

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 3:16-cv-00210-KRG
ROBERT KORMANIK and)	
KINAMROK, INC.,)	
)	
Defendants.)	
_____)	

CONSENT ORDER

I. BACKGROUND

1. The United States initiated this action on September 28, 2016, pursuant to the Fair Housing Act (“FHA”), 42 U.S.C §§ 3601-3619.

2. Kinamrok Apartments, which includes: a two-story, twenty unit building comprised of two-bedroom, one bedroom, and efficiency units located at 400 Luray Avenue; thirteen one-bedroom single-story and townhouse style units located at 1001 Tener Street, and four two-bedroom duplexes located at 1010 Tener Street and 105 Kinamrok Avenue, is located in Johnstown, Pennsylvania.

3. Defendant Robert Kormanik is a resident of Pennsylvania and manages Kinamrok Apartments.

4. Defendant Kinamrok, Inc. is a corporation licensed to do business in Pennsylvania. Kinamrok, Inc. owns Kinamrok Apartments.

5. Between March 2015 and July 2015, the United States Department of Justice conducted testing to evaluate Defendants' compliance with the Fair Housing Act. Testing is a simulation of a housing transaction that compares responses given by housing providers to different types of home-seekers to determine whether illegal discrimination is occurring.

6. The United States, in its Complaint, alleges that Defendant Kormanik discriminated on the basis of familial status at Kinamrok Apartments by:

- a. refusing to negotiate for the rental of, or otherwise making unavailable or denying, dwellings to persons because of familial status, in violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. § 3604(a); and
- b. making oral statements with respect to the rental of a dwelling that indicated a preference, a limitation, or discrimination based on familial status, in violation of Section 804(c) of the Fair Housing Act, 42 U.S.C. § 3604(c).

7. The United States, in its Complaint, alleges that Kinamrok, Inc. is liable for the discriminatory conduct of its agent, Robert Kormanik, described above.

8. Defendants specifically deny all of the allegations asserted against them, and they contend that they have operated at all times in full compliance with applicable law.

9. In an effort to avoid costly litigation, the parties have voluntarily agreed, as indicated by the signatures below, to resolve the United States' claims against Defendants without the necessity of a hearing on the merits.

Wherefore, it is ORDERED, ADJUDGED and DECREED:

II. GENERAL INJUNCTION

10. Defendants, along with their agents, employees, and all persons in active concert with Defendants, are enjoined from:

- a. refusing to negotiate for the rental of, or otherwise making unavailable or denying, a dwelling to any person because of familial status in violation of 42 U.S.C. § 3604(a); and
- b. 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 in violation of 42 U.S.C. § 3604(c).

III. NOTICE TO PUBLIC OF NONDISCRIMINATION POLICY

11. Within thirty (30) days of the date of entry of this Consent Order, Defendants shall take the following steps to notify the public of their non-discrimination policy:

- a. Post and prominently display at the old rental office entry near the “Kinamrok Apartments” sign, a sign no smaller than ten (10) inches by fourteen (14) inches indicating that all dwellings are available for rental on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.
- b. Include the following written statement in all advertisements for rentals, including advertisements in newspapers, internet web pages, flyers, handouts, telephone directories and other written materials, and all rental applications and

all leases: “We are an equal opportunity housing provider. We do not discriminate on any basis, including familial status (residing with children under age 18).”

IV. MANDATORY TRAINING

12. Within 90 days of the date of entry of this Consent Order, Defendant Kormanik and any other employee or agent involved in the management of, or the rental of units at, Kinamrok Apartments shall attend an educational program that will offer instruction regarding his or her obligations under this Order and the federal Fair Housing Act. Defendants shall pay the cost of this educational program. The United States shall review and approve the content and form of the program. The trainer or training entity shall be qualified to perform such training, independent of Defendants or their counsel, and approved in advance by the United States.

13. Defendant Kormanik and any other employee or agents involved in the management of, or rental of units at, Kinamrok Apartments shall certify that he or she has participated in the educational training program, and that he or she understands and acknowledges his or her duties and responsibilities under this Order and the federal Fair Housing Act, by completing an acknowledgement in the form of Attachment A to this Order.

