

CITY OF PHILADELPHIA
COMMISSION ON HUMAN RELATIONS

HOUSING EQUALITY CENTER OF
PENNSYLVANIA and JENNIFER
COOPER,

Complainants,

v.

OCF REALTY LLC, WATERMILL LOFTS
ACQUISITIONS LLC, PATRICK
CAMPBELL, SHANLEY CAMPBELL, TAN
JOSEPH, 1300 SOUTH 19TH STREET
INVESTMENT PARTNERS, LLC, 1249
SOUTH 21ST STREET, LLC, JASON
BERNSTEIN, JANA BERNSTEIN, 2115
63RD LLC, and PFN ASSOCIATES LLC-2,

Respondents.

PCHR CHARGE NO.

COMPLAINT

The Housing Equality Center of Pennsylvania and Jennifer Cooper bring this complaint against Respondents for refusing to accept housing vouchers at their rental properties in violation of the Philadelphia Fair Practices Ordinance, which prohibits housing discrimination based on source of income. Phila. Code § 9-1100, et seq.

PARTIES

1. Complainant Housing Equality Center of Pennsylvania (“HEC”) is the nation’s oldest fair housing council. HEC is a nonprofit organization incorporated in Pennsylvania, with its principal place of business located at P.O. Box 558, Fort Washington, Pennsylvania 19034. HEC serves Philadelphia and the surrounding counties of Bucks, Chester, Delaware, Lehigh, Montgomery and Northampton. Its mission is to ensure individuals’ equal access to housing and to provide programs in furtherance of this cause, including but not limited to training and testing investigations, education, consulting and counseling.

2. Complainant Jennifer Cooper (“Ms. Cooper”) has a mailing address of P.O. Box 45688, Philadelphia, Pennsylvania 19149. Ms. Cooper is a Housing Choice Voucher holder.

3. Respondent OCF Realty LLC (“OCF”) is a Delaware limited liability company with a corporate address of 1936 Washington Avenue, Philadelphia, Pennsylvania 19146. OCF manages “over 3,000 unique properties throughout Philadelphia,” including all those at issue in this complaint. *See* OCF REALTY LLC, “Rentals in Philly”, <https://www.ocfrealty.com/rentals/> (last accessed Aug. 22, 2023).

4. Respondent Watermill Lofts Acquisition LLC is a Delaware limited liability company and the owner of record of the rental property located at 4 Leverington Avenue, Philadelphia, Pennsylvania 19127. The mailing address listed for this respondent on the deed for this rental property is in care of JMG Capital Properties, 135 East 57th Street, 6th Floor, New York, New York 10022. This respondent maintains a registered office with Corporation Service Company in Dauphin County, Pennsylvania.

5. Respondents Patrick Campbell and Shanley Campbell, née Rassley, are the owners of record of the rental property located at 3719 Calumet Street, Philadelphia, Pennsylvania 19129. The mailing address listed on the rental license for this property is the address of Respondent OCF, 1936 Washington Avenue, Philadelphia, Pennsylvania 19146. The mailing address listed on the deed for this property is 722 South 19th Street, Philadelphia, Pennsylvania 19146.

6. Respondent Tan Joseph is the owner of record of the rental property located at 807 North Franklin Street, Philadelphia, Pennsylvania 19123. The mailing address listed on the rental license for this property is the address of Respondent OCF, 1936 Washington Avenue,

Philadelphia, Pennsylvania 19146. The mailing address listed for this respondent on the deed for this property is 815 Generals Drive, Norristown, Pennsylvania 19403.

7. Respondent 1300 South 19th Street Investment Partners, LLC is a Pennsylvania limited liability company and the owner of record of the rental property located at 1300 South 19th Street, Philadelphia, Pennsylvania 19146. The mailing address listed for this respondent on the deed for this property is the address of Respondent OCF, 1936 Washington Avenue, Philadelphia, Pennsylvania 19146. This respondent maintains a registered office with CT Corporation System in Dauphin County, Pennsylvania.

