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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**EUGENE DIVISION**

**UNITED STATES OF AMERICA,**

Civil No. \_\_\_\_\_

Plaintiff,

v.

**COMPLAINT**

**KATHIE CARMER,**

Defendant.

1. This action is brought by the United States to enforce the provisions of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3631.
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345 and 42 U.S.C. § 3612(o).

3. Venue is proper in the District of Oregon under 28 U.S.C. § 1391(b) and 42 U.S.C. § 3612(o), in that the events or omissions giving rise to this action occurred in this district.
4. At all times relevant to the complaint, Defendant Kathie Carmer has been the owner and/or manager of a single-family rental property located at 61 Park Village Drive, Florence, Oregon.
5. The subject property is a “dwelling” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
6. In November 2018, Elizabeth Shibahara was in the process of becoming the foster parent of her four minor grandchildren.
7. On or about November 28, 2018, Ms. Shibahara called Defendant to inquire about renting the home Defendant had advertised on Craigslist.
8. During the call, Defendant inquired who would be living with Ms. Shibahara. Ms. Shibahara disclosed that her four minor foster grandchildren would be living with her. She also disclosed that she was employed as a nurse at the local hospital. Ms. Shibahara informed Defendant that a babysitter would care for the children during work hours.
9. After learning about her status as a foster grandparent and her plan to hire a babysitter, Defendant made several discouraging statements and then ended the rental application process. Defendant’s comments included the following statements: “I never left my grandchildren with a sitter”; “[I don’t] feel comfortable with [you] leaving children with a sitter in my rental home”; “there is carpet in the house.” Defendant concluded by saying that “[i]t is my business if I am going to rent to you” and “[i]t does not sound like a good fit.” Defendant subsequently rented the home to tenants with no children.

10. Defendant did not provide Ms. Shibahara an opportunity to submit her work history, or a rental application. Instead, after Ms. Shibahara stated that she cared for four minor foster children, Defendant refused to rent the property to her with no further inquiry into her qualification to rent the home.
11. Ms. Shibahara subsequently reported Defendant's conduct to the Department of Housing and Urban Development (HUD), alleging that Defendant had discriminated on the basis of familial status in violation of the Fair Housing Act.
12. During interviews with Defendant conducted by HUD, Defendant repeated comments expressing a preference against renting to families with children. Defendant stated that there could be "a continual rotation of children" and claimed that Ms. Shibahara was using "hypothetical income from foster children" to help qualify to rent a home.
13. Ms. Shibahara was interested in Defendant's rental home because it would satisfy the State's foster parent certification requirement - that she had a home large enough for herself and her four foster children - and because it was close to her job, it had a lot of space, and it had a backyard.
14. Ms. Shibahara timely filed a complaint with HUD. Pursuant to the requirements of 42 U.S.C. § 3610(a), (b), and (c) the Secretary of HUD conducted an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered in this investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that Defendant had committed illegal discriminatory housing practices in connection with the subject property. Therefore, on July 9, 2020, the Secretary issued a Determination of

Reasonable Cause and Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging that Defendant had engaged in discriminatory practices, in violation of the Fair Housing Act.

15. On July 21, 2020, the complainant, Ms. Shibahara, timely elected to have the charge resolved in a federal civil action, pursuant to 42 U.S.C. § 3612(a).
16. On July 21, 2020, a HUD Administrative Law Judge issued a Notice of Election and terminated the administrative proceedings on the HUD complaint filed by Ms. Shibahara.
17. The Secretary subsequently authorized the Attorney General to file this action on behalf of the complainant, pursuant to 42 U.S.C. § 3612(o).

#### **COUNT I**

18. Plaintiff, United States of America, realleges and incorporates by reference the allegations set forth in paragraphs 1 through 17 above.
19. By the actions and statements set forth above, Defendant has:
  - a. Refused to negotiate for the rental of, or otherwise made unavailable or denied a dwelling to a person because of familial status, in violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. § 3604(a);
  - b. Discriminated in the terms, conditions, or privileges of the rental of a dwelling because of familial status, in violation of Section 804(b) of the Fair Housing Act, 42 U.S.C. § 3604(b); and,
  - c. Made statements with respect to the rental of a dwelling that indicate a preference, limitation or discrimination based on familial status, or an intention to make any such preference, limitation or discrimination, in violation of Section 804(c) of the

Fair Housing Act, 42 U.S.C. § 3604(c).

20. “Familial status” in the Fair Housing Act is defined as:  
“one or more individuals (who have not attained the age of 18 years) being domiciled with— (1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.” 42 U.S.C. § 3602(k).
21. As a result of Defendant’s conduct, Ms. Shibahara and her four minor foster grandchildren suffered damages and are “aggrieved persons” within the meaning of 42 U.S.C. § 3602(i).
22. Defendant’s discriminatory actions and statements as set forth above were intentional, willful, and taken in disregard for the rights of Ms. Shibahara and her foster grandchildren.

WHEREFORE, the United States prays for relief as follows:

1. A declaration that the conduct of Defendant as set forth above violates the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3631;
2. An injunction against Defendant, her agents, employees, and successors, and all other persons in active concert or participation with her, from discriminating on the basis of familial status against any person in any aspect of the rental of a dwelling, in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3631; and,

3. An award of monetary damages to Ms. Shibahara and her four minor foster grandchildren pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c).

The United States further prays for such additional relief as the interests of justice may require.

Dated this 20<sup>th</sup> day of August, 2020.

BILLY WILLIAMS  
United States Attorney  
District of Oregon

/s/ Adrian Brown  
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