Sen. Thomas Ada

I Mina Trentai Kuàtro Na Liheslaturan Guåhan • 34th Guam Legislature

August 22, 2017

GUH34 17-906
Speaker Benjamin J.F. Cruz

AUG 22 2017
Time: 9:57 [ ] AM [ ] PM File No. 34814
Received By:

TO: Speaker Benjamin J.F. Cruz

FR: Senator Tom Ada

RE: communications from U.S. Department of Housing and Urban Development

Please find attached communications sent directly to my office which probably should have gone through Messages and Communications.

2017 AUG 22 AM 10:24

Attachment: Letter and Enclosures dated August 08, 2017 from U.S. Department of Housing and Urban Development

0906

Ada Plaza Center, Suite 207 • 173 Aspinall Ave. • Hagåtña, Guam 96910
(671) 473-3301 • Office@Senator Ada.org • www.Senator Ada.org

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity – Region IX
One Sansome Street, Suite 1200
San Francisco, CA 94104-4430
(800) 347-3739 Office (415) 489-6524 Office
(415) 489-6564 TTY (415) 489-6560 Fax

www.hud.gov
español.hud.gov
August 08, 2017

Government of Guam
Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

RECEIVED by the
Office of Senator
Thomas C. Ada
Aug. 16, 2017

SENATOR TELENA CRUZ NELSON
Date / Time: 8/15/17, 8:15am
Initials:

Subject: Housing Discrimination Complaint
Fowler, Christopher v Government of Guam
HUD Case No.: 09-17-9487-8

Dear Government of Guam:

We have received a formal complaint alleging that you have engaged in one or more discriminatory housing practices under the federal Fair Housing Act (the Act), 42 U.S.C. Sections 3601-3619. We are required by statute to send you a copy of the complaint.

The alleged discriminatory housing practices are identified in this complaint. We have made no determination as to whether the complaint against you has merit.

The purpose of this letter is to inform you of: 1) the rights you have in responding to this complaint, 2) the rights each Complainant has, and 3) the steps the Department will take to determine whether the complaint has merit.

To ensure that the Department informs you properly of the law's requirements, this notification letter contains language required by the law. A similar letter is used to notify all parties whenever a formal complaint has been filed with HUD under the Act.

We are governed by federal law, which sets out what steps we must take when a formal complaint is filed. The law also includes steps that you can take to answer or refute the allegations of this complaint.

Under federal law, any answer from you to this complaint can be filed within 10 calendar days of receipt of this letter or receipt of a letter notifying you of any amendments to this complaint. Your answer must be signed and you must affirm that you have given a truthful response by including the statement "I declare under penalty of perjury that the foregoing is true and correct."

You will be allowed to amend your statement at any time, if our investigation shows that it is reasonable and fair for you to do so.

Our responsibility under the law is to undertake an impartial investigation and, at the same time, encourage all sides to reach an agreement, where appropriate, through conciliation. The law requires us to complete our investigation within 100 days of the date of the official filing of the complaint. If we are unable to meet the 100-day requirement for issuing a determination, the law requires that we notify you and Complainant(s) and explain the reasons why the investigation of the complaint is not completed. All evidence gathered during the investigation will become part of the investigative record.

In handling this complaint, we will conduct an impartial investigation of all claims that the Act has been violated. If the investigation indicates that there is no evidence establishing jurisdiction, the case will be dismissed. At any point, you can request that our staff assist you in conciliating (or settling) this complaint with Complainant(s). If the case is not resolved, we will complete our investigation and decide if the evidence indicates that there has been a fair housing violation. If the parties involved have not reached an agreement to settle the complaint, the Department will issue a determination as to whether there is reasonable cause to believe a discriminatory housing practice has occurred.

If our investigation indicates that there is reasonable cause to believe that an unlawful discriminatory housing practice has occurred, the Department may issue a charge. If the investigation indicates that there is no reasonable cause to believe that discrimination has occurred, the complaint will be dismissed. In either event, you will be notified in writing.

If the determination is one of reasonable cause, the notification will advise you and Complainant(s) of your rights to choose, within 20 days, whether you wish to have the case heard by an Administrative Law Judge, or to have the matter referred for trial in the appropriate U.S. District Court.

Each Complainant has the legal right to file such a suit, even if the complaint formed the basis for a charge, if an Administrative Law Judge has not started a hearing on the record with respect to the charge. Under federal law, even if the Department dismisses the complaint, each Complainant still has the right to file an individual lawsuit under the Act in an appropriate federal, state or local court within two years of the date of the alleged discriminatory practice or of the date when a conciliation agreement has been violated. The law does not count, as part of the two-year period, any of the time when a proceeding is pending with the Department.

There may be other applicable federal, state or local statutes under which you and/or Complainant(s) may initiate court action. You may consult a private attorney in this regard.

The law also requires us to notify you that Section 818 of the Act make it unlawful for you, or anyone acting on your behalf, to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, any right granted or protected under the Act. The Act also makes it illegal for anyone to coerce, threaten or interfere with any person for having aided or encouraged any other person in the exercise or enjoyment of, any right or protection granted to them under the Act.

The Investigator assigned to this case is ***Ms. Vicki Gums***. You can reach her at ***(415) 489-6534 or Vicki.A.Gums@hud.gov***.

If you have any questions regarding this case, please contact ***Ms. Gums or her Supervisor, Catherine Ross-Perry, Chief, Enforcement Branch, San Francisco, at (415) 489-6555***. Please refer to the case number at the top of this letter in those contacts, and keep this office advised of any change of your address or telephone number.

Sincerely,

Anné Quesada
Regional Director
Office of Fair Housing and
Equal Opportunity

Enclosures

Housing Discrimination Complaint

Case Number: 09-17-9487-8

1. **Complainant**

   Christopher Fowler
   2756 Farenholt Avenue, #337
   Tamuning, Guam 96913

2. **Complainant's Representatives:**

   None.

3. **Other Aggrieved Parties:**

   None.

4. **The following is alleged to have occurred or is about to occur:**

   - Discriminatory terms, conditions, privileges, or services and facilities
   - Discriminatory refusal to sell

5. **The alleged violation occurred because of:**

   - Race

6. **Address and location of the property in question (or if no property is involved, the city and state where the discrimination occurred):**

   590 S. Marine Corps Drive
   Suite 733 ITC Bldg.
   Tamuning, Guam 96913

7. **Respondents:**

Government of Guam
Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

Government of Guam
c/o Chamorro Land Trust Commission
P.O. Box 2950
Hagåtña, Guam 96929

8. **The following is a brief and concise statement of the facts regarding the alleged violation:**

Complainant is Christopher Fowler who is Caucasian and not of Chamorro descent. Respondent is the Government of Guam.

In or around February 2017, Complainant went to Respondent's office to inquire about Respondent's Land for the Landless Program. Complainant stated that the Chamorro Land Trust Commission (CLTC) offers three types of lease programs which are residential, agriculture and commercial. Applicants of the residential and agriculture program pay a $50 one time non-refundable processing application fee. The lease rates for residential and agriculture leases are a $1 a year for a term of 99 years. Complainant stated he applied for housing at the Government of Guam's CLTC and was told by the office receptionist (name unknown) that the program was only for Chamorro descendants. Complainant was asked if he had family that was Chamorro as this would allow him to participate in the program. Complainant stated that he was denied participation in the program because he is not of Chamorro descent.

9. **The most recent date on which the alleged discrimination occurred:**

February 01, 2017

10. Types of Federal Funding Identified:

None.

11. The acts alleged in this complaint, if proven, may constitute a violation of the following sections:

804b or f, and 804a or f of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

Please sign and date this form:

I declare under penalty of perjury that I have read this complaint (including any attachments) and that it is true and correct.

Christopher Fowler

7/16/17

Date

N O T E : HUD WILL FURNISH A COPY OF THIS COMPLAINT TO THE PERSON OR ORGANIZATION AGAINST WHOM IT IS FILED.

DATA REQUEST LIST

1. State the legal name of your business and any other name(s) under which you do or have conducted business on the date of discrimination listed in the complaint. Identify the nature of any federal financial assistance received by the subject property along with the project number.

2. State type of legal business entity you are (i.e., corporation, partnership, limited partnership, sole proprietorship etc.). Also identify any agent for service of process along with his or her contact information.

3. Identify and list the legal owners of the property in question by name, address, telephone number and type of ownership.

4. List all persons and/or firms involved in the management of the property named in the complaint by name, address, telephone number, job title, and management responsibility. Also identify any agent for service of process along with his or her contact information.

5. State whether at any time you have been a party in any lawsuit or enforcement action brought under any fair housing law or civil rights act in any court of law or by any governmental agency. If so, state the title or caption of the case, the case number, the name of the court or governmental agency where it was filed, the date of filing, and the outcome.

6. State any facts that you assert in response to the allegations in the complaint. Please state these facts chronologically by date.

7. Identify and list by name, title, address, and telephone number each individual who was involved in or witnessed the act(s) alleged on the complaint form or who has knowledge of the information set forth in your response to this data request letter.

8. Identify any documents that support the facts referred to in your response to this data request letter. Describe these documents chronologically so that they can be identified and include a copy of these documents if possible. In addition, state the present location of each of these documents and the name, address and telephone number for the custodian of these documents.

9. Submit a copy of any documents or the contents of any file in your control concerning the complainant(s).

10. Please state whether this project is the subject of any Low Income Housing Tax Credit. If so, please provide documentation of this tax credit.

Revised 10/03/2002

INVITATION TO CONCILIATION

Conciliation is a voluntary, non-binding and confidential process to help Complainant and Respondent achieve a resolution of the fair housing complaint accompanying this invitation. The Office of Fair Housing and Equal Opportunity (FHEO) is committed to working impartially with you to reach a settlement that may benefit everyone. A conciliated settlement is not an admission by a Respondent that the law has been violated, nor is it an admission by a Complainant that the complaint does not have merit. Conciliation is a way to resolve a dispute without the completion of a formal investigation.

The Conciliator is Impartial. The Conciliator is not a judge, or advocate, or there to advise anyone or decide anything. The Conciliator only helps persons create a resolution to the dispute.

A Settlement Agreement will be your agreement. It must meet your needs, the needs of other parties, as well as be in the public interest.

Conciliation requires Good Faith. This means keeping an open mind, being willing to listen, being flexible, and making a sincere effort to resolve the dispute. Good faith is needed from both Complainant and Respondent.

We encourage and invite your participation, and commend your willingness to work with us to reach a conciliated settlement to this fair housing complaint.

CONCILIATION UNDER THE FAIR HOUSING ACT

HUD is *required*, from the time a Fair Housing Act complaint is filed, to give the parties a chance to reach a satisfactory settlement through conciliation.

Parties' Rights

- Confidentiality. Nothing said or done during the course of conciliation can be used in a subsequent hearing or trial regarding the alleged violation.
- Legal Counsel. Attorneys may represent Parties.
- Voluntary Nature of Conciliation. Participation in conciliation is entirely voluntary. There is no penalty for declining to settle through conciliation.

Role of the HUD conciliator:

- is a neutral participant seeking to facilitate a mutually agreeable settlement;

- will inform the parties of their rights during conciliation;
- will inform the parties about the process, and help to structure negotiation arrangements in which the parties can have confidence;
- may provide interpretations of the Act to permit the parties to bargain from informed positions;
- conveys offers between the parties;
- prepares the Conciliation Agreement;
- may describe the penalties for violations, but will not comment on the likelihood that they will be imposed; and
- will not discuss the probable outcome of the case.

Effect of Agreement. A formal conciliation agreement, which the Act requires to be in writing and approved by HUD, will terminate the complaint. It ends the Respondent's potential liability and the Complainant's right to pursue allegations that could be filed with HUD.

Nature of Agreement. The essential terms of the agreement will be those negotiated by the parties. The parties may agree to refer compensation matters to an arbitrator. The agreement will also include standard provisions in the public interest (for example, concerning monitoring and reporting).

HUD's Role. By approving the agreement, HUD acknowledges that its terms serve the public interest.

Role of the Department of Justice. The Justice Department will enforce the Conciliation Agreement in the event of a breach.

Addendum - HUD Investigator Contact Information

Dear Respondent:

Your case has been assigned to the following investigation unit.

Enforcement Branch, San Francisco
Vicki Gums
HUD-FHEO
One Sansome Street, Suite 1200
San Francisco, CA 94104-4430
(415) 489-6534 or (800) 347-3739 Ext. 6534

Please contact the Branch indicated to discuss your case. Please also respond to the Data Request List enclosed with your notification letter to the office indicated above.