8. Respondent 1249 South 21st Street, LLC is a Pennsylvania limited liability company and the owner of record of the rental property located at 1249 South 21st Street, Philadelphia, Pennsylvania 19146. The mailing address listed on the rental license for this property is the address of Respondent OCF, 1936 Washington Avenue, Philadelphia, Pennsylvania 19146. The mailing address listed for this respondent on the deed for this property and on this respondent's certificate of organization is 1111 Spring Garden Street, Philadelphia, Pennsylvania 19123.

9. Respondents Jason Bernstein and Jana Bernstein are the owners of record of the rental property located at 2314 Reed Street, Philadelphia, Pennsylvania 19146. The mailing address listed on the rental license for this property is the address of Respondent OCF, 1936 Washington Avenue, Philadelphia, Pennsylvania 19146. The mailing address listed for this respondent on the deed for this property is 702 Federal Street, Philadelphia, Pennsylvania 19147.

10. Respondent 2115 63rd LLC *aka* 2115 63rd Street LLC *aka* 2115 S 63rd LLC is a Pennsylvania limited liability company and the owner of record of the rental property located at 2115 North 63rd Street, Philadelphia, Pennsylvania 19151. The mailing address listed on the

rental license for this property is the address of Respondent OCF, 1936 Washington Avenue, Philadelphia, Pennsylvania 19146. The mailing address listed for this respondent on the deed for this rental property is 25B Vreeland Road, Suite 201, Florham Park, New Jersey 07932. The mailing address listed on this respondent's certificate of organization is 1429 Walnut Street, Unit 1202, Philadelphia, Pennsylvania 19102.

11. Respondent PFN Associates, LLC-2 is a Pennsylvania limited liability company and the owner of record of the property located at 2508 South Broad Street, Philadelphia, Pennsylvania 19145. The mailing address listed for this respondent on the deed for this rental property and on this respondent's certificate of organization is 1809-13 Oregon Avenue, Philadelphia, Pennsylvania 19145.

JURISDICTION

12. This conduct took place within the City of Philadelphia.

13. Respondents are "persons" as defined by the Philadelphia Fair Practices Ordinance, Phila. Code § 9-1102.

14. The actions alleged herein occurred fewer than 300 days ago.

15. Complainants have not filed a complaint alleging violations of the Fair Practices Ordinance based on the actions described herein with the Pennsylvania Human Relations Commission.

FACTS

Overview of the Housing Crisis and the Voucher Programs in Philadelphia

16. The City of Philadelphia ("Philadelphia" or the "City") has an affordable housing crisis. About 54 percent of Philadelphia renters are cost-burdened, meaning that they pay 30 percent or more of their income on housing. The problem is most acute for low-income renters

who earn below \$30,000 per year. About 88 percent of low-income renters are cost-burdened, and 68 percent of low-income renters are severely cost-burdened, meaning that they pay at least 50 percent of their income on housing. See PEW CHARITABLE TRUSTS, *The State of Housing Affordability in Philadelphia* (Sept. 10, 2020), <https://www.pewtrusts.org/-/media/assets/2020/09/phillyhousingreport.pdf>.

17. Because of this housing affordability crisis, a low-income renter in Philadelphia is unable to afford market rents in almost all neighborhoods and faces a substantial risk of homelessness without the assistance of a housing subsidy.

18. According to the most recent data, about 4,489 people in Philadelphia are experiencing homelessness on the streets, in shelter, and in other temporary housing settings. PHILA. OFFICE OF HOMELESS SERVICES, *Looking Back at Philadelphia's 2022 "PIT"* (Dec. 14, 2022), <https://www.phila.gov/2022-12-14-looking-back-at-philadelphias-2022-pit/#:~:text=The%202022%20PIT%20Count%20brought,has%20decreased%20by%20almost%2043%25>

19. The Housing Choice Voucher Program (the "Program"), often referred to as "Section 8," is the federal government's major program for providing tenant-based rental subsidies ("Housing Choice Vouchers") to low-income families to enable them to afford decent, safe and sanitary housing in the private rental market. In Philadelphia, the Housing Choice Voucher Program serves approximately 22,000 families.

20. To qualify for the Program, participants must earn under 50% of the area median income, but the vast majority of Housing Choice Voucher holders earn far less; in Philadelphia, about 70% of Housing Choice Voucher-holders earn under \$20,000 per year. See HUD OFFICE OF POLICY DEVELOPMENT AND RESEARCH DATABASE, DATASET: PICTURE OF SUBSIDIZED

HOUSING, <https://www.huduser.gov/portal/datasets/assthsg.html> (last accessed Aug. 3, 2023). In practical terms, the typical Philadelphia Housing Choice Voucher holder would be foreclosed from the local rental market in almost all neighborhoods—and thus face a substantial risk of homelessness—without the assistance of a housing subsidy.

21. Under the Program, the Philadelphia Housing Authority (“PHA”) subsidizes a portion of the participating family’s rent so that they can afford safe, decent housing in a neighborhood of their choice and escape the cycle of housing insecurity. The typical subsidized family pays about 30% of their monthly income towards rent, and PHA pays the remainder directly to the landlord.

22. As long as the housing abides by PHA’s requirements, such as passing PHA’s Housing Quality Assessment inspection and meeting PHA’s payment standards, Housing Choice Voucher holders are free to choose any available rental unit on the market.

23. But families who have received vouchers in Philadelphia have struggled to find landlords that will accept their vouchers. A recent study from the Urban Institute, which conducted hundreds of test applications within Philadelphia, found that 67% of landlords in the city refuse to rent to voucher holders. The refusal rate goes up to 83% in in low-poverty census tracts. MARY CUNNINGHAM, ET AL., A PILOT STUDY OF LANDLORD ACCEPTANCE OF HOUSING CHOICE VOUCHERS, URBAN INSTITUTE (Sept. 2018), <https://www.huduser.gov/portal/pilot-study-landlord-acceptance-hcv.html>; *see also* Julia Teruso, *In Philly, Two-thirds of Landlords Won’t Take Affordable Housing Vouchers – Even When the Renter Can Afford the Place*, Phila. Inquirer, (Aug. 27, 2018), *available at* <https://www.inquirer.com/philly/news/housing-vouchers-section-8-affordable-urban-institute-study-20180827.html>.

24. Many landlords choose to categorically deny potential renters solely because they use a housing voucher. However, this practice is illegal under the Philadelphia Fair Practices Ordinance (the “Ordinance”), which prohibits housing discrimination based on source of income, defined as “any lawful source of income, and shall include, but not limited to. . . **all forms of public assistance, including Temporary Assistance for Needy Families; and housing assistance programs**” such as Housing Choice Vouchers. Phila. Code § 9-1102(cc) (emphasis added). When enacting the Ordinance, the City Council found that landlord discrimination in housing “results in overcrowded, segregated areas, under substandard, unsafe, unsanitary conditions.” Phila. Code § 9-1101(c).¹

HEC’s Investigation into Respondent OCF’s Policy and Practice of Refusing to Rent to Voucher Holders

25. In 2022, following an anonymous tip as to possible discrimination, HEC commenced an investigation to see whether Respondent OCF refused to rent to voucher holders.

26. Between June 2022 and November 2022, HEC conducted tests of OCF listings in Philadelphia. Testers inquired about the availability of housing and whether vouchers would be accepted. HEC coordinated the tests and provided a common set of instructions to the testers.

27. HEC employed and trained each of the experienced testers involved in this investigation. In each test, the tester posed as a prospective renter of an available unit advertised

¹ The section regarding discrimination in the residential housing market is entitled “Unlawful Housing and Real Property Practices” and states in relevant part that:

It shall be an unlawful housing and real property practice to deny or interfere with the housing accommodation...of an individual or otherwise discriminate based on his or her race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, marital status, age, **source of income**, familial status, or domestic or sexual violence victim status, including, but not limited to...For the owner or any other person having the **right to sell, rent, lease, or approve the sale, rental or lease of any housing accommodation, commercial property or other real property to refuse to sell, rent, or lease or otherwise discriminate in the terms**, conditions, or privileges of the sale, rental, or lease of any housing accommodation, commercial property or other real property or in the furnishing of facilities or services in connection therewith. *Id.* at § 9-1108(a)(1) (emphasis added).

on OCF's website. HEC provided testers with a profile that included their employment, income, whether they planned to use a voucher as a source of rental payment and how much the subsidy would pay per month. The testing revealed a discriminatory pattern and practice by OCF agents of refusing to rent to voucher-holders even though the tester could afford the advertised rent.

