

**HOUSING DISCRIMINATION COMPLAINT**

**CASE NUMBER:** 03-15-0314-8

**1. Complainant**

PathStone Housing Corporation of Pennsylvania  
c/o Wendy Carter (Director of Housing Administration)  
648 Buena Vista Drive  
Kennett Square, PA 19348

Representing PathStone Housing Corporation of Pennsylvania:

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**2. Other Aggrieved Persons**

Undetermined

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

Discriminatory terms, conditions, privileges, or services and facilities.  
Otherwise deny or make housing unavailable.  
Discriminatory acts under Section 818 (coercion, Etc.).  
Using ordinances to discriminate in zoning and land use.

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

Race, national origin, disability and 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):**

215 Quarry Street  
Whitehall, PA 18052

**6. Respondent(s)**

Township of Whitehall  
c/o The Honorable Edward D. Hozza, Jr., Mayor  
3219 MacArthur Road  
Whitehall, PA 18052

Zoning Hearing Board  
c/o Lee Christman, Chairperson  
Township of Whitehall  
3219 MacArthur Road  
Whitehall, PA 18052

Representing Township of Whitehall and Zoning Hearing Board:

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

The Complainant, PathStone Corporation, is a private not-for-profit regional community development and human service organization providing services to farmworkers, low-income families, and economically depressed communities throughout a seven state service area. PathStone Housing Corporation of Pennsylvania ("PathStone") is a wholly owned non-profit subsidiary of PathStone Corporation, and its mission is to meet the housing needs of economically and socially disadvantaged persons in Pennsylvania.

The Complainant alleges that because of race, national origin, familial status, and disability, Respondents' discriminatory application of a zoning ordinance denied them zoning relief for the development of The Lofts, an affordable multifamily apartment complex.

The Complainant alleges that it identified a former mill building at 215 Quarry Street, Whitehall, Pennsylvