

### HUD Case Law

The Aggrieved Person, Mark Bailey, is the parent of a son who was four years old at the time that these incidents took place. At that time, Mr. Bailey was in the process of obtaining joint custody of his son. The Respondent, Geri Goldman, was at all times relevant, the owner of the multi-unit building that is the subject property located at 1223 Main Street, Banford, Illinois. In the summer of 1999, Bailey lived with his mother in a one-bedroom apartment in Richmond, Illinois, where their arrangement was that he slept in the living room. The judge in the custody case decided that because Mr. Bailey lived in a one-bedroom apartment with his mother his living situation was not appropriate for his son to stay overnight. Until that ruling, Bailey anticipated that his son would be with him on alternate weekends.

To provide the living conditions for his son required by the court, Bailey began to seek his own two-bedroom apartment in Banford, Illinois. Bailey soon found the subject property listed for rent in the local Banford newspaper, the Banford Courier. He phoned about the advertisement for the apartment and spoke with Geri Goldman with whom he made an appointment to see the apartment. On August 1, 1999, Respondent showed Mr. Bailey the subject unit. She asked him who would be occupying the unit, and in response, Bailey stated that he was in the process of obtaining joint custody and anticipated that his four year-old son would be occupying the apartment with him on alternate weekends. At this point Mrs. Goldman closed her rental applications book and stated that she could not rent to Mr. Bailey and that the interview could not go on any further. Mr. Bailey nonetheless requested an application. Mrs. Goldman then stated that she could not give him an application and could not rent an apartment to him because of his four-year-old son. Upon hearing this, Mr. Bailey told Mrs. Goldman that she was being “very discriminatory” and that it was against the law for her to refuse to give him an application. Mrs. Goldman responded, “I know. We’re very discriminative here in Banford”.

**Violation of 42 U.S.C. § 3604(a) The Fair Housing Act provides at § 3604(a) that it shall be unlawful: To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.**

When Mr. Bailey went to view the subject unit he was very hopeful and optimistic about resolving the problem of how to properly house himself and his son. When Goldman denied him the unit he felt angry, insulted and very upset. He could not understand how such discrimination could occur in an “upper middle class neighborhood” like Banford, Illinois; especially to a respectable person like himself. He felt insulted and frustrated because he knew that Mrs. Goldman could not lawfully deny him an application. Bailey found it hard to believe that such discrimination was happening to him. In July of 2002, Mrs. Goldman placed another advertisement in the Banford Courier for an apartment at the subject property that was similar to the one that Mr. Bailey sought in 1999.

It “enraged” Bailey to see that Goldman was again advertising available units in the building that he could not move to because of his familial status. The subject property was the perfect place for Mr. Bailey. It was a

mile and a half from where his son lived with his mother, it was a mile away from his son's school, it was a quarter of a mile from the train station, and it was in close proximity to his job. The rent there was affordable at \$735 per month and the apartment had everything that he needed, including two bedrooms. After the events described, Mr. Bailey remained in the one-bedroom apartment with his mother for three or four additional months before finding suitable housing in Banford. This location was twenty miles from where his son lived. Mr. Bailey's mother transported Mr. Bailey in his search for suitable housing, in exchange for which he paid her for car repairs and other related expenses. Mr. Bailey paid his mother about \$2,000 for the repairs, gas and additional rent during the time it took him to find suitable alternative housing. Also, Mr. Bailey lost about 40 hours of work at 20 dollars per hour while seeking another apartment. Bailey eventually found a house to rent which is located at 921 Western in Banford. He paid \$1,100 per month for rent there for six months before moving back with his mother for a few weeks. He then moved to a three-bedroom apartment in Banford where he paid \$1,300 per month for two years until he moved out in September of 2002. Mr. Bailey then moved into the residence he occupied at the time of the hearing in Illinois. Mr. Bailey has found it very difficult to find suitable rental apartments in Banford, which is "upper middle class," because apartment buildings are rare and rental houses are more common. The housing in Banford ranges between \$500,000 and \$10 million in value.

During Mr. Bailey's visit to the property Respondent Goldman told him that she could not give him an application to rent the property because of his four-year-old son and her policy of maintaining an adult building. She refused to give him an application and stated that the interview was therefore terminated. She further stated that there were college students in the building who required a quiet atmosphere for their studying and that there were no facilities for childhood play or toys. By refusing to provide the Aggrieved Person with a rental application or to further discuss the rental of the apartment with him, Respondent refused to negotiate for the rental of, or otherwise made unavailable or denied, a dwelling to the Aggrieved Person because of familial status within the meaning of the Act. Thus, there is direct evidence of discrimination against a member of a class of persons protected by the Act, and it follows that it is not necessary to consider each element of the prima facie case.

Respondent Geri Goldman violated the Act when she said to Mr. Bailey that she would not allow him to rent her apartment because his four-year-old son would be staying with him from time to time. Mrs. Goldman stated that college students lived and studied in the apartment house and she did not want any small children making noise in the property. Respondent further stated to Mr. Bailey that her rental policy was to rent "basically to adults only" and that the subject property was "primarily adults only." Respondent confirmed in her Answer to the Complaint and the Charge of Discrimination that she did not want young children in the apartment. An ordinary listener to Goldman's words spoken to Mr. Bailey would interpret her statements as expressing a preference against and discouraging families with children in her housing unit so as to steer them away from the premises, and an ordinary reader would interpret the statements in Goldman's Answer the same way. Furthermore, when Mr. Bailey told Respondent that she "was being very discriminatory," Mrs. Goldman's response was, "I know. We're very discriminative here in Barrington." These words are unmistakable in their intent to exclude in general seekers of housing who fit into Mrs. Goldman's categories of "dispreferred" people and Bailey in particular because of the anticipated presence of his young son. Thus, Respondent is found by direct evidence to have violated § 3604(c) of the Act.

**Discussion:**

1. It is obvious Mrs. Goldman violated the fair housing act. In what way did she violate the act?
2. Identify each of the statements Mrs. Goldman made that are in direct violation of the act:

**Remedies:**

The purpose of an award of actual damages in a fair housing case, as in civil litigation generally, is to put the aggrieved person in the same position, so far as money can do it, as he would have been had there been no injury or breach of duty; i.e., to compensate the aggrieved person for the injury sustained. Schwemm, *Housing Discrimination: Law & Litigation*, p. 25, and cases cited therein. Actual damages that are compensable include tangible losses, emotional distress, and inconvenience.

1. Tangible Losses

Mr. Bravo's tangible losses were \$18,550

2. Intangible Losses

Mr. Bravo's award for emotional distress was \$10,000

3. Civil Penalty

Assessment of a civil penalty sends a message to the Respondents penalized, and to others, that the United States Government will not tolerate discrimination against any individual on the basis of familial status. Mrs. Goldman's civil penalty was \$4000