28. On June 10, 2022 at 9:57 AM, a HEC tester called Respondent OCF at 215-735-7386 and left a voicemail message saying that they were interested in any available apartments units that accepted Housing Choice/Section 8 vouchers and asking to be emailed any available listings at paultom3970@gmail.com. On June 10, 2022 at 10:01 AM, the HEC tester followed up via electronic message and asked: "Do any of your rental properties accept Housing Choice Vouchers? If so, can you please send me a list of those properties?" On June 13, 2023 at 9:26 AM, the HEC tester received an email from Rachel at OCF stating: "Unfortunately none of the properties we're currently listing are approved to accept housing vouchers at this time."

29. On June 16, 2022, a HEC tester contacted Respondent OCF seeking information in a test of a rental opportunity located at 807 North Franklin Street, Unit #2, Philadelphia, Pennsylvania 19123. At 4:04 PM, the tester dialed 215-735-7368 and spoke with an OCF representative who introduced herself as Darby. After asking about the facilities, utilities, and application process, the tester stated: "I have a Housing Choice Voucher. Is this being accepted?" Darby replied: "Sorry, unfortunately the owners do not accept it at this time."

30. On August 12, 2022, a HEC tester contacted Respondent OCF seeking information in a test of a rental property located at 1249 South 21st Street, Philadelphia, Pennsylvania 19146. At 10:58 AM, a tester dialed OCF at 215-735-7368 to inquire if the property was still available. A woman who answered the phone said yes and the tester asked questions about utilities, application fees, security deposit and parking. The tester then asked if

they accept Housing Choice Vouchers and the woman with whom the tester spoke said that “the owners do not accept them.”

31. On August 15, 2022, a HEC tester contacted Respondent OCF seeking information in a test of a rental property located at 2314 Reed Street, Philadelphia, Pennsylvania 19146. At 3:50 PM, a tester called OCF at 215-735-7368 to learn if the property was still available. A woman who identified herself as “Bria” answered the phone and confirmed that the unit was still available. The tester asked about the monthly rent, application fee and the security deposit. The tester then asked Bria if they accept Section 8 vouchers and she said “no at this time none of the rentals they manage accept Section 8.”

32. On November 16, 2022, a HEC tester contacted OCF at 215-735-7368 seeking information in a test of a rental property located at 2508 South Broad Street, Philadelphia, Pennsylvania 19145. At 12:52 PM, a woman confirmed that the unit was available to rent as of January 3, 2023. The tester asked about utilities, application fee, how to receive an application, the security deposit, and parking. The tester then asked if Housing Choice (Section 8) Vouchers would be accepted, and the woman responded that “none of their owners are approved to accept these vouchers.”

33. Finally, on November 18, 2022, a HEC tester contacted OCF seeking information in a test of a rental property located at 2115 North 63rd Street, Philadelphia, Pennsylvania 19151. A man named “Bill” answered the phone and confirmed the apartment was still available. The tester asked Bill questions about the monthly rent, security deposit, additional fees, utilities and the application fee. Bill asked the tester whether the tester had pets, how the tester found the apartment and why the tester wanted to move. The tester then asked Bill if a Housing Choice

Voucher would be accepted for the property and Bill indicated the voucher would be accepted only if there were no additional requirements such as inspections.

Jennifer Cooper's Housing Search

34. Ms. Cooper is a forty-four year-old low-income, disabled individual with a monthly Supplemental Security Income of approximately \$914.

35. In or around 2010, Ms. Cooper applied for a Housing Choice Voucher and entered a waitlist along with thousands of other Philadelphia families in need of affordable housing.

36. In or around April 2023, thirteen years after her initial application, Ms. Cooper was finally awarded a Housing Choice Voucher. She began searching for a new home in a safe, affordable unit in a neighborhood of her choice.

