

HOUSING DISCRIMINATION COMPLAINT

CASE NUMBER:

1. Complainant(s)

National Fair Housing Alliance
1331 Pennsylvania Avenue NW, Suite 650
Washington, D.C. 20004
(202) 898-1661

Representing Complainant:

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Scott Chang, Esq.
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Southwest Fair Housing Council
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(520) 798-1568

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2. Other Aggrieved Persons:

To be determined

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

Discriminating in the terms, conditions, or privileges of, or the provision of services or facilities in connection with the rental of a dwelling because of familial status in violation of Section 804(b) of the Fair Housing Act;

Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination in violation of Section 804(c) of the Fair Housing Act; and

Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, * * * any right granted or protected by section 803, 804, 805, or 806, in violation of Section 818 of the Fair Housing Act.

4. The alleged violation occurred because of:

Familial Status

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

X Phoenix
200 W Monroe St.
Phoenix, AZ 85003 and

X Denver
3100 Inca St.
Denver, CO 80202

6. Respondent(s)

The X Company (Owner and Developer of X Denver and X Phoenix)
113 N. May St. Second Floor
Chicago IL 60607
(602) 887-1131

XSC Phoenix Investment LLC (Owner of Record of X Phoenix)
2338 W. Royal Palm Dr., Suite J
Phoenix AZ 80521

ENR Denver Investment LLC (Owner of Record of X Denver)
113 N. May St., Second Floor
Chicago IL 60607

Cardinal Group (former Management Company)
4100 E Mississippi Ave,
#1450 Denver, CO 80246
(303) 407-4500

Asset Campus USA, LLC (Current Management Company)
950 Corbindale Rd Ste 300
Houston, TX 77024
(713) 782-5800

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

The National Fair Housing Alliance (NFHA) and Southwest Fair Housing Council (SWFHC) are private 501(c)(3) fair housing organizations whose missions are to eliminate housing discrimination and ensure equal housing opportunity for all people. NFHA and SWFHC engage in several different programs and activities including education and outreach, counseling, research, and advocacy to further their missions, among other activities and programs.

Leonardo Barroso, Lamont Ortiz, and Robertson Smith (collectively the "Individual Complainants") are current or former residents of X Phoenix.

The Individual Complainants live or lived at X Phoenix with their minor children.

The X Co. represents to the public that it is the developer and operator of X Phoenix and X Denver. According to its website, the X Co. is the real estate development and operations team behind X Phoenix and X Denver. The X Co. is currently active in six markets, with 5,000 beds in the current portfolio and over \$1 billion in construction activity.

XSC Phoenix Investment LLC is the owner of record of X Phoenix. ENR Denver Investment LLC is the owner of record for X Denver. During the relevant time period, the Cardinal Group and Asset managed X Phoenix and X Denver. Asset is the current management company for X Phoenix and X Denver.

NFHA identified X Denver as an apartment community that may be providing unequal apartment amenities to residents with children under the age of 18. X Denver has approximately 250 units and 813 beds. X Denver offers studio, 1-bedroom, and 2-bedroom apartments, as well as furnished and unfurnished co-living room options in 2-, 3-, and 4-bedroom floorplans. According to X Denver's website, co-living involves each resident having their own self-contained and locked, bedroom and personal bathroom within a unit. The resident shares a kitchen and living room with one, two, or three other residents, depending on the unit of their choice.

Residency at X Denver includes access to the X Club, which offers amenities including a pool, coworking spaces, gym facilities, fitness classes, a restaurant and bar, dog park, fire pits, rooftop lounge, classes, and events. On January 14, 2022, NFHA conducted a review of X Denver's website. Under the Frequently Asked Questions section of the website for the X Club, a question asks: "Are kids allowed at the club?" The answer states, "Nope. We love kids, but all X Club facilities are adults-only at this time." Since the pool, coworking spaces and the gym and other amenities are located in the X Club, banning children from the X Club is tantamount to banning them from the amenities offered at X Denver.

Based on this statement from X Denver's website, in March through May 2022, NFHA conducted an investigation using fair housing testing to determine if X Denver allows children to use the amenities. NFHA's investigation included conducting three fair housing test parts. NFHA's testing confirmed that X Denver applies its written policy of not allowing children under the age of 18 to use facilities and amenities contained in the X Club at X Denver including the pool, co-working spaces, and the gym.

From March 2022 through September 2022, NFHA's continued to investigate X Denver.

As a result of identifying discrimination at X Denver, NFHA was forced to investigate and counteract the discrimination, diverting its resources and frustrating its mission.

Based on the results of the investigation of X Denver, NFHA began investigating X Phoenix to determine if barriers to equal opportunity to families with children also exist at X Phoenix.

NFHA's preliminary investigation included researching X Phoenix and informing SWFHC of potential discrimination against families with children at X Phoenix. NFHA and SWFHC developed a plan to investigate X Phoenix for familial status discrimination.

X Phoenix contains approximately 330 apartment units and 506 beds. X Phoenix offers studio, 1-bedroom, and 2-bedroom apartments, as well as furnished and unfurnished coliving room options in 2-, 3-, and 4-bedroom floorplans. Residency at X Phoenix includes complimentary access to the X Club, which offers the amenities at X Phoenix including a pool, coworking spaces and conference rooms, gym and fitness studio, a restaurant and bar, events, and classes.

SWFHC began to research and plan for conducting fair housing tests. While planning for its testing investigation, in October 2022, SWFHC received complaints from residents of X Phoenix of familial status discrimination including Mr. Barroso, Mr. Ortiz and Mr. Smith.

SWFHC and NFHA responded to the complaints by conducting an investigation, including counseling the complainants.

Mr. Barroso is a single father of a 6-month-old daughter. Mr. Barroso started living at X Phoenix on April 13, 2022. When Mr. Barroso initially moved to X Phoenix, the management told him that children were allowed in the X Club common areas, as long as they had parental supervision. Mr. Barroso would frequently use the pool and workspace area of the X Club and he would take his daughter with him. In October 2022, X Phoenix began imposing limitations on children using the amenities at X Phoenix. Mr. Barroso was at the pool with his daughter when someone from the management of X Phoenix asked Mr. Barroso to leave because kids were not allowed in the pool area. Mr. Barroso told the X Phoenix management that this rule was not on the lease he signed and that they were

discriminating against families. On October 4, 2022, Mr. Barroso and other residents at X Phoenix received an email from management stating new policies were being implemented, and that kids were no longer allowed to use the amenities even with parental supervision.

On October 5, 2022, Mr. Barroso was with his daughter in the pool area again when X Club staff members told him to leave. Mr. Barroso refused to leave. Staff members then threatened to call the police. The police arrived at X Phoenix but never contacted Mr. Barroso. Thereafter, Mr. Barroso had several disagreements regarding the no-kids policy with staff members of X Phoenix and X Club. X Club eventually filed an injunction against Mr. Barroso to prohibit him from using the amenities. On December 9, 2022, the court ruled in favor of Mr. Barroso and dismissed the lawsuit seeking an injunction to prohibit Mr. Barroso from using the amenities at X Phoenix with his child.

Mr. Ortiz signed a 15-month lease in January 2022 with X Phoenix. Mr. Ortiz has a five-year-old daughter that lives with him part-time because he has partial custody. When Mr. Ortiz initially moved to the X Phoenix, the management of X Phoenix told him that children were allowed in the common areas of the X Club as part of his lease agreement, as long the children have parental supervision. Mr. Ortiz regularly took his daughter to the common areas with no issues until October 2022. In early October 2022, he was in the co-working area with his daughter doing homework and was asked to leave by staff. Staff told him that children are not allowed to use the amenities in the X Club. On October 4, 2022, Mr. Ortiz and other residents at X Phoenix received an email from management, stating new policies were being implemented, and that kids were no longer allowed in common areas even with parental supervision.

Mr. Smith started living at X Phoenix in February 2022. Mr. Smith had moved into this apartment complex specifically because of the amenities, which he would use and enjoy with his two daughters, age 4 and 5 years old. In October 2022, he learned from one of his neighbors that X Phoenix was not allowing children in the common areas. On October 4, 2022, Mr. Smith and other residents at X Phoenix received an email from management of X Phoenix that kids were no longer allowed in common areas even with parental supervision. Since October 4, 2022, Mr. Smith and his children have not used the amenities. Because the amenities have been made unavailable to Mr. Smith and his children, he moved from X Phoenix on January 3, 2023.

Respondents' practices have injured NFHA and SWFHC by undermining its other programs designed to promote fair housing, requiring it to divert scarce resources from its usual and planned activities and instead devote substantial time and activities to identify and counteract Respondents' discrimination; frustrating its mission to increase fair and equal access to housing and eliminate segregation in the communities it serves and harming the communities it serves.

NFHA and SWFHC engaged in several activities to counteract Respondents' discrimination. For example, NFHA staff designed and implemented a social media campaign in Denver and Phoenix to educate the public on discrimination against families with children, conceived of and implemented a direct mailing campaign to residents of X Denver and X Phoenix informing them of their rights under the familial status provisions of the Fair Housing Act, and met with fair housing organizations to discuss familial status discrimination in the provision of amenities. SWFHC staff, among other things, drafted and published an article regarding familial status discrimination for its newsletter, planned and executed a direct mailing campaign to residents of X Phoenix informing them of their rights under the familial status protections of the Fair Housing Act and planned and launched a social media campaign to educate residents of Phoenix on familial status discrimination.

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

March 13, 2023 and ongoing.

9. Types of Federal Funds identified:

None.

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

Sections 804(a), (b) and (c) and 818 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.

Lisa Rice 02/08/2023
Lisa Rice
President and CEO
National Fair Housing Alliance
Date

Jay Young 2/8/2023
Jay Young
Executive Director
Southwest Fair Housing Council
Date

Leonardo Barroso
Date

DocuSigned by:
Lamont Ortiz 03/12/2023 | 1:20 PM EDT
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Lamont Ortiz
Date

Robertson Smith
Date

NOTE: HUD WILL FURNISH A COPY OF THIS COMPLAINT TO THE PERSON OR ORGANIZATION AGAINST WHOM IT IS FILED

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President and CEO
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J Young 2/8/2023
Jay Young
Date
Executive Director
Southwest Fair Housing Council

Leonardo Barroso
Date

Lamont Ortiz
Date

Robertson Smith 2/15/23
Robertson Smith
Date

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