

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 GENE V. KRAUSE; SYLVIA L.)
 KRAUSE; RICHARD H. TRULL;)
 MELANIE L. TRULL;)
 TRULL AND KRAUSE, as successor in)
 interest to GENE V. KRAUSE, SYLVIA L.)
 KRAUSE, RICHARD H. TRULL, and)
 MELANIE L. TRULL; and)
 MARILYN HEIM,)
)
 Defendants.)

No. 10-5770BHS

CONSENT ORDER

I. Factual and Procedural Background

The United States initiated this action on October 21, 2010, against Gene V. Krause, Sylvia L. Krause, Richard H. Trull, Melanie L. Trull, Trull and Krause, and Marilyn Heim. In its complaint, the United States alleges that Defendants violated the Fair Housing Act, Title VIII of the Civil Rights Act of 1988, 42 U.S.C. §§ 3601-31 (“the Act”), on the basis of familial status with respect to residential rental units or dwellings at the Mountain View Apartments (“Mountain View”) in Longview, Washington.

The United States alleges that, were this case to proceed to trial, it would present evidence including the following:

1. At all relevant times prior to the filing of this lawsuit, Defendants Gene V. Krause, Sylvia L. Krause, Richard H. Trull, and Melanie L. Trull owned and operated Mountain View Apartments, a 130-unit apartment complex, either as individuals or through the partnership Trull & Krause.
2. At all relevant times prior to filing this lawsuit, Defendant Marilyn Heim served as manager of Mountain View Apartments.
3. In June and October of 2008, the United States performed fair housing tests in which paired individuals with similar characteristics except for race or color or familial status visited Mountain View's rental office at 2185 38th Avenue in Longview, Washington, and inquired about the availability of two-bedroom apartments. Audio recordings of these tests and other evidence obtained by the Justice Department indicated that the Defendants discriminated on the basis of familial status. In particular:
 - a. During the tests, the rental manager stated that there are one or more buildings at Mountain View where children are not allowed to reside.
 - b. During the tests, the rental manager stated that the reason children were not allowed in one or more of the buildings at Mountain View was because of the perception that children were too noisy, and out of consideration for older residents who did not want to live near young children.

The United States alleges that the conduct of Defendants as described in the preceding paragraphs constitutes a refusal to rent, a refusal to negotiate for the rental of, or otherwise making unavailable or denying dwellings to persons because of familial status, in violation of 42 U.S.C. § 3604(a); discrimination against persons with children in the terms, conditions, or privileges of sale or rental of a dwelling because of familial status, in violation of 42 U.S.C. § 3604(b); and statements

made or caused to be made with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination based on familial status, and assignment of persons with children to particular buildings because of their familial status, in violation of 42 U.S.C. § 3604(c).

The United States further alleges that Defendants' conduct as described above constitutes a pattern or practice of resistance to the full enjoyment of rights granted by the Act; and a denial to a group of persons of rights granted by the Act, which denial raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).

The Defendants deny the United States' allegations and deny that they engaged in any conduct that violated the Fair Housing Act. However, in order to avoid costly and protracted litigation the parties agree that the claims against Defendants should be settled and resolved without the necessity of a trial. The parties have agreed to the entry of this Consent Order, as indicated by the signatures below.

Therefore, it is **ORDERED, ADJUDGED and DECREED** as follows:

II. Injunction

1. Defendants, their agents, employees, successors, and all persons in active concert or participation with them are hereby enjoined, with respect to the rental of dwellings, from:
 - a. Refusing to rent after the making of a bona fide offer, or refusing to negotiate for the rental of, or otherwise making unavailable or denying, a dwelling to any person because of familial status;
 - b. Discriminating against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, because of familial status;
 - c. Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination; or
 - d. Failing to give families with children information about, and the opportunity to rent any available dwelling in every building at Mountain View Apartments.

III. Nondiscrimination Policies and Procedures

2. Defendants' responsibilities under this Consent Order shall apply only to Mountain View Apartments. Mountain View Apartments is located at 2185 38th Avenue in Longview, Washington, 98632. There are 130 dwelling units located at Mountain View Apartments.
3. Defendants shall prepare and implement uniform, non-discriminatory Policies and Procedures regarding the rental of covered dwelling units that shall be applied equally to all applicants, actual and prospective, regardless of their familial status. In particular, the policy

shall indicate that Mountain View will make any available dwelling unit to any prospective renter in any building where dwelling units are available, regardless of the prospective renter's familial status. Mountain View will communicate such availability to any prospective renter. An acceptable example of a non-discriminatory policy is attached as Exhibit A.

