments as available for rent. In the advertisements, the Defendants stated that they would limit occupancy of the home to a “QUIET, 1 or 2 person MAX occupancy” [emphasis original], with a preference for a “Graduate Student.”

3. Such statements of preference in advertising plainly violate applicable Federal and state fair housing laws.

4. In response to the unlawful advertisements, the Fair Housing Partnership of Greater Pittsburgh—a HUD-funded, non-profit fair housing enforcement agency—prepared and performed a fair housing testing investigation of the apartment/listings.

This testing also evidenced unlawful discrimination by the Defendants, on the basis of familial status.

5. Consequently, the Fair Housing Partnership filed an administrative complaint with the Pennsylvania Human Relations Commission to engage the Defendants to redress this unlawful discrimination. After investigation, the Commission issued a probable cause finding of unlawful discrimination on the basis of familial status.

6. Since the Commission issued that finding, both the Commission and the Fair Housing Partnership have endeavored to negotiate a reasonable conciliation with the Defendants that redresses the discriminatory advertising and their effort to limit the availability of the rental dwelling to occupants without children. Conciliation efforts have failed.

7. Defendants have persisted in arguing that the Federal and state fair housing laws do not apply to them and that they should be permitted to bar families with children from their apartments if they wish. Defendants even initiated a local news media campaign to publicly challenge the applicability of the fair housing laws to themselves and similar landlords.

8. Consequently, the Fair Housing Partnership brings this civil action pursuant to Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.*, and implementing regulations (hereafter the “Fair Housing Act” or “FHA”) and the Pennsylvania Human Relations Act, 43 Pa. Stat. Ann. § 951 *et seq.*, and implementing regulations (hereafter “PHRA”). In addition to declaratory and injunctive relief to prevent discrimination by Defendants in the future, Plaintiff also seeks monetary relief.

## **II. JURISDICTION AND VENUE**

9. This Court has original jurisdiction pursuant to 28 U.S.C. §§1331 and 1343 and 1367 and 42 U.S.C. § 3613.

10. Declaratory relief is authorized by 28 U.S.C. §2201 and F.R.C.P. Rule 57.

11. Injunctive relief is authorized by 28 U.S.C. §2202 and F.R.C.P. Rule 65.

12. Venue is proper in the Western District of Pennsylvania under 28 U.S.C. §1391(b)(1) and (2), as the subject rental property and all transactions alleged herein occurred in Allegheny County, PA.

## **III. PARTIES**

13. The Plaintiff Fair Housing Partnership of Greater Pittsburgh (hereafter “the Fair Housing Partnership” or “FHP”) is a HUD-funded, nonprofit organization devoted to creating equal housing choice in southwestern Pennsylvania through fair housing education, advocacy, enforcement and comprehensive housing counseling services. They are located at 2840 Liberty Ave #205, Pittsburgh, PA 15222.

14. Defendants, Edward and Donna Rochez, are husband and wife and, in common, own residential rental property in Allegheny County, including the “duplex” in which the apartment at issue in this case is located. At all times relevant hereto, Defendants exercised responsibility for, and personally participated in, the advertising, showing and leasing of the apartment.

## **IV. LEGAL FRAMEWORK**

15. Congress passed the Fair Housing Act, as amended in 1988, “to provide, within constitutional limitations, for fair housing throughout the United States.” 42 U.S.C.A. § 3601.

16. It is “unlawful” under the Act “[t]o refuse to...rent...or to refuse to negotiate for the... rental of, or otherwise make unavailable or deny, a dwelling to any person because of...familial status....” or “[t]o discriminate against any person in the terms, conditions, or privileges of...rental of a dwelling...because of...familial status....” 42 U.S.C. §§ 3604(a) and (b).

17. Familial status, within the meaning of the Act, refers to “one or more individuals (who have not attained the age of 18 years) being domiciled with...a parent or another person having legal custody of such individual or individuals....” 42 U.S.C. § 3602(k). In other words, familial status refers to families with minor children.

18. A “dwelling” under the Act is, broadly, “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families....” 42 U.S.C. § 3602(b).

19. The Act and implementing regulations also prohibit the use of words and phrases in residential advertising that convey either overt or tacit discriminatory preferences or limitations, including words or phrases that are indicative of familial status. 42 U.S.C. § 3604(c); 24 CFR 109.20.

20. A violation can be shown through either intentional discrimination or through policies that have a disparate impact on a protected class. *E.g. Mt. Holly Gardens Citizens in Action, Inc. v. Twp. Of Mount Holly*, 358 F.3d 375, 381 (3d. Cir. 2011).

21. The Pennsylvania Human Relations Act, 43 P.S. § 951 *et seq.*, and implementing regulations, 16 Pa. Code §§ 45.1-45.207, provide analogous protection against familial status discrimination.

**V. FACTUAL ALLEGATIONS**

22. The factual allegations set forth above are incorporated herein by reference as though fully set forth.

23. The Defendants own residential investment property in Allegheny County.

24. Relevant hereto, the Defendants published written advertisements on the <http://pittsburgh.craigslist.org> website, advertising one of their apartments as available for rent. Copies of the advertisements are attached hereto as Exhibit 1.

