



Governor John Kasich

OHIO CIVIL RIGHTS COMMISSION

IN THE MATTER OF:

Fair Housing Resource Center

Complainant,

Complaint No. 11-HOU-CLE-40488

v.

Helen I. Vespe & Johanna Colonie

Respondent.

OHIO CIVIL RIGHTS COMMISSION

G. Michael Payton
Executive Director

Commissioners

Leonard Hubert, Chairman
Stephanie Mercado, Esq.
Lori Barreras
William W. Patmon, III
Tom Roberts

ADMINISTRATIVE LAW JUDGE'S FINDING OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS

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Helen Vespe &
Johanna Colonie
29256 Euclid Avenue
Wickliffe, OH 44092
Respondents

ALJ'S REPORT BY:

Denise M. Johnson
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Chief Administrative Law Judge

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Ohio Civil Rights Commission

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May 2, 2014

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Complainant

**Helen I. Vespe &
Johanna Colonie**
29256 Euclid Avenue
Wickliffe, OH 44092
Respondents

Re: Fair Housing Resource Center v. Helen Vespe & Johanna Colonie 11-HOU-CLE-40488

Attached is a copy of the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendation(s) (ALJ's Report). You may submit a Statement of Objections to the ALJ's Report within twenty three (23) days from the mailing date of this report. A request to appear before the Commission must also be submitted by this date.

Pursuant to Ohio Admin. Code § 4112-1-02, your Statement of Objections must be **received** by the Commission no later than **May 26, 2014**. *No extension of time will be granted.*

Any objections received after this date will be untimely filed and cannot be considered by the Ohio Civil Rights Commission.

*Please send the original Statement of Objections to: **Desmon Martin, Director of Enforcement and Compliance, Ohio Civil Rights Commission, State Office Tower, 5th Floor, 30 East Broad Street, Columbus, OH 43215-3414.** All parties and the Administrative Law Judge should receive copies of your Statement of Objections.*

FOR THE COMMISSION:

Desmon Martin / rb

Desmon Martin
Director of Enforcement and Compliance

Attachments

cc: Lori A. Anthony, Section Chief - Civil Rights Section / Sharon Tassie, Principal Assistant Attorney General /
G. Michael Payton, Executive Director / Keith McNeil, Director of Operations and Regional Counsel /
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INTRODUCTION AND PROCEDURAL HISTORY

Fair Housing Resource Center (Complainant) filed a sworn charge affidavit with the Ohio Civil Rights Commission (Commission) on July 21, 2010.

The Commission investigated and found probable cause that unlawful discriminatory practices had been engaged in by Helen I. Vespe and Johanna Colonie (Respondents) in violation of Revised Code Section (R.C.) 4112.02(H).

The Commission attempted but failed to resolve this matter by informal methods of conciliation. The Commission issued the Complaint, Notice of Hearing, and Right of Election June 30, 2011.

The Complaint alleged that Respondents subjected prospective tenants to unequal terms and conditions of rental because of disability and sex in violation of R.C. 4112.02(H)(7) and (19).

Respondents filed their Answer on November 28, 2011, admitting certain procedural allegations but denying that they had engaged in any unlawful discriminatory practices.

A public hearing was held on August 29, 2012 at the Lake County Courthouse, 47 North Park Place, Painesville, Ohio.

The record consists of the previously described pleadings; a transcript consisting of 228 pages of testimony; exhibits admitted into evidence at the hearing; and the post-hearing briefs filed by the Commission on October 22, 2012; by Respondent on December 13, 2012; and the Commission's reply brief filed December 20, 2012.

Jurisdiction

1. The Commission is under a duty to attempt to conciliate a charge of discrimination before issuing a Complaint. R.C. 4112.05(B)(4) &(5)

2. The duty is not onerous: the Commission must simply attempt to correct the unlawful conduct alleged in its Complaint in good faith. *EEOC v. Keco Industries*, 748 F.2d 1097, 1102(6th Cir. 1984).¹

3. The Commission fulfilled its obligation to attempt conciliation. (Comm. Exh. 1 & 2)

¹ Federal case law can be used to interpret cases arising under R.C. 4112. *infra p22*

FINDINGS OF FACT

The following Findings of Fact are based, in part, upon the Administrative Law Judge's (ALJ) assessment of the credibility of the witnesses who testified before her in this matter. The ALJ has applied the tests of worthiness of belief used in current Ohio practice. For example, she considered each witnesses' appearance and demeanor while testifying. She considered whether a witness was evasive and whether his or her testimony appeared to consist of subjective opinion rather than factual recitation. She further considered the opportunity each witness had to observe and know the things discussed; each witnesses' strength of memory; frankness or the lack of frankness; and the bias, prejudice, and interest of each witness. Finally, the ALJ considered the extent to which each witnesses' testimony was supported or contradicted by reliable documentary evidence.

1. Respondent Helen Vespe (Vespe) has owned the property at 29256 Euclid Avenue in Lake County since 2005.

(Tr. 179-180)

2. The property was originally family property and Respondent Vespe has lived at the property all of her life.

3. There are four potential units in 29256 Euclid Avenue; one commercial space and three residential units.

(Tr. 165-166. 177-181; Comm. Exh. 48, 49. 53, 59)

4. Respondent lives in the residential unit on the bottom floor of the building with her niece, Respondent Joanna Colonie (Colonie).

5. In 2010 Respondent Vespe had vacant units that she wanted to rent and began running ads in the Willoughby News-Herald.

6. Respondent Vespe's residential telephone number is (440) 943-2459. (Tr. 177)

7. Patricia Kidd (Kidd) is the Complainant's Executive Director.

8. Complainant is a 501(c)(3) non-profit organization that receives funding from federal, state, private grants, and donations.

9. One of Complainant's goals is to eliminate barriers to housing, including barriers created by unlawful discrimination.
(Tr.129-132)

10. The Complainant's programs are designed to counteract discrimination.

11. Complainant provides a broad range of technical services on a contractual or consultant basis:

- Foreclosure Mitigation Program
- Emergency Mortgage Assistance Program (ERMA)
- Foreclosure Housing Impediment Analysis
- Drafting of Fair Housing Ordinances
- Consulting Services
- Seminars and Training
- Housing Counseling
- Reasonable Accommodation Requests
- Discrimination Complaint Service
- Systemic/Complaint-based Testing Program
- Education and Outreach
(Commission Exh. 39)

12. Complainant's primary service area is Lake County, Ohio but also serves Geauga County and Ashtabula County.
(Tr. 132)

13. Complainant conducts educational programs and informs its service areas through extensive marketing. (Tr. 133)

14. Some examples of Complainant's marketing program include ads that run at local cinemas during the preview phase of the movie, a billboard ad that travels around the three county service areas, cable T-V, radio, ads on common carrier public transportation, and print media that is circulated at community events and festivals. (Tr. 137)

15. The purpose of the Complainant's testing program is to identify a housing provider's practices which may be in violation of state, federal, and local laws.

16. Respondent receives grant money from HUD to perform testing of housing providers in Respondent's service area.

17. The funds provided by HUD to local fair housing organizations like Complainant is to gauge the actual level of discrimination that is occurring in an area by doing random sampling testing of a market. (Tr. 130)

18. In 2004 through 2005 Complainant performed tests in the Lake County area based on housing providers' placement of ads in local newspaper ads and on-line databases that stated "no pets". (Tr. 31, 126)

19. Complainant's tests revealed that sixty-six percent of the probable cause determinations from the testing were attributed to the results of a disability test. (Tr. 126)

20. The data showed that a disabled individual seeking a home in Lake County is going to be denied housing two out of three attempts. (Tr. 127)

21. From approximately 2009 through 2011 Complainant performed another housing study to determine whether or not the incidences of housing disability discrimination had decreased.

22. The data from the study showed that there are still high levels of discrimination within the service area. (Tr. 136)

23. Paul Tate (Tate) is the Program Manager and Housing Counselor for Complainant. One of Tate's duties is the responsibility for the completion of systematic testing. (Comm. Ex. 3)

24. Tate decides what protected classes are presented to property owners by the tester, the municipalities that the tests are conducted in, and the target properties based on advertisements in newspapers. Tate also participates in the training and recruitment of the testers.

25. Tate makes testing assignments to trained testers, debriefs the testers and compares and contrasts the tester reports. (Tr. 21-25, 27-29, 108, 122)

26. Tate identified an ad placed by Respondent Vespe that included the language "no pets" and designated it as a testing subject. (Tr. 24, 29-31; Comm. Exh. 4).

27. Tate generated assignment forms for Jeffrey Kraig (Kraig) and Matt Butler (M. Butler).

28. Kraig was the control tester and M. Butler was the subject tester.

29. M. Butler's tester identity included his having a service animal due to an anxiety disorder while Kraig had no service animal.

30. Kraig and M. Butler received their tester assignment forms by e-mail on March 23, 2010. (Tr. 31-33, 37-38, 58, 81-82; (Comm. Exh. 5 & 9)

31. The telephone number listed on the tester form for both testers is (440) 943-2459.

32. Kraig called the number on March 24th, 26th, and 31st. On March 31st Kraig was told that the apartment had been rented. (Tr. 33-35, 44-46, 48-49)

33. M. Butler made his first call on March 24, 2010 at 12:54 P.M. and left a voice mail.

34. When he did not hear back he called again later the same day and spoke with someone and left a message but did not receive a return call. (Tr. 38-41, 63-64, 82-85; Comm. Exh. 10)

35. M. Butler called again on March 28, 2010 and spoke with Respondent Vespe and recorded the telephone conversation.

36. M. Butler and Respondent Vespe made arrangements to meet on March 30th at 29526 Euclid Avenue talking about rent security deposit and location of the property:

Mr. Butler: "So 5:00 on Tuesday. And what's your name ma'am?"

Ms. Vespe: "Helen"

Ms. Vespe: "Matt."

Ms. Vespe: "P as in Paul?"

Mr. Butler: "Matt as in Matt. Matt as in Matthew. Okay?"

Ms. Vespe: "No, I don't have it yet. What is it?"

Mr. Butler: "Matt. M A T T (spelling name)"

Ms. Vespe: "You're female aren't you?"

Mr. Butler: "No. No."

Ms. Vespe: "You're a male?"

Mr. Butler: "Yes ma'am."

Ms. Vespe: "Oh gee, I don't think we want males in this house. We're all female."

Mr. Butler: "Okay, but it's an apartment right?"

Ms. Vespe: "Yes, but it's a small apartment."

Mr. Butler: "Okay, so it makes a difference that I'm a male?"

Ms. Vespe: "Huh. I have other applicants, but you can come and give me an application if you want to."
(Tr. 85-87;Comm. Exh. 10-11, 61)

37. M. Butler then confirmed the appointment for March 30th at 5:00 P.M.

38. M. Butler arrived at the scheduled appointment ten minutes early but Respondent Vespe was not present.

39. M. Butler called Respondent Vespe and left a message that he was at the unit.

40. A female tenant let M. Butler in to inspect the unit.

41. M. Butler called again that evening and left another message. (Tr. 87-88, Comm. Exh. 10, 12)

42. On March 31, 2012 at 9:30 A.M. Respondent Colonie returned M. Butler's call.

43. M. Butler informed Respondent Colonie² that he had a severe anxiety disorder and a prescribed emotional support animal.

44. Respondent Colonie put M. Butler on hold then returned to the line and informed him that Respondent Vespe did not allow animals in the apartment.

45. Tate sent tester assignment forms to Kristy Belohlavek (Belohlavek) and Kelli Butler (K. Butler)³ on March 31, 2010 for a second test at 29526 Euclid Avenue.

² Respondent Colonie then informed Butler that she is Respondent Vespe's niece. Butler did not record his conversation with Respondent Colonie because he was at work and didn't have his recording device with him at his full time job. (Tr. 77-78, 88, 95, 97-98)

³ K. Butler and M. Butler are married.