37. In or around late June 2023 and early July 2023, Ms. Cooper identified a number of available and affordable rental units advertised by Respondent OCF.

38. Initially, on June 30, 2023, Ms. Cooper toured a unit located at 3719 Calumet Street, Philadelphia, Pennsylvania 19129.

39. Then, on July 3, 2023, Ms. Cooper obtained three appointments to view OCF listings. On July 7, 2023, Ms. Cooper first toured an apartment located at 4 Leverington Avenue, Philadelphia, Pennsylvania 19127. Then Ms. Cooper toured apartments located at 6604 Ridge Avenue, Philadelphia, Pennsylvania 19128.

40. Realizing that OCF offered a number of affordable listings that suit Ms. Cooper's needs, some of which were in safe and desirable neighborhoods below the PHA payment standard, Ms. Cooper called the OCF office to see whether any of the properties would accept

her Housing Choice Voucher. On July 7, 2023 around 2:45 pm, Ms. Cooper spoke with a person named “Rachel” who informed her that OCF does not accept vouchers for any of their properties.

41. As a result, despite her interest in the unit, Ms. Cooper did not move forward with her third appointment to view an apartment located at 2235 Washington Avenue, Philadelphia, Pennsylvania 19146.

42. As of the date of filing, Ms. Cooper has not yet secured housing.

Respondents’ Discrimination Frustrated HEC’s Mission and Caused HEC to Divert Resources

43. Pursuant to the Fair Practices Ordinance “[a]ny person claiming to be aggrieved by an unlawful ...housing and real property practice may make, sign and file with the Commission a verified complaint.” Phila. Code § 9-1112 (1). The Ordinance defines “person” as “an individual, partnership, corporation, or association.” Phila. Code § 9-1102(1)(u)

44. In addition, the Supreme Court has held that fair housing organizations such as Complainant HEC have standing to bring housing discrimination claims when they can show a “concrete and demonstrable injury to the organization’s activities – with the consequent drain on the organization’s resources – constitut[ing] far more than simply a setback to the organization’s abstract social interests.” *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982).

45. Respondents’ discriminatory and unlawful practices have frustrated and continue to frustrate HEC’s mission to advance fair and equal access to housing opportunities for all Pennsylvanians. In connection with its mission, HEC conducts education and provides consulting services so that both consumers and housing providers understand their rights and obligations under local, state and federal fair housing laws. HEC also has a grant from HUD to conduct fair housing education, outreach and testing.

46. Respondents' policy and practice of not accepting Housing Choice Vouchers raises issues central to HEC's goals of furthering fair housing and racially integrated communities and ensuring compliance with housing laws. Phila. Code § 9-1100 *et seq.*

47. Prior to filing this complaint, for over the last year, HEC has diverted precious resources to this investigation and counteracting Respondents' refusal to accept Housing Choice Vouchers. HEC's mission is frustrated by Respondents' policies and practices as alleged herein because they violate fair housing laws and because landlords who refuse to accept housing subsidies reduce opportunities for safe and affordable housing for low-income individuals and deny them access to fair and equal housing.

48. HEC has devoted and continues to devote staffing, time and other resources to investigate and counteract Respondents' discriminatory conduct.

49. To address and counteract Respondents' discriminatory conduct, prior to filing this action HEC engaged in community education to teach about the issues revealed in the course of HEC's testing investigation, including but not limited to:

- a. In July 2023, HEC's Outreach Coordinator attended a meeting with the Tenant Union Representative Network and discussed source of income discrimination in housing as a persistent barrier to renters in Philadelphia. HEC offered services to any complainants experiencing source of income discrimination and its educational resources to their partner organizations. Also in July 2023, HEC disseminated educational resources about source of income discrimination at a community event for Non-Binary People's Day in Clark Park in West Philadelphia.
- b. In August 2023, HEC continued its efforts aimed at community education by drafting a new educational postcard about source of income discrimination in

housing. On August 24, 2023, this postcard was mailed to 4401 households in six mail routes where testing revealed denials based on source of income discrimination.

