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JUDGE DALE B. HAMERMAN

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

PAN PACIFIC PROPERTIES,)	
)	
Plaintiff,)	No. 94-2-07550-1
)	
vs.)	ORDER GRANTING REVISION OF COURT
)	COMMISSIONER'S RULING AND
DENICE HARPER and GRANT)	DISMISSING UNLAWFUL DETAINER
HARPER,)	ACTION
)	
Defendants.)	

THIS MATTER came on regularly before the undersigned judge on May 10, 1994, pursuant to defendants' motion for revision of the Findings of Fact, Conclusions of Law, Judgment and Order entered by Court Commissioner Jack Richey on April 4, -1994. Plaintiff, Pan Pacific Properties appeared through counsel Joseph Puckett. Defendants, Denice and Grant Harper appeared personally and were represented by Carol Vaughn of Evergreen Legal Services. The court heard argument from counsel and considered the following pleadings and record:

COPY

1 Findings of Fact, Conclusions of Law, Judgment and Order,
2 signed by Commissioner Richey on April 4, 1994;

3 Defendants' Motion for Revision Of Court Commissioner's
4 Ruling, with supporting exhibits:

5 Dwelling Lease, dated April 2, 1993;
6 Additional Occupant Notice, dated October 15, 1993;
7 Excerpts of Deposition Transcript of Karen L. Wilson;
8 Declaration of Grant Harper;
9 Declaration of Denice Harper;

10 Defendants' Supplemental Memorandum Of Authorities In
11 Support Of Motion for Revision;

12 Plaintiff's Memorandum In Opposition To Motion For Revision;

13 Based on the foregoing record, the court finds that the
14 following facts are not in dispute:

15 1. The defendants reside at the Alpine Ridge Apartments,
16 which is low income housing subsidized under the Section 8 New
17 Construction Program.

18 2. Denice Harper signed a rental agreement that provides
19 for a term commencing on April 2, 1993 and ending on March 1,
20 1994.

21 3. The terms of the rental agreement and provisions of
22 federal law do not permit the plaintiff landlord to terminate the
23 defendant's tenancy or to decline to renew their lease except
24 upon a showing of good cause.

25 4. Denice Harper, formerly Peterson, married Grant Harper
26 in December 1993.

27 5. Grant Harper moved into Denice Harper's unit at the
28 Alpine Ridge Apartments in mid-December 1993, and applied with
29 the management to be added to Denice Harper's lease and to be
30 approved for tenancy at Alpine Ridge.

31 6. The plaintiff landlord denied the Harpers' request to

1 add Grant Harper to the lease and refused Grant Harper's
2 application for tenancy.

3 7. The only reason that plaintiff denied Grant Harper's
4 application for tenancy was because of the fact that he was
5 convicted of second degree burglary in August 1992.

6 8. The plaintiff landlord has a policy that no applicant
7 who has been convicted of a felony within the last ten years will
8 be accepted for occupancy. The plaintiff does not consider any
9 mitigating factors, such as the circumstances of the crime or
10 evidence of rehabilitation, but automatically excludes any ex-
11 felons convicted within ten years of applying for tenancy.

12 9. Plaintiff landlord terminated Denice Harper's tenancy
13 effective February 28, 1994, by serving her with a written
14 termination notice dated February 7, 1994.

15 10. The only grounds for eviction stated in the termination
16 notice was the unauthorized occupancy of Grant Harper.

17 11. Plaintiff landlord did not serve the defendants with a
18 ten day notice to comply or vacate concerning the unauthorized
19 occupancy of Grant Harper prior to the termination of their
20 tenancy.

21 12. Grant Harper continues to reside at the Alpine Ridge
22 Apartments with **Denice** Harper and their infant daughter.

23 Based on the foregoing Findings of Fact, the court makes the
24 following Conclusions of Law:

25 A. ADEQUACY OF NOTICE

26 1. The federal regulations governing the Section 8 New
27 Construction Program require that the parties' **lease be** extended

1 impose unreasonable tenant selection criteria. Ressler v.
2 Pierce, 692 F.2d 1212, 1215 (9th Cir. 1982).

3 8. There is sufficient nexus between a landlord under the
4 Section 8 New Construction Program and the Department of Housing
5 and Urban Development to make the plaintiff's actions in this
6 case "government action."

7 9. The Equal Protection Clause of the United States
8 Constitution requires that tenant selection criteria imposed by
9 the plaintiff be rationally related to a legitimate interest.

10 10. The plaintiff is entitled to consider the criminal
11 background of persons applying for occupancy; however, to be
12 reasonable, plaintiff's tenant selection policy must give
13 applicants the opportunity to present mitigating circumstances
14 concerning their criminal background for review in the tenant
15 selection process. Such mitigating circumstances might include,
16 but would not be limited to, information about the particular
17 facts of the crime or evidence of rehabilitation, such as steady
18 employment.

19 11. Plaintiff's interest in maintaining safety and security
20 at its rental premises is legitimate; however, the plaintiff's
21 blanket exclusion of ex-felons convicted within the last ten
22 years is not sufficiently tailored to accomplish this legitimate
23 goal.

24 12. The plaintiff's policy of denying tenancy at the Alpine
25 Ridge Apartments to any person convicted of a felony within ten
26 years of their rental application is not reasonable, because it
27 does not allow applicants to present mitigating circumstances
28

1 concerning their criminal background.

2 13. Because plaintiff's policy of excluding ex-felons
3 convicted within ten years of their rental application is not
4 reasonable, it violates the Residential Landlord Tenant Act, the
5 Section 8 laws, and the Equal Protection Clause of the United
6 States Constitution.

7 Based on the foregoing Findings of Fact and Conclusions of
8 Law, the court hereby ORDERS as follows:

9 1. The Findings of Fact, Conclusions of Law, Judgment and
10 Order entered on April 4, 1994, in this case are vacated and set
11 aside.


12 2. All rulings made by the Court Commissioner on April 4,
13 1994 in this case are reversed.

14 3. This case is dismissed with prejudice.

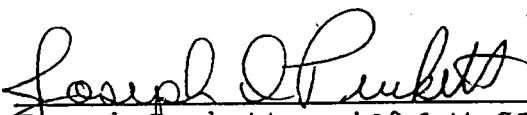
15 Dated: 15 Aug 94

16
17 DALE RAMERMAN
18 JUDGE

19 Presented by:

20 
21 Carol Vaughn
22 WSBA # 16579
23 Attorney for Defendants

24 Approved as to form:

25 
26 Joseph Puckett WSBA # 5333
27 Attorney for Plaintiff