

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FAIR HOUSING CENTER OF
WASHTENAW COUNTY, INC.,
a Michigan non-profit corporation,
d/b/a The Fair Housing Center of
Southeastern Michigan, Inc.,

Plaintiff,

No. 07-cv-10262
HON. AVERN COHN

v.

TOWN & COUNTRY APARTMENTS-
ANN ARBOR, L.L.C., a Michigan
limited liability company, d/b/a
Town & Country Apartments,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION IN LIMINE TO
PROHIBIT DEFENDANT'S IMPROPER CHALLENGES TO
THE TESTING EVIDENCE AND THE CREDIBILITY OF TESTERS¹**

This is a Fair Housing Act (FHA) case. Plaintiff is suing defendant for discrimination based on race in violation of the FHA. The case has survived a motion for summary judgment and a Final Pretrial Conference is scheduled for **Tuesday, April 21, 2009 at 2:00 p.m.** Before the Court is plaintiff's motion styled Motion in Limine to Prohibit Defendant's Improper Challenges to the Testing Evidence and the Credibility of Testers.

¹ The Court reminds the parties that in the Sixth Circuit, a ruling on a motion in limine is advisory only. United States v. Yannott, 42 F.3d 999, 1007 (6th Cir. 1994). To preserve for appeal any issue relating to this decision, a party should raise the question at trial and obtain a final decision from the Court. See United States v. Luce, 713 F.2d 1236, 1239-40 (6th Cir. 1983).

Testing of compliance with the FHA is an appropriate and necessary means of enforcing the law. Havens Realty Corp. v. Coleman, 455 U.S. 363 (1982); Zuch v. Hussey, 547 F.2d 1168 (6th Cir. 1977). Under sections 804(a), (b), and (d) of the Fair Housing Amendments Act of 1988, there is no requirement that a tester make a bona fide offer to rent or purchase. 42 U.S.C. § 3604(a), (b), (d); Havens Realty, 455 U.S. at 374.

Plaintiff's motion is GRANTED. Challenges to the fact of the testing itself or to the credibility of the testers based on the fact that they did not make bona fide offers are not relevant. See Fed. R. Evid. 401 and 402.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: March 30, 2009

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, March 30, 2009, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160