IV. Notice to Public of Nondiscrimination Policies

4. Within thirty (30) days after the date of entry of this Consent Order, Defendants shall take the following steps to notify the public of their nondiscriminatory policies:
 - a. Prominently post in all rental offices the Defendants may currently or subsequently use for the rental of dwellings, a fair housing sign no smaller than ten (10) inches by fourteen (14) inches that indicates that all apartments are available for rent on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.
 - b. Whenever any covered dwelling unit is available, Defendants shall prominently post an easily readable "For Rent" or "Vacancy" sign or notice on the main Mountain View sign where all traffic is seen. The sign or notice shall include the slogan "Equal Housing Opportunity" and/or the fair housing logo. Such slogan and/or logo shall be prominently displayed and easily readable.
 - c. Include the words "Equal Housing Opportunity" and/or the fair housing logo in all rental advertising conducted by Defendants, their agents or employees, in newspapers, flyers, handouts, telephone directories and other written materials; on radio, television or other media broadcasts; and on all billboards, signs, pamphlets, brochures and other promotional literature, provided that this requirement does not

compel Defendants to advertise in any of these media, but does require compliance with this provision whenever Defendants so advertise. The words and/or logo shall be prominently placed and easily readable.

- d. Include the following phrase in the standard rental application and the standard rental agreement used for covered rental dwelling units, using letters of equal or greater size to those of the text in the body of the document:

We are an equal housing opportunity provider. We do not discriminate on the basis of race, color, sex, national origin, religion, disability or familial status (having children under age 18).

V. Mandatory Training

5. Within thirty (30) days of the entry of this Consent Order, Defendants shall provide a copy of this Order and the Nondiscrimination Policies and Procedures to their agents and employees involved in showing, renting, or managing any and all covered dwelling units and secure the signed statement from each agent or employee acknowledging that he or she has received and read the Order and the Nondiscrimination Policies and Procedures, has had the opportunity to have questions answered about the Order and Nondiscrimination Policies and Procedures, and agrees to abide by the relevant provisions of the Order and said policies and procedures. This statement shall be in the form of Exhibit B.
6. During the term of this Order, within five (5) days after each new agent or employee becomes involved in showing, renting, or managing any covered dwelling units, Defendants shall provide a copy of this Order and the Nondiscrimination Policies and Procedures to said agent or employee involved in showing, renting, or managing any and all covered dwelling units. Defendants shall secure a signed statement from each agent or employee

acknowledging that he or she has received and read the Order, had the opportunity to have questions about the Order answered, and that he or she has also received and read the Nondiscrimination Policies Procedures, and agrees to abide by said policies and procedures and the relevant provisions of the Order. This statement shall be in the form of Exhibit B.

7. Within one hundred eighty (180) days from the date of entry of this Order, Defendants and all agents and employees of Defendants involved in showing, renting, or managing any covered dwelling units shall undergo in-person training on the Fair Housing Act, with specific emphasis on discrimination on the basis of familial status. The training shall be conducted by an independent, qualified third party, approved in advance by the United States, and any expenses associated with this training shall be borne by Defendants. Defendants shall obtain from the trainer certifications of attendance, executed by each individual who received the training, confirming their attendance, in a form acceptable to the United States. This confirmation shall include the name of the course, the date the course was taken, and the length of the course and/or time within which the course was completed.

VI. Processing Rental Applications, Record Keeping, and Compliance Testing

8. Processing Rental Applications.

Within ninety (90) days from the date of entry of this Order, Defendants shall develop and implement, with respect to all covered dwelling units, objective, uniform, non-discriminatory standards and procedures for the processing of applications, the establishment and maintenance of an Availability List, the establishment and maintenance of a Waiting List, and a procedure for notifying people who are on the Waiting List about an available unit, and deciding in a non-discriminatory manner which applicants shall be permitted to rent available dwellings. Such standards and procedures shall be submitted to the United States for

approval in advance of their implementation and shall be consistent with the provisions of this Section. The standards and procedures shall be posted and prominently displayed in the Mountain View Apartments' rental office and in any office where there is rental activity and/or personal contact with applicants, and a copy of these standards and procedures shall be made available upon request to any applicant for the rental of a dwelling. For the duration of this Order, these rental standards and procedures may be modified only if written notice is given to counsel for the United States thirty (30) days before modifications are to take effect.