V. REPORTING AND RECORD KEEPING REQUIREMENTS

14. Within one hundred twenty (120) days of the date of entry of this Consent Order, and thereafter on the anniversary of the date of entry of this Consent Order, Defendants shall submit to counsel for the United States a compliance report, except that the final report shall be submitted sixty (60) days prior to the anniversary of the date of entry of this Consent Order.¹

¹ All correspondence required to be sent to the United States under the provisions of this Order shall be sent to the U.S. Department of Justice, care of the undersigned counsel for the United States, Attn: DJ 175-64-195, at the following addresses:

The compliance report shall include: (a) the signed acknowledgement form(s) referred to above in paragraph 13; (b) copies of any advertising for Kinamrok Apartments in newspapers, in telephone directories, on radio, on television, on the internet, or in other media published since the submission of the prior report; and (c) photographs showing the Nondiscrimination Policy described in Paragraph 11 posted and prominently displayed at the old rental office entry near the “Kinamrok Apartments” sign.

15. Defendants shall notify counsel for the United States in writing within fifteen (15) days of receipt of any written or oral complaint against Defendants alleging discrimination on the basis of familial status. 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 reasonably request concerning any such complaint and shall inform the United States in writing of the terms of any resolution of such a complaint within fifteen (15) days of such resolution.

16. Defendants shall preserve all records related to this Consent Order and to the rental process, applicants to and/or tenants at Kinamrok Apartments. Such documents, to the extent that they exist, include, but are not limited to, advertisements, applications, rent rolls,

Regular U.S. Mail: 950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Overnight Mail: 1800 G Street, N.W.
Suite 7002
Washington, D.C. 20006

Correspondence may also be sent via electronic mail to the U.S. Department of Justice, care of the undersigned counsel for the United States.

waiting lists, leases, and tenant files. Upon reasonable notice to Defendants, representatives for the United States shall be permitted to inspect and copy any records related to this Consent Order so as to determine compliance with the Consent Order, provided, however, that the United States shall endeavor to minimize any inconvenience to Defendants.

VI. COMPLIANCE TESTING

17. The United States may take steps to monitor Defendants' compliance with the Consent Order including, but not limited to, conducting fair housing tests at Kinamrok Apartments to determine if Defendants are violating any part of this Order.

VII. COMPENSATION OF AGGRIEVED PERSONS

18. Within ninety (90) days of the date of entry of this Consent Order, Defendants shall deposit twenty-thousand dollars (\$20,000) into an interest-bearing escrow account ("Settlement Fund") for the purpose of paying damages to any aggrieved persons who may have suffered harm as a result of Defendants' alleged discriminatory conduct. Any interest that accrues to the Settlement Fund shall become part of the Settlement Fund and be utilized as set forth herein. In addition, within ten (10) business days of the establishment of the Settlement Fund, Defendants shall submit proof to the United States that this account has been established and the funds deposited. The United States will endeavor in good faith to resolve informally any differences regarding compliance with this Order prior to bringing such matters to the Court for resolution, as provided for in paragraph 31 of this Consent Order and, upon a showing of good cause, will consider moving the Court to extend the payment deadline outlined in this paragraph.

19. Within thirty (30) days of the date of entry of this Consent Order, Defendants shall arrange and publish a Notice to Potential Victims of Housing Discrimination ("Notice"), as

attached hereto at Exhibit B, informing the public in the *Tribune Democrat* of this settlement and of the Settlement Fund. The Defendants shall publish the Notice on two additional occasions. The Notices shall be no smaller than two columns by four inches. The publication dates shall be separated from one another by at least seven (7) days. Within fifteen (15) days after the last Notice has been published, Defendants shall provide proof to Counsel for the United States that the Notices have been published. Nothing in this Consent Order shall preclude the United States from making its own efforts to locate and provide notice to potential aggrieved persons, subject to the time restriction set forth in paragraph 20 of this Consent Order.

20. The United States shall investigate the claims of the aggrieved persons that are submitted to the United States within ninety (90) days from the last date on which the Notices have been published, and shall make a preliminary determination of which persons are aggrieved and an appropriate amount of damages that should be paid to each such person. The United States will inform Defendants in writing of its preliminary determinations, together with a copy of a sworn declaration from each aggrieved person setting forth the factual basis of the claim. Defendants shall have fourteen (14) days from receipt to review the declaration(s) and provide to the United States any documents or information that they believe may refute the claim.