46. Belohavek was the control tester and K. Butler was the subject tester seeking a unit on behalf of her blind brother who had a seeing-eye dog. (Tr. 43-44, 47-48, 109-110; Comm. Exh. 14 & 18)

47. Belohavek called on April 3, 2010 and Respondent Vespe told her the apartment was available.

48. Belohavek arranged to meet with Respondent Vespe on April 5th.

49. On April 5th Belohavek went to 29526 Euclid Avenue where Respondent Colonie showed her the unit and Respondent Vespe gave her a rental application.
(Tr. 44-46; Comm. Exh. 15-16)

50. K. Butler spoke with Respondent Vespe on April 1, 2010 and they arranged an appointment for K. Butler to come and inspect the unit the following day.

51. K. Butler went to 29526 Euclid Avenue where Ms. Colonie escorted her up to inspect the unit.

52. After inspecting the unit and going back down stairs, K. Butler told Respondent Vespe that she was looking for an apartment on behalf of her brother who is blind and has a seeing-eye dog.

53. Respondent Vespe expressed concern that K. Butler's brother couldn't handle the stairs.

54. Respondent Vespe told K. Butler that she has older tenants who wouldn't understand K. Butler's brother having a dog, so she couldn't allow pets.

55. K. Butler explained that the dog is not a pet, but rather a doctor prescribed assistance animal.

56. Respondent Vespe said that she couldn't allow the animal regardless of it being a seeing-eye dog. (Tr.48-49, 112-115, 117-119, 198-200; Comm. Exh. 19-20)

57. Tate reviewed the tests and made a recommendation to Kidd.

58. Kidd analyzed the tests and concluded that there was probable cause that unlawful discrimination had taken place.

59. Kidd then filed a charge with the Commission on behalf of the Complainant. (Tr. 50-56, 145-150; Comm. Exh. 23-28, 43)

CONCLUSIONS OF LAW AND DISCUSSION

All proposed findings, conclusions, and supporting arguments of the parties have been considered. To the extent that the proposed findings and conclusions submitted by the parties and the arguments made by them are in accordance with the findings, conclusions, and views stated herein, they have been accepted; to the extent they are inconsistent therewith, they have been rejected. Certain proposed findings and conclusions have been omitted as not relevant or as not necessary to a proper determination of the material issues presented.

1. The Complaint alleges that Respondents' practice and policies regarding households with people with disabilities violate R.C. 4112.02(H) (7) and (19).

2. These allegations, if proven, would constitute violations of R.C. 4112.02(H) which provides that it is an unlawful discriminatory practice for any person to:

(7) (..) make or cause to be made any statement or advertisement, relating (...), rental, lease, sublease, or acquisition of any housing accommodations, (...), that indicates any preference, limitation, specification, or discrimination based upon (...), , sex, (...), disability, or (...), or an intention to make any such preference, limitation, specification, or discrimination;

(19) Refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;

3. The Commission has the burden of proof in cases brought under R.C. Chapter 4112. The Commission must prove a violation of R.C. 4112.02(H) by a preponderance of reliable, probative, and substantial evidence. R.C. 4112.05(E) and (G).

4. Federal case law applies to alleged violations of R.C. Chapter 4112. *Little Forest Med. Ctr. of Akron v. Ohio Civil Rights Comm.*, (1991), 61 Ohio St. 3d 607. Therefore, reliable, probative, and substantial evidence means evidence sufficient to support a finding of unlawful discrimination under the Federal Fair Housing Act of 1968 (Title VIII), as amended. See *Howard v. City of Beavercreek*, 108 F. Supp. 2d 866, 876 S.D. Ohio 2000 (applying FHAA analysis to state-law fair housing claims where language of the relevant provisions of the two statutes was similar).

5. O.A.C. 4112-5-07 amplifies the statutory provisions that prohibit housing discrimination against disabled individuals and the housing providers' affirmative duties regarding providing reasonable accommodations to such individuals:

(...) Refuse to negotiate for the (...) renting (...) of private housing accommodations because of a person's disability.

(...) Every disabled person who has an animal assistant or who obtains an animal assistant shall be entitled to keep the animal assistant on the premises (...) rented (...) by such disabled person. He or she shall not be required to pay any extra charge for such animal assistant but shall be liable for damage done by the animal assistant to the premises.

(...) Reasonable accommodations in rules, policies, practices, or services shall also be made when such accommodations are necessary to afford a disabled person equal opportunity to use and enjoy a premises.