- c. In addition to the housing discrimination information postcard, HEC invested money in Facebook advertisements to engage in a public education campaign about source of income discrimination. The advertisement will run through August 31, 2023, during which time approximately 601-1700 unique viewers will engage with the anti-discrimination content per day.

50. Each of these activities diverted scarce organizational resources in the form of time and financial expenditures, including: the time, cost and staff hours associated with attending community outreach events; the time, cost and staff hours associated with drafting and distributing the postcard about source of income discrimination; the time, cost and staff hours associated with drafting, disseminating, and preparing the Facebook advertisement; and the time, cost and staff hours associated with the testing investigation in response to an anonymous complaint about Respondents' discriminatory conduct.

COUNT ONE: HOUSING DISCRIMINATION ON THE BASIS OF SOURCE OF INCOME

51. The Ordinance prohibits housing discrimination—including refusals to rent, interference with housing opportunities, and discriminatory policies and statements—based on “source of income,” which “shall include any lawful source of income, and shall include, but not be limited to . . . housing assistance programs.” Phila. Code §§ 9-1102(cc) & 9-1108.

52. Respondents refused to rent, lease, and otherwise discriminated in the terms, conditions, or privileges of housing accommodations on the basis of source of income. Phila. Code § 9-1108(1)(a).

53. Respondents interfered with Ms. Cooper's opportunity to rent at the Property and HEC's mission by diverting resources to combat discrimination in housing by making oral statements which express, directly or indirectly, limitation, specification or discrimination, or intent to make limitation, specification or discrimination, in spite of the Ordinance's clear prohibition on source of income discrimination. Phila. Code § 9-1108(1)(c).

54. Respondents established, announced, or followed a discriminatory policy of denying or limiting the opportunities of voucher-holders, including Ms. Cooper and other voucher holders for which HEC diverts resources to protect from discrimination, to rent property that Respondents manage, own or otherwise control. Phila. Code § 9-1108(1)(f).

55. Respondents, as broker or agent or as an employee or representative of a broker or agent, who sell, rent or lease housing accommodations, refused or limited service to Ms. Cooper and HEC on a discriminatory basis, or accepted or retained a listing of any housing accommodation for sale, rent or lease with an understanding that discrimination may be practiced in connection with the sale, rental or lease thereof on the basis of source of income. Phila. Code § 9-1108(1)(l).

56. Complainants request compensatory damages, punitive damages, attorney's fees and costs, injunctive relief that requires Respondents to correct and prevent the unlawful conduct described herein at all properties that they own and/or manage, and any other relief the Commission deems just and equitable.

CONCLUSION

57. Complainants hereby authorize the Philadelphia Commission on Human Relations to serve this complaint upon the Respondents, to investigate their complaint and the facts related

thereto, and to file their complaint under the laws of the Pennsylvania Human Relations Commission and/or the U.S. Department of Housing and Urban Development, if applicable.

58. Complainants request that their file be reviewed under all applicable laws enforced by the Commission to satisfy the procedural and administrative requirements for proceeding under federal or state laws should it become necessary.

Dated: August 24, 2023

/s/ Mary M. McKenzie

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VERIFICATION

I, Rachel Wentworth, Executive Director of the Housing Equality Center of Pennsylvania, declare under penalty of perjury that all of the information that I have provided in this Complaint is true, correct, and complete to the best of my knowledge. I acknowledge that false statements on this form are punishable under state law, 18 Pa. C.S. § 4904 (unsworn falsification to authorities).

A handwritten signature in cursive script, reading "Rachel Wentworth", is written over a horizontal line.

RACHEL WENTWORTH
Executive Director
Housing Equality Center of Pennsylvania
PO Box 558
Fort Washington, PA 19034

Dated: August 24, 2023

VERIFICATION

I, Jennifer Cooper, declare under penalty of perjury that all of the information that I have provided in this Complaint is true, correct, and complete to the best of my knowledge. I acknowledge that false statements on this form are punishable under state law, 18 Pa. C.S. § 4904 (unsworn falsification to authorities).

Jennifer Cooper

JENNIFER COOPER

August **24**, 2023