9. Record Keeping.

With respect to the rental of covered dwelling units, within thirty (30) days from the date of this Order, Defendants shall ensure that each of the following are maintained and updated as new information becomes available:

- a. An Availability List on a daily basis that includes the apartment number of each unit known to be available or reasonably expected to be available for rental within thirty (30) days; monthly rent for each such unit; security deposit for each such unit; the date Defendants or their agents or employees were first informed it would be available for rental, and the first date it would be available for rental or occupancy by a new tenant. Defendants and their agents/employees shall share information on the Availability List with each person who visits or calls the rental office to inquire about the availability of rental dwellings, and shall communicate to all such persons that all available dwelling units are available, to all prospective renters, regardless of familial status;
- b. Guest Cards: A request shall be made of persons who visit or inquire about rental units at the Mountain View Apartments to fill out a Guest Card providing the date of

the visit, the visitor's name, address, daytime and evening telephone numbers, children under 18 expected to occupy the dwelling, and the date by which they wish to move. Defendants shall note on the Guest Card the dwelling units the person was shown and whether the person was given an application. The top portion of the Guest Card shall contain the following disclaimer: "The following information is requested by the United States to assist Mountain View Apartments in complying with the federal Fair Housing Act and will be kept confidential. This information is not required in order to rent an apartment";

- c. Waiting List: All persons who inquire by telephone or in person about renting a dwelling from Defendants and who are informed that there are no vacancies or available apartments to rent shall be asked if they would like to be put on the Waiting List. The Waiting List shall consist of the visitor's or caller's name, address, daytime and evening telephone numbers, and the date they were added to the list.
- d. A Rental Application Log maintained on a daily basis that sets forth the name of the applicant, the number of children under 18, if any, residing with the applicant, whether the application for tenancy was approved or rejected, the building and unit number occupied for all approved applicants, and a detailed explanation for all rejected applications.

10. Compliance Testing.

The United States may take steps to monitor Defendants' compliance with this Order including, but not limited to, conducting fair housing tests at any dwelling in which any Defendant, now or in the future, has a direct or indirect ownership, management, or financial interest.

VII. Reporting Requirements

11. Within ninety (90) days of the date of entry of this Consent Order, and every six (6) months thereafter for the duration of this Order, Defendants shall deliver to counsel for the United States¹ a report containing information about Defendants' compliance efforts during the preceding reporting period, including but not limited to:

- a. Copies of all mandatory education acknowledgments signed by Defendants, their agents and employees, and all certifications of attendance of each participant in such educational program, pursuant to Section V of this Order;²
- b. Copies of all Availability Lists, Guest Cards and other information recorded by any means related to any inquiries regarding the availability of rental dwellings, including Rental Application Logs, and Waiting Lists maintained pursuant to Section VI of this Order;
- c. Copies of lists setting forth the occupancy of each covered dwelling unit by address and apartment number, including the name and familial status of each tenant in that

¹ All documents or other communications required by this Order to be sent to counsel for the United States shall be addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-82-143, United States Department of Justice, 950 Pennsylvania Avenue N.W. - G St., Washington, D.C. 20530, or as otherwise directed by the United States. If the Consent Order requires transmission by facsimile, the communication shall also be sent via facsimile to (202) 514-1116.

² Notwithstanding this provision, pursuant to paragraph 7, Defendants shall have one hundred eighty (180)

dwelling unit during the reporting period;

- d. Photographs of each office in which rental activity is conducted showing the fair housing signs required by Section IV of this Order; and
 - e. An updated list of all covered dwelling units.
12. During the period in which this Order is in effect, Defendants shall preserve all records that are the source of, contain, or relate to any of the information pertinent to the obligations under this Order, including all rental applications, leases, and rental roll ledgers, and occupancy lists for all covered dwelling units as well as records relating to the transfer of interest in dwelling units as set out in Section X below. Upon reasonable notice to counsel for Defendants, representatives of the United States shall be permitted to inspect and copy all such records at any and all reasonable times or, upon request by the United States, Defendants shall provide copies of such documents.
13. During the period in which this Order is in effect, Defendants shall notify counsel for the United States in writing within fifteen (15) days of receipt of any written or oral complaint against Defendants, or Defendants' agents or employees, regarding familial status discrimination in housing. If the complaint is written, Defendants shall provide a copy of it with the notification. The notification shall include the full details of the complaint, including the complainant's name, address, and telephone number. Defendants shall also promptly provide the United States all information it may request concerning any such complaint and shall inform the United States within fifteen (15) days of any resolution of such complaint.

days to meet the mandatory education requirement and provide proof therein.

VIII. Civil Penalty

22. Within ten (10) days after the entry of this Consent Order, the Defendants shall pay a total of twelve thousand, five hundred dollars (\$12,500) to the United States as a civil penalty, pursuant to 42 U.S.C. § 3614(d)(1)(C). This payment shall be delivered to counsel for the United States in the form of a cashier's check payable to the "United States Treasury."