25. The apartment referenced in the advertisements is a 2-bedroom apartment, which is ½ of a duplex rental property owned by Defendants located at 590 Caryl Drive, Pittsburgh, PA 15235.

26. The title of the written advertisements stated “Graduate Student Wanted.”

27. The body of the advertisements stated “Seeking QUIET, 1 or 2 person MAX occupancy [emphasis original].”

28. Upon becoming aware of the advertisements, the Fair Housing Partnership of Greater Pittsburgh prepared and performed fair housing testing investigations of the apartment/listings.

29. Fair housing testing investigation refers to the use of individuals who, without any bona fide intent to rent a home, apartment, or other dwelling, pose as prospective renters of real estate for the purpose of gathering information which may indicate whether a housing provider is complying with fair housing laws.

30. The fair housing testing investigations performed by FHP were planned and carried out in accordance with industry standards to test for familial status discrimination.

31. The fair housing testing investigations evidenced unlawful discrimination by the Defendants on the basis of familial status.

32. In each test, the Defendants specifically inquired about whether the tester-applicant's household included children.

33. In each test where the tester-applicant indicated that children would reside in the household, Defendants refused to show the advertised rental dwelling to the tester-applicant.

34. In each test where the tester-applicant indicated that *no* children would reside in the household, Defendants agreed to show the advertised dwelling to the tester-applicant.

35. In multiple tests, the Defendants explicitly stated to the tester-applicants that children would not be allowed to reside in the unit.

36. To one tester-applicant, the Defendants stated "you have no children, so that's not an issue."

37. In each test, Defendants stated to the tester-applicants that occupancy of the dwelling would be limited to a single person or, at most, two persons.

38. In multiple tests, Defendants stated to tester-applicants a preference that occupancy of the dwelling be limited to a single adult student or professional.

39. Not only did Defendants' statements of preferences in their written advertisements plainly violate applicable Federal and state fair housing laws, Defendants' policy, custom or practice of limiting occupancy of this two-bedroom dwelling to single adults or, at most, two adults has the effect of discriminating against families with children.

40. Consequently, the Fair Housing Partnership filed an administrative complaint with the Pennsylvania Human Relations Commission, to engage the Defendants to redress this unlawful discrimination.

41. After investigation, the Commission issued a probable cause finding of unlawful discrimination on the basis of familial status.

42. Since the Commission issued that finding, the Fair Housing Partnership and the Commission have endeavored to negotiate a reasonable conciliation with the Defendants, which redresses the discriminatory advertising and the policy/practice of excluding families with children from residing in this rental dwelling.

43. The conciliation efforts failed.

44. Defendants have persisted in arguing that the Federal and state fair housing laws do not apply to them and that they should be permitted to bar families with children from their apartments if they wish.

45. Defendants even initiated a local news media campaign to publicly challenge the applicability of these fair housing laws to themselves and to similar landlords. See <https://www.wtae.com/article/penn-hills-couple-says-they-are-unfairly-targeted-in-familial-discrimination-case/29701543>.

46. The Fair Housing Partnership has an organizational interest in protecting renters with children in the greater Pittsburgh area from this sort of familial status discrimination.

47. FHP has diverted resources to investigate and redress the Defendants' policy/practice and actions/omissions alleged herein, and to redress the Defendants'

public challenge to the applicability of federal and state fair housing laws to themselves and landlords like themselves.

48. The Defendants' policy, custom or practice of excluding families with children from renting this two-bedroom dwelling, stating and inferring their occupancy preferences in their written rental advertisements of the dwelling, and Defendants' course of conduct, actions and omissions in this case, have frustrated FHP's mission of ensuring equal housing opportunities in the greater Pittsburgh area.

## **VI. CAUSES OF ACTION**

### **A. Violations of the Fair Housing Act and Implementing Regulations.**

49. Defendants, by their course of conduct, actions, omissions, practices and policies, as described herein, have committed unlawful discrimination on the basis of familial status in violation of the Fair Housing Act and implementing regulations.

### **B. Violations of the Pennsylvania Human Relations Act and Implementing Regulations.**

50. Defendants, by their course of conduct, actions, omissions, practices and policies, as described herein, have committed unlawful discrimination on the basis of familial status in violation of the Pennsylvania Human Relations Act and implementing regulations.

**WHEREFORE**, the Plaintiff respectfully requests that this Court:

- a) Assume jurisdiction over this case;
- b) Enter a judgment pursuant to 28 U.S.C. § 2201 that declares Defendants' conduct, policies and practices as set forth herein have violated the Fair Housing Act and the Pennsylvania Human Relations Act;



- c) Enter an order enjoining Defendants from discriminating against potential and current tenants on the basis of familial status.
- d) Award monetary relief to the Plaintiff as authorized by law and established in this case, including compensatory and punitive damages;
- e) Award Plaintiff and its counsel their litigation costs and reasonable counsel fees; and
- f) Grant such further relief as the interests of justice may require and this Court deems appropriate.

Respectfully submitted,

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**VERIFICATION**

To my knowledge and belief, I verify under penalty of perjury that the foregoing facts set out in the Verified Complaint are true and correct.

  
\_\_\_\_\_  
Jay Dworin  
Executive Director  
Fair Housing Partnership of Greater Pittsburgh

Date: 4/3/2020  
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