(...) Burden of proof. If an applicant, because of disability, is refused housing accommodations or discriminated against in any term, condition or privilege in the sale, assignment, transfer, renting, subleasing, or financing of housing accommodations, the owner, landlord, proprietor, or agent shall have the burden of establishing the basis for such refusal or discrimination.

6. The Commission presented direct evidence that Respondents treated Complainant's testers, who presented themselves as individuals with disabilities, differently based upon the protected characteristics of disability.

Direct evidence is "evidence" which if believed, requires the conclusion that unlawful discrimination [i.e., the unlawful characteristic] was at least a motivating factor in the [Respondents'] actions. *White v. Columbus Metropolitan Housing Authority*, 429 F.3d 232, 238 (6th Cir. 2005)

Evidence that testers were treated disparately based upon protected characteristics (disability, sex) constitutes direct evidence sufficient to sustain a claim under R.C. 4112. *Walker v. Todd Village, LLC*, (D. Md. 2006), 419 F. Supp.2d 743

7. The Commission need not prove malice or discriminatory animus of a Respondent to make out a case of intentional discrimination where the defendant expressly treats someone protected by the R.C. 4112.02(H) in a different manner than others who are not members of a protected class under state and federal law. *Janick v. Department of Housing & Urban Dev.*, 44 F.3d 553, 556 (7th Cir. 1995)

8. Respondent Vespe clearly articulated that she preferred to rent to females. Her preference was based on stereotyping all male prospective renters' applicants after she had one or two bad experiences with male renters. (Tr. 167-170, 180-181, 187, 193-196)

9. Respondent Vespe is 92 years old and only became the owner of the property in 2005.

10. Respondent Vespe is a very vibrant and astute 92 year old. I found her testimony assertive with a good recall of facts.

11. Respondent Vespe did not want to rent to any disabled person who needed a dog assistance animal, or to a visually impaired disabled person. She stereotyped disabled individuals with animals as not cleaning up after their animals and visually impaired individuals as being unable to climb stairs safely.

12. However, Respondent Vespe's stereotypes are not a defense under federal or state housing anti-discrimination laws to renting to disabled individuals with assistance animals.

The accommodation of non-service animals per se is not unreasonable under the FHA.

Janush v. Charities Hous. Dev. Corp., 169 F. Supp. 2d 1133, 1136 (N.D. Cal. 2000).

The housing authority violated the FHA by requiring a hearing impaired tenant to prove that the dog living with him had training in hearing assistance before an exception would be made to the authority's general "no pets" rule. *Green v. Hous. Auth. Of Clackamas County*, 994 F. Supp. 1253, 1255-56 (D. Or. 1998).

A tenant with psychiatric disabilities could not be evicted for keeping an untrained cat in violation of a "no pets" policy when the companionship of the cat helped her to function. *Whittier Terrace Assocs. v. Hampshire*, 26 Mass. App. Ct. 1020, 532 N.E. 12d 712 (1989).

Landlord may be required to accommodate a disabled tenant by allowing him to have a cat so long as the cat is necessary for him to use and enjoy the property due to his disability. *Crossroads Apartments Associates v. LeBoo* 152 Misc.2d 830 (1991).

13. Respondent Colonie not only took calls for Respondent Vespe about the ad for the unit at 29656 Euclid Ave., she also communicated to M. Butler that the unit could not be rented to him because he had an assistance animal.

14. Respondent Colonie showed the vacant apartment to not just one apartment seeker but to several. (Tr. 172, 190-191, 201, 214, 219; Comm. Exh. 53)

15. Respondent Colonie also spoke to potential tenants, conveying Respondent Vespe's practices and policies to them.

16. Based on Respondent Colonie's conduct, she was acting as an agent for Respondent Vespe.

When a property owner delegates responsibility to another, then that person becomes the agent of the owner. There is a duty to ensure that one's agent does not act in a discriminatory fashion. *Portee v. Hastava* (E.D. N.Y. 1994), 853 F. Supp. 597, 619.

17. Respondents have engaged in illegal conduct in violation of R.C. 4112.02(H) (7) and (19).

18. Complainant is entitled to relief as a matter of law.

DAMAGES

19. When there is a violation of R.C. 4112.02(H), the statute requires an award of actual damages shown to have resulted from the discriminatory action, as well as reasonable attorney's fees. R.C. 4112.05(G)(1). The statute also provides that the Commission, in its discretion, may award punitive damages.

ACTUAL DAMAGES

20. The purpose of an award of actual damages in a fair housing case, as in employment discrimination cases, "is to put the plaintiff in the same position, so far as money can do it, as (...) [the plaintiff] would have been, had there been no injury or breach of duty ..." *Lee v. Southern Home Sites Corp.*, 429 F.2d 290, 293 (5th Cir. 1970) (citations omitted).

21. Where a fair housing agency conducts tests or other investigatory measures to identify unlawful housing discrimination, the agency suffers a redressable injury because its resources have been diverted and its mission to eliminate housing discrimination has been frustrated. *Havens Realty Corp. v. Coleman*, (1982), 455 U.S. 363, 379.

22. The Commission presented evidence that the majority of Complainant's program efforts toward the elimination of housing discrimination in Lake, Ashtabula, and Geauga Counties is proactive and that they expend considerable resources toward those efforts in education, training, and outreach.

23. The Complainant's Expense Report reflects the investigatory work product that goes toward addressing and eliminating housing discrimination and therefore the resources diverted to that effort. (Comm. Exh. 29)

24. The Complainant spent a total of 20.7 hours spent by staff in the investigation in an effort to counteract Respondent's discriminatory conduct and is seeking \$2,630.46 for diversion of resources.

25. The Complainant billed for the services as follows:

(1) Kidd, 9.30 hours @ \$175.00 per hour, (2) Tate and paralegals, 8.82 hours @ \$75.00 per hour, (3) Staff fees, at 2.58 hours at \$25.00 per hour.⁴

⁴ Additional fees: \$4.12 for postage, \$51.84 for copies, \$221.00 for miscellaneous. (Comm. Exh. 29)

26. The Commission is also seeking \$10,000 for frustration of mission.

Fair housing organizations may also recover damages for items such as monitoring, education and outreach programs. *Fair Housing of Marin v. Comb* 285 F.3d 899, 905

When organizations must allocate future resources from other programs to combat discrimination, they are entitled to an award compensating them for this frustration of their mission. *Id.*

To recover, a fair housing organization must establish that expenditures in education, counseling or outreach are necessary to counteract the effects of discrimination. *Spann v. Colonial Village*, 899 F. 2d 24, 28-29, cert, denied, 498 U.S. 980 (1990)

27. In 2004 through 2005 Complainant performed tests in the Lake County area based on housing providers placement of ads in local newspaper ads and on-line databases that stated "no pets".(Tr. 31, 126)

28. Complainant's tests revealed that sixty-six percent of the probable cause determinations from the testing were attributed to the results of a disability test. (Tr. 126)

29. The data showed that a disabled individual seeking a home in Lake County is going to be denied housing two out of three attempts. (Tr. 127)

30. From approximately 2009 through 2011 Complainant performed another housing study to determine whether or not the incidences of disability housing discrimination had decreased.

31. The data from the study showed that there are still high levels of discrimination within the service area. (Tr. 136)

32. The Complainant's efforts to counteract disability discrimination through education and outreach after conducting tests in 2004 and 2005 did not yield a significant impact on the level of disability discrimination in its service area based on the results of the 2009 through 2011 tests.

33. The Commission did not introduce any convincing evidence that the amount requested would be used toward different education and outreach programs than the ones used prior to the tests supporting the Complainant's data.

34. The ALJ recommends that the Complainant be awarded \$2,630.46 for diversion of resources and \$500.00 for frustration of mission.

PUNITIVE DAMAGES

1. The purpose of an award of punitive damages pursuant to R.C. 4112.05(G) is to deter future illegal conduct. O.A.C. 4112-6-02 states punitive damages are appropriate "as a deterrent measure" even when there is no proof of actual malice. *Schoenfelt v. Ohio Civil Right Comm.*, (1995), 105 Ohio App.3d 379, 385, *citing and quoting, Marr v. Rife*, 503 F.2d 735, 744 (6th Cir. 1974).

2. The amount of punitive damages depends on a number of factors, including:

- The nature of Respondents' conduct;
- Respondents' prior history of discrimination;
- Respondents' size and profitability;
- Respondents' cooperation or lack of cooperation during the investigation of the charge; and
- The effect Respondents' actions had upon Complainant.⁵ O.A.C. 4112-6-02.

⁵ This criterion is more appropriately considered when determining actual damages.

3. Applying the foregoing criteria to this case:

- Respondent Vespe sought tenants through public advertisement to prospective tenants through advertisements in news papers. Although she may not have been aware of state and federal anti-discrimination laws which regulate the residential rental activities of property owners, ignorance of the law is not a cognizable defense. Likewise, a showing of malice or discriminatory animus by Respondent is not a proof requirement for a violation of the FHA. *Janick, supra.*

- The Commission did not present a prior history of discrimination by Respondents.

- The Commission presented evidence of Respondent Vespe's residential and commercial property and assets. Respondent Vespe owns six residential rental units, one she has live in all of her life. Complaint's income derives from social security benefits, rental income, and passive investments from insurance products.

- The effect of the Respondents' conduct was to make property unavailable in the Lake County Area to individuals with disabilities. Respondent Vespe's rejection of disabled individuals with service animals and males were based on stereotypes and need-jerk reactions that state and federal anti-discrimination provisions were designed to prevent in order to make housing available to all qualified individuals.

Based on the foregoing criteria Respondents' should pay punitive damages in the amount of \$500.00.

ATTORNEY'S FEES

1. The Commission is entitled to attorney's fees. R.C. 4112.05(G)(1); *Schoenfelt, supra*, at 386. If the parties cannot agree on the amount of attorney's fees, the parties shall present evidence in the form of affidavits.

2. In order to create a record regarding attorney's fees, the Commission should file affidavits from plaintiffs' attorneys in Lake County, Ohio regarding the reasonable and customary hourly fees they charge in housing discrimination cases. Also, a detailed accounting of the time spent on this case must be provided and served upon Respondents. Respondents may respond with counter-affidavits and other arguments regarding the amount of attorney's fees in this case.

3. If the Commission adopts the ALJ's Report and the parties cannot agree on the amount of attorney's fees, the Commission should file an Application for Attorney's Fees within 30 days after the ALJ's Report is adopted. Respondents may respond to the Commission's Application for Attorney's Fees within 30 days from their receipt of the Commission's and Complainant's Applications.

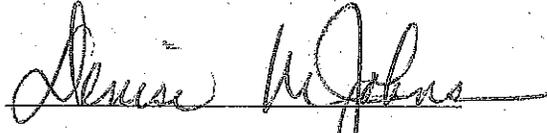
4. Meanwhile, any objections to this Report should be filed pursuant to the Ohio Administrative Code. Any objections to the recommendation of Attorney's Fees can be filed with the Commission's Compliance Unit after the ALJ makes her Supplemental Recommendation to the Commission regarding Attorney's Fees.

RECOMMENDATIONS

For all of the foregoing reasons, it is recommended in Complaint No. 11-HOU-CLE-40488 that:

1. The Commission order Respondents' to cease and desist from all discriminatory practices in violation of Chapter 4112 of the Revised Code;
2. The Commission order Respondents' to pay Complainant FHRC \$3,130.46 in actual damages;
3. The Commission orders Respondents' to pay Complainant FHRC \$500.00 in punitive damages;
4. The Commission orders Respondents' within six (6) months of the date of the Commission's Final Order, to receive training regarding the anti-discrimination fair housing laws of the State of Ohio. As proof of their participation in fair housing training, Respondents' shall submit certification from the trainer or provider of services that Respondents' have successfully completed the training; and

5. The Commission orders Respondents', within seven (7) months of the Commission's Final Order, to submit its Letter of Certification of Training to the Commission's Compliance Department.

A handwritten signature in cursive script, appearing to read "Denise M. Johnson", written over a horizontal line.

DENISE M. JOHNSON
CHIEF ADMINISTRATIVE LAW JUDGE

Date: May 2, 2014