IX. Acquisition of Dwelling Units

23. If, at any time during the term of this Consent Order, any Defendant acquires a direct or indirect ownership, management, or other financial interest in any other rental dwelling unit, said unit shall become a "covered dwelling unit" subject to all relevant provisions of this Order. Defendant shall notify counsel for the United States within thirty (30) days of acquiring said interest. The notice shall include identification of the nature of Defendants' interest in the property; the address; the number of individual dwelling units; the number of bedrooms in each unit; the names of any existing tenants; and the number of children under 18 residing with each such tenant. Defendants shall also include in their notice to counsel for the United States a copy of the documents memorializing the transfer in interest and a copy of the lease for any existing tenant(s).

X. Transfer of Interest in Covered Dwelling Units

24. If at any time while this Order remains in effect, a Defendant ("transferring Defendant") decides to transfer the entirety of said Defendant's direct or indirect ownership, management, or other financial interest in a covered dwelling unit to an unrelated party ("purchaser" or "transferee") in an arms-length transaction,³ the transferring Defendant shall take the

³ For purposes of this Consent Order, "arms-length transaction" is defined as a transaction such as a contract or agreement that has been arrived at in the marketplace between independent, non-affiliated persons, unrelated by blood or

following steps:

- a. At least thirty (30) days prior to completion of the sale or transfer, provide to the United States each prospective transferee's name, address and telephone number;
- b. Within thirty (30) days following completion of the sale or other transfer, the transferring defendant shall provide to the United States by first-class mail a copy of the documents memorializing the transfer in interest of the dwelling unit(s);
- c. If the transferring defendant complies with parts (a) and (b) above, and thereby transfers all of defendant's ownership, management, or other financial interest in the dwelling unit(s) to the purchaser or other transferee, said defendant will thereafter be relieved of defendant's obligations under this Order, with the exception of Defendants' obligations under Sections II, V, VIII, and XI-XII of this Order.

XI. Scope and Duration of Consent Order

25. The provisions of this Consent Order shall apply to all Defendants, their employees, agents, successors, and all persons acting in active concert or participation with them.
26. This Consent Order is effective immediately upon its entry by the Court and shall remain in effect for two (2) years.
27. The Court shall retain jurisdiction for the duration of this Order to enforce the terms of the Order, after which time the case shall be dismissed with prejudice.
28. All parties shall be responsible for their own attorney's fees and court costs, except as provided for in Section XII below.

marriage, with opposing economic interests regarding that contract.

XII. Remedies for Non-Compliance, Time for Performance, and Modifications

29. The United States may move the Court to extend the period in which this Order is in effect if Defendants violate one or more terms of the Order.
30. Any time limits for performance imposed by this Order may be extended by mutual written agreement of the parties.
31. The parties to this Order shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event the United States contends that there has been a failure by any Defendant, whether willful or otherwise, to perform in a timely manner any act required by this Order or otherwise to comply with any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages and costs which may have been occasioned by the Defendants or Defendants' violation or failure to perform.
32. The parties agree that in the event that any Defendant engages in any future violation of the Fair Housing Act, such violation shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d).

IT IS SO ORDERED:

This 16th day of December, 2010.



BENJAMIN H. SETTLE
United States District Judge

By their signatures below, the parties consent to the entry of this Consent Order.

For Plaintiff United States:

JENNY A. DURKAN
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For Defendants:

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EXHIBIT A

Nondiscrimination Policy

It is the policy of Mountain View Apartments to comply with Fair Housing Act, 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., by ensuring that apartments are available to all persons without regard to familial status (having children under age 18). This policy means that, among other things, Mountain View Apartments and all its agents or employees with the responsibility for renting, or managing any dwelling units must not discriminate in any aspect of the rental of dwellings against qualified applicants or tenants because of familial status. Mountain View Apartments makes all available dwelling units available to all prospective renters, regardless of familial status. Mountain View Apartments and all its agents and employees may not:

- a. Refuse to rent after the making of a bona fide offer, or refuse to negotiate for rental of, or otherwise make unavailable or deny, a dwelling to any person because of familial status;
- b. Discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of familial status; or
- c. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination.

Any agent or employee who fails to comply with this non-discrimination policy will be subject to appropriate disciplinary action, which may include termination. Any action taken by an agent or employee that results in the unequal service, treatment or behavior to tenants on the basis of familial status may constitute a violation of state and federal fair housing laws.

EXHIBIT B

Employee/Agent Acknowledgment of Receiving and Reviewing
Order and Nondiscrimination Policies and Procedures

I have received a copy of the Consent Order entered in *United States v. Krause, et al.*, Civil Action No. _____ (W.D. Wa.). I have also received a copy of my employer's Nondiscrimination Policies and Procedures. The Consent Order and the Nondiscrimination Policies and Procedures were explained to me by my employer, and all questions concerning these documents were answered. I have read and understood the Consent Order and the Nondiscrimination Policies and Procedures.

DATE

EMPLOYEE/AGENT NAME (PRINT)

EMPLOYEE/AGENT SIGNATURE