21. After receiving Defendants' comments, the United States shall make final determinations, notify Defendants of them, and submit its final recommendations to the Court for approval, identifying the aggrieved persons and an appropriate amount of damages that should be paid to each such person, together with a copy of the sworn declarations and any documents or information submitted by Defendants. Within ten (10) days of a Court order providing for the distribution of funds to aggrieved persons, Defendants shall deliver to counsel for the United

States from the Settlement Fund checks payable to the aggrieved persons in the amounts approved by the Court.

22. In no event shall the aggregate of all checks to the aggrieved persons exceed the sum of \$20,000 plus interest that accrues on the Settlement Fund.

23. When counsel for the United States has received a check from Defendants payable to an aggrieved person and has obtained a signed release in the form of Exhibit C from the aggrieved person, counsel for the United States shall deliver the check to the aggrieved person and the original, signed release to Defendants. No aggrieved person shall receive a check until he/she has signed and delivered to counsel for the United States the release at Exhibit C.

24. In the event that less than the total amount in the Settlement Fund including interest accrued thereon is distributed to aggrieved persons, the remainder shall be distributed to qualified organization(s) for the purpose of conducting fair-housing enforcement or educational activities in the Johnstown, Pennsylvania metropolitan area. Defendants will consult with and obtain the non-objection of the United States in selecting the recipient(s) of these remaining funds. The parties shall obtain the Court's approval prior to Defendants distributing any of the Settlement Fund's remaining assets. As a condition to receiving such remaining funds, each recipient organization must agree to submit to Defendants and the United States a detailed report of how funds are used within one year after the funds are distributed.

VIII. CIVIL PENALTY

25. Within ninety (90) days of the date of entry of this Consent Order, Defendants shall pay a total of ten thousand dollars (\$10,000) to the United States as a civil penalty, pursuant to 42 U.S.C. 3614(d)(1)(C). This payment shall be in the form of an electronic funds transfer

pursuant to written instructions by the United States. The United States will endeavor in good faith to resolve informally any differences regarding compliance with this Order prior to bringing such matters to the Court for resolution, as provided for in paragraph 31 of this Consent Order and, upon a showing of good cause, will consider moving the Court to extend the payment deadline outlined in this paragraph.

IX. RELEASE OF LITIGATION HOLDS

26. The parties agree that, as of the date of this Decree, litigation concerning the matters described in paragraphs 1-9 is not “reasonably foreseeable.” To the extent that any of the parties previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in paragraphs 1-9, the parties are no longer required to maintain such a litigation hold. Nothing in this paragraph relieves the parties of any other obligation imposed by this Decree.

X. SCOPE AND DURATION OF CONSENT ORDER

27. The provisions of this Consent Order shall apply to Defendants, their employees, agents, successors, and all persons acting in active concert or participation with them.

28. This Order is effective immediately upon its entry by the Court and shall remain in effect for three years from the date of entry.

29. The Court shall retain jurisdiction over this action for all purposes related to the enforcement of this Order throughout its term, after which time the case shall be dismissed with prejudice.

30. The United States may move the Court to extend the period in which this Order is in effect if it believes that either Defendant has likely violated one or more terms of this Order or if the interests of justice otherwise require an extension.

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 that Defendants either fail to perform in a timely manner any act required by this Order or act in violation of any provision of this Order, and if the informal resolution attempts referenced herein fail, the United States may move the Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance or non-performance of certain acts and an award of any damages and costs that may have been occasioned by Defendants' action or inaction.

32. Any time period set forth within this Order for the performance of any act may be changed by written agreement of the parties without Court approval.

XI. NO ADMISSIONS

33. The Defendants, by entering into this Consent Order, do not make or imply any admissions of any facts or liability, and nothing in this Consent Order shall be construed as any such admission by Defendants.

XII. COSTS OF LITIGATION

34. All parties shall be responsible for their own attorney's fees and costs associated with this action.

IT IS SO ORDERED:

This ____ day of _____, 2016.

UNITED STATES DISTRICT JUDGE

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

FOR THE UNITED STATES:

Dated September 28, 2016

DAVID J. HICKTON
United States Attorney
Western District of Kentucky

VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division
SAMEENA SHINA MAJEED
Chief
CATHERINE A. BENDOR
Deputy Chief

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s/ Sara L. Niles
SARA L. NILES
Trial Attorney
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Avenue, N.W.
Northwestern Building, 7th Floor
Washington, DC 20530
Tel: (202) 514-2168

FOR DEFENDANTS:


Robert Kommanik

Dated 9/27, 2016

Represented by:

Steven M. Williams, Esq.
Cohen Seglias Pallas Greenhall & Furman PC
240 North Third Street, 7th Floor
Harrisburg, PA 17101
Tel: (717) 234-5530
Fax: (717) 307-3427

ATTACHMENT A

CERTIFICATE OF ATTENDANCE

I, _____, hereby acknowledge that on _____ 20 ____, I completed training conducted by _____ on the requirements of the Fair Housing Act, 42 U.S.C. §§ 3601-19, in compliance with Consent Order entered by the United States District Court for the Western District of Pennsylvania in United States v. Robert Kormanik and Kinamrok, Inc.

I understand my obligation to not discriminate against any person in the terms, conditions or privileges of renting a dwelling because of race, color, religion, national origin, disability, familial status (having children under age 18), or sex.

I understand my obligation not to retaliate against any individual for exercising a right protected by the Fair Housing Act in violation of Section 818 of the Act.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____, 20__.

Name

ATTACHMENT B
NOTICE TO POTENTIAL AGGRIEVED PERSONS

On [], the United States District Court for the Western District of Pennsylvania entered a Consent Order resolving a lawsuit brought by the United States against Robert Kormanik, and Kinamrok, Inc., who own and manage Kinamrok Apartments in Johnstown, Pennsylvania. The lawsuit alleged that these Defendants discriminated against prospective tenants at Kinamrok Apartments located in Johnstown, Pennsylvania. Defendants specifically deny all of the allegations asserted against them, and they contend that they have operated at all times in full compliance with applicable laws. The Court has not ruled on the merits of the allegations in this lawsuit. Instead, the United States and the Defendants have entered into a consent order settling this case.

Under this consent order, you may be entitled to receive monetary relief if you:

- Were denied, or discouraged from renting, a unit at Kinamrok Apartments because of your familial status (i.e., residing with children under 18 years old), or
- Were told that you would not be permitted to rent apartments at Kinamrok Apartments because you have children.

If you believe you may have been discriminated against in any way described above, or if you have information about someone else you believe may have been, please contact the United States Department of Justice, no later than _____, at: 1-800-896-7743 and select menu option _____. You may also write to:

United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
1800 G Street, N.W., Suite 7002
Washington, DC 20006
Attn: DJ# 175-64-195

Your telephone message or letter must include your name, address, and, if possible, at least TWO telephone numbers where you may be reached.

ATTACHMENT C

FULL AND FINAL RELEASE

In consideration for the parties' agreement to the terms of the Consent Decree entered in United States v. Robert Kormanik and Kinamrok, Inc., No. ___-cv-___; in the United States District Court for the Western District of Pennsylvania and Defendants' payment to me of _____, pursuant to the Consent Decree, and intending to be legally bound, I, _____, do hereby fully release and forever discharge Robert Kormanik, Kinamrok, Inc., and their insurers, attorneys, agents, representatives, owners, shareholders, employees, former employees, heirs, successors, assigns, executors, and administrators and any and all other persons acting under their respective direction or control from any and all fair housing claims similar to those set forth in the Complaint in this lawsuit that I have, had or may have had against any of them for any of their actions or statements related to those claims through the date of this Full and Final Release.

I hereby acknowledge that the consideration paid to me in connection with this Full and Final Release is reasonable, sufficient, adequate and acceptable to me. I further hereby acknowledge that I (a) have read the terms of this Full and Final Release; (b) have had the opportunity to discuss this Full and Final Release with an attorney of my choosing before signing it; (c) fully understand its terms and effects; and (d) execute this Full and Final Release voluntarily and intentionally.

Executed this _____ day of _____, 201__

(Signature)

(Printed Name)

(Home Address)

(Home Address Continued)