

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
BROWARD DIVISION**

HOUSING OPPORTUNITIES PROJECT FOR  
EXCELLENCE, INC., a not-for-profit Florida  
corporation; and RONALD A. WERNER,

Plaintiffs,

v.

Case No. 12- cv-62249-RSR

POMPANO COURTS CONDOMINIUM  
ASSOCIATION, INC., a Florida corporation;  
INTERSTATE REALTY, INC., a Florida  
corporation; and SUSANNE GIRLICH,

Defendants.

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**AMENDED COMPLAINT  
and  
JURY DEMAND**

Plaintiffs, Housing Opportunities Project for Excellence, Inc. (“HOPE”) and Ronald A. Werner, by and through their undersigned attorneys, file this Complaint for injunctive and declaratory relief, damages, costs, and attorneys’ fees against Defendants, Pompano Courts Condominium Association, Inc., Interstate Realty, Inc., and Susanne Girlich, and as good grounds state as follows:

**PRELIMINARY STATEMENT**

1. This action arises as a result of Defendants’ discriminatory actions perpetrated against families with children under fifteen years old with regards to the rental and advertisement of units at The Pompano Courts Condominium, a condominium which encompasses certain real property, including, but not limited to, 510 SW 15<sup>th</sup> Street, Pompano Beach, Florida 33060. Specifically, Defendants have violated the Fair Housing Act by, among other things:

- a) promulgating, adopting, and enforcing a policy of deterring the rental or sale of units to families with children under the age of 15;
- b) promulgating, adopting, and enforcing a policy of refusing to approve the rental or sale of units to families with children under the age of 15;
- c) making a dwelling unavailable because of familial status; and
- d) making, printing, and publishing, and causing to be made, printed, and published an advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status.

### **JURISDICTION AND VENUE**

2. Jurisdiction is invoked pursuant to 42 U.S.C. § 3613(a), in that Plaintiffs assert their claims of housing discrimination in a civil action, and also pursuant to 28 U.S.C. §§ 1331, 2201 and 1343(a)(4), in that this is a civil action seeking to redress the deprivation of the right to fair housing secured to Plaintiffs by the Fair Housing Act.

3. Plaintiffs seek declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

4. Plaintiffs seek preliminary and permanent injunctive relief pursuant to Rule 65, Federal Rules of Civil Procedure.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1391(c) in that the events and/or omissions giving rise to the claims herein occurred in this district, and all Defendants conduct business in this district.

### **PARTIES**

6. Plaintiff HOPE is a Florida not-for-profit corporation headquartered in Miami, Florida. HOPE provides information about and seeks to enforce fair housing laws for the people of south Florida who have been unjustly denied access to housing. HOPE attempts to

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accomplish these goals by empowering people through education, advocacy, and enforcement of fair housing laws. HOPE engages in testing for fair housing law violations, pursuing enforcement of meritorious claims, conducting fair housing education and outreach, and administering relocation and mobility counseling programs designed to prevent and eliminate discriminatory housing practices. HOPE is funded, in part, by the United States Department of Housing and Urban Development (U.S. HUD) to conduct fair housing education, outreach, and discriminatory fair housing investigations and enforcement in South Florida.

7. Plaintiff, Ronald A. Werner, is a tester for HOPE who sought information from Defendants and their agents about the availability of units at Pompano Courts. Mr. Werner was and continues to be adversely affected by the acts, omissions, policies, and practices of Defendants and their agents. At all relevant times, Mr. Werner was acting within the scope of his employment with HOPE.

8. Defendant, Pompano Courts Condominium Association, Inc. (“The Association”), is a not-for-profit Florida corporation organized pursuant to the Florida Condominium Act, chapter 718, Florida Statutes.

9. Defendant, Interstate Realty, Inc. (“Interstate”), is a Florida corporation, comprised of licensed real estate professionals who are supposed to be educated and trained in fair housing laws.

10. Defendant, Susanne Girlich, is an individual who was an employee of Defendant Interstate at all relevant times. Ms. Girlich is a licensed real estate professional, who is supposed to be educated and trained in fair housing laws.

**FACTUAL ALLEGATIONS**

11. On or before June 21, 2012, a HOPE Testing Coordinator visited the website <http://www.hotpads.com> and encountered an advertisement for the rental of a condominium unit in The Pompano Courts Condominium (“Pompano Courts”), at 510 SW 15<sup>th</sup> Street, Pompano Beach, Florida 33060 for unit #206. The advertisement stated “as per association no children under the age of 15 yrs allowed to reside in apt. other then [sic] temporary.” The Testing Coordinator then forwarded this information to a tester, Plaintiff Ronald Werner.

12. The advertisement also stated at the bottom: “Brokered And Advertised By: RE/MAX Preferred Listing Agent: Susanne Girlich.” Upon information and belief, the advertisement was written and published by Defendant Susanne Girlich.

13. On or about June 21, 2012, Mr. Werner called the phone number listed on the advertisement to schedule an appointment to see the unit. He spoke with the listing agent, Defendant Susanne Girlich. Ms. Girlich asked Mr. Werner about pets and about how many people would be living there.

14. Mr. Werner replied that he, his wife, and 12 year old grandson would be living there. Ms. Girlich then asked if his grandson would be living in the unit all the time. Mr. Werner responded yes. Ms. Girlich then stated that that could be a problem because she believed that the association had a rule about children under the age of 15. She told him she would call to verify this and would call him right back.

15. Ms. Girlich called Mr. Werner back within 5 minutes and said that children under 15 were not permitted to live in the building, and as a result Mr. Werner could not live there.

16. Upon information and belief, Susanne Girlich was employed by Defendant Interstate, and was acting within the scope of her employment at all relevant times.

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17. On or about June 21, 2012, another HOPE tester acting within the scope of his employment called the phone number listed on the hotpads.com website to schedule an appointment to see the unit for rent in Pompano Courts. The tester spoke with Defendant Girlich. Ms. Girlich asked him if he had a problem with a second floor unit, if he had any pets, and how many people would be residing in the unit. The tester responded that he would have no pets and that only he and his wife would be living in the unit. He was given an appointment and eventually shown the unit.

18. On or about August 31, 2012, Plaintiff HOPE sent a letter to The Association, requesting any occupancy surveys it had done to determine whether Pompano Courts was a 55 and over community. Such surveys are required for condominiums that wish to be classified as 55 and over communities, and are required to be made available to any person who requests them. *See* 24 C.F.R. § 100.307(i). The letter also asked for the Association to provide evidence that the provision prohibiting children under the age of 15 from living at Pompano Courts had been repealed. HOPE never received a response to that letter.

19. The Association's Declaration of Condominium documents contain a provision, in the section entitled "Occupancy and Use Restrictions," subsection A, which states: "No children under the age of fifteen (15) shall be permitted to reside in any of the Apartments, except that children under the age of fifteen (15) may be permitted to visit and temporarily reside in any of the Apartments for a period of time not to exceed a total of sixty (60) days per calendar year." Upon information and belief, this provision has not been repealed.

20. The Association is not registered with the Florida Commission on Human Relations as a 55 and over community, pursuant to Florida Statute § 760.29(4)(e).

21. Accordingly, on information and belief, the Association is not allowed to claim it is a 55 and over community and therefore exempt from the requirements The Fair Housing Act.

22. But for Defendants, Susanne Girlich and Interstate's, unlawful actions of publishing an advertisement and making a statement with respect to the sale or rental of a dwelling that indicated a restriction based on age, Plaintiffs would not have taken any of the above-described actions. Their actions diverted HOPE's limited resources, which could have been used to further HOPE's other goals.

23. But for Defendant The Association's unlawful policy of excluding families with children under 15, Plaintiffs would not have taken any of the above-described actions. Its actions diverted HOPE's limited resources, which could have been used to further HOPE's other goals.

24. Plaintiff Werner posed as a would-be renter when he attempted to contact Defendants and their agents. Accordingly, Mr. Werner acted as a tester when he collected evidence of the Defendants' discriminatory practices. As an individual dedicated to the advancement of fair housing, Plaintiff Werner was emotionally distraught and extremely insulted by the advertisements he viewed and the treatment he received.

25. HOPE collected evidence of the Defendants' discriminatory practices by, among other things, viewing advertisements on the internet, taking screen shots, documenting phone calls and interactions, and conducting research.

**COUNT 1: VIOLATIONS OF THE FAIR HOUSING ACT  
AGAINST POMPANO COURTS CONDOMINIUM ASSOCIATION, INC.**

26. Plaintiffs repeat and reallege paragraphs 1 through 25 as if fully set forth herein.

27. This Count 1 is brought by Plaintiffs against Defendant, The Pompano Courts Condominium Association, Inc. ("The Association").

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28. Defendant, The Association, is liable to Plaintiffs Werner and HOPE for all injuries caused by the Fair Housing Act violations committed by Defendant and its agents.

29. Defendant, The Association, has violated the Fair Housing Act by, among other things:

- a) making a dwelling unit unavailable because of familial status by promulgating and enforcing a policy that prohibits families with children under 15 from living at Pompano Courts;
- b) promulgating, adopting, and enforcing a policy of deterring the rental or sale and refusing to approve the rental or sale of units to families with children under the age of 15; and
- c) causing to be made, printed, or published a notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on familial status.

30. A discriminatory purpose, not any legitimate reason, was a motivating factor behind Defendant, The Association's, aforementioned discriminatory actions and/or omissions and the promulgation of its discriminatory policies and procedures.

31. Defendant, The Association, and its agents caused Plaintiff Werner to be treated unequally on the basis of familial status, and promulgated policies and practices that were designed to treat other families with children under 15 unequally. Such unequal treatment caused Plaintiff Werner not to be able to negotiate for the rental of a unit at Pompano Courts.

32. As a result of Defendant, The Association's, actions, omissions, policies, and procedures as described above, Plaintiffs Werner and HOPE suffered, are continuing to suffer, and will in the future suffer irreparable loss and injury including, but not limited to, humiliation,

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embarrassment, emotional distress, and a deprivation of their rights to equal housing opportunities regardless of familial status.

33. As a result of Defendant, The Association, and/or its agents' actions, omissions, policies and procedures as described above, Plaintiff HOPE expended resources that it would have otherwise been able to use towards its mission.

34. As a result of Defendant, The Association's, actions, omissions, policies and procedures as described above, Plaintiff HOPE's ability to provide housing counseling and referral services has been and will continue to be frustrated.

35. As a result of Defendant, The Association's, actions, omissions, policies and procedures as described above, Plaintiff HOPE's purpose of enforcing the fair housing laws in Florida has been and will continue to be frustrated.

36. WHEREFORE, Plaintiffs respectfully request that the Court:

A. declare the actions, omissions, policies, and procedures of The Association complained of herein to be in violation of the federal Fair Housing Act;

B. enter a permanent injunction enjoining The Association, its successors, and its servants, agents and employees, and all those acting in concert with it, from discriminating on the basis of familial status in the sale or rental of condominium units;

C. enter a permanent injunction compelling The Association, its successors, and its servants, agents, and employees, and all those acting in concert with it, to adopt policies, procedures and practices, which will ensure that all individuals who wish to rent or purchase units at Pompano Courts may do so without regard to their familial status;

D. award compensatory and punitive damages to Plaintiff Werner against The Association to compensate Plaintiff Werner for, among other things, the humiliation,

embarrassment, and emotional distress caused by The Association's discriminatory actions, and loss of equal housing rights;

E. award compensatory and punitive damages to Plaintiff HOPE against The Association to compensate HOPE for, among other things, the drain on its resources that can be attributed to the frustration of HOPE's purpose of enforcing the fair housing laws in Florida and providing housing counseling and referral services;

F. award Plaintiffs Werner and HOPE their costs and reasonable attorneys' fees in this action; and

G. award Plaintiffs Werner and HOPE such other and further relief as the Court deems just and proper.

**COUNT 2: VIOLATION OF THE FAIR HOUSING ACT  
AGAINST INTERSTATE REALTY, INC**

37. Plaintiffs repeat and reallege paragraphs 1 through 25 as if fully set forth herein.

38. This Count 2 is brought by Plaintiffs against Defendant, Interstate Realty, Inc. ("Interstate").

39. Defendant Interstate is liable to Plaintiffs Ronald Werner and HOPE for all injuries caused by the Fair Housing Act violations committed by Interstate and its agents.

40. Defendant Interstate has violated the Fair Housing Act by, among other things:

A. making, printing, or publishing, or causing to be made, printed, or published a notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on familial status; and

B. making a dwelling unavailable because of familial status.

41. A discriminatory purpose, not any legitimate reason, was a motivating factor behind Defendant Interstate's aforementioned discriminatory actions and/or omissions.

42. As a result of Defendant Interstate's actions, omissions, policies, and procedures as described above, Plaintiffs Werner and HOPE suffered, are continuing to suffer, and will in the future suffer irreparable loss and injury including, but not limited to, humiliation, embarrassment, emotional distress, and a deprivation of their rights to equal housing opportunities regardless of familial status.

43. As a result of Defendant Interstate and/or its agents' actions, omissions, policies, and procedures as described above, Plaintiff HOPE expended resources that it would have otherwise been able to use towards its mission.

44. As a result of Defendant Interstate's, actions, omissions, policies, and procedures described above, Plaintiff HOPE's ability to provide housing counseling and referral services has been and will continue to be frustrated.

45. As a result of Defendant Interstate's, actions, omissions, policies, and procedures described above, Plaintiff HOPE's purpose of enforcing the fair housing laws in Florida has been and will continue to be frustrated.

46. WHEREFORE, Plaintiffs respectfully request that the Court:

A. declare the actions, omissions, policies, and procedures of Defendant, Interstate complained of herein to be in violation of the federal Fair Housing Act;

B. enter a permanent injunction enjoining Defendant Interstate, its successors, and its servants, agents, and employees, and all those acting in concert with it, from making, printing, or publishing statements or advertisements that indicate a preference, limitation, or discrimination based on familial status;

C. enter a permanent injunction compelling Defendant Interstate, its successors, and its servants, agents, and employees, and all those acting in concert with it, to adopt policies, procedures and practices, which will ensure that no statements or advertisements indicating a preference, limitation, or discrimination based on familial status are made, printed, or published in the future;

D. award compensatory and punitive damages to Plaintiff Werner against Defendant, Interstate to compensate Plaintiff Werner for, among other things, the humiliation, embarrassment, and emotional distress caused by Defendant Interstate's discriminatory actions, and loss of equal housing rights;

E. award compensatory and punitive damages to plaintiff HOPE against Defendant Interstate to compensate HOPE for, among other things, the drain on its resources that can be attributed to the frustration of HOPE's purpose of enforcing the fair housing laws in Florida and providing housing counseling and referral services;

F. award Plaintiffs Werner and HOPE their costs and reasonable attorneys' fees in this action; and

G. award Plaintiffs Werner and HOPE such other and further relief as the Court deems just and proper.

**COUNT 3: VIOLATION OF THE FAIR HOUSING ACT  
AGAINST SUSANNE GIRLICH**

47. Plaintiffs repeat and reallege paragraphs 1 through 25 as if fully set forth herein.

48. This Count 3 is brought by Plaintiffs against Defendant, Susanne Girlich ("Girlich").

49. Defendant Girlich is liable to Plaintiffs Werner and HOPE for all injuries caused by the Fair Housing Act violations committed by Defendant Girlich and her agents.

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50. Defendant Girlich has violated the Fair Housing Act by, among other things:

A. making, printing, or publishing, or causing to be made, printed, or published a notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on familial status; and

B. making a dwelling unavailable because of familial status.

51. A discriminatory purpose, not any legitimate reason, was a motivating factor behind Girlich's aforementioned discriminatory actions and/or omissions.

52. As a result of Defendant Girlich's actions, omissions, policies, and procedures as described above, Plaintiffs Werner and HOPE suffered, are continuing to suffer, and will in the future suffer irreparable loss and injury including, but not limited to, humiliation, embarrassment, emotional distress, and a deprivation of their rights to equal housing opportunities regardless of familial status.

53. As a result of Defendant Girlich and/or her agents' actions, omissions, policies, and procedures as described above, Plaintiff HOPE expended resources that it would have otherwise been able to use towards its mission.

54. As a result of Defendant Girlich's actions, omissions, policies, and procedures as described above, Plaintiff HOPE's ability to provide housing counseling and referral services has been and will continue to be frustrated.

55. As a result of Defendant Girlich's actions, omissions, policies, and procedures as described above, Plaintiff HOPE's purpose of enforcing the fair housing laws in Florida has been and will continue to be frustrated.

56. WHEREFORE, Plaintiffs respectfully request that the Court:

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A. declare the actions, omissions, policies, and procedures of Defendant, Susanne Girlich complained of herein to be in violation of the federal Fair Housing Act;

B. enter a permanent injunction enjoining Defendant Girlich, her successors, and her servants, agents, and employees, and all those acting in concert with her, from making, printing, or publishing statements or advertisements that indicate a preference, limitation, or discrimination based on familial status;

C. enter a permanent injunction compelling Defendant Girlich her successors, and her servants, agents, and employees, and all those acting in concert with her, to adopt policies, procedures, and practices, which will ensure that no advertisements or statements indicating a preference, limitation, or discrimination based on familial status are made, printed, or published in the future;

D. award compensatory and punitive damages to Plaintiff Werner against Defendant Girlich to compensate Plaintiff Werner for, among other things, the humiliation, embarrassment, and emotional distress caused by Defendant Girlich's discriminatory actions, and loss of equal housing rights;

E. award compensatory and punitive damages to plaintiff HOPE against Defendant Girlich to compensate HOPE for, among other things, the drain on its resources that can be attributed to the frustration of HOPE's purpose of enforcing the fair housing laws in Florida and providing housing counseling and referral services;

F. award Plaintiffs Werner and HOPE their costs and reasonable attorneys' fees in this action; and

G. award Plaintiffs Werner and HOPE such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b), Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues so triable in this matter.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 18, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: *s/Dante P. Trevisani*  
Dante P. Trevisani, Esq.

**SERVICE LIST**

**Case No. 12-cv-62249-RSR**

**United States District Court, Southern District of Florida**

**Via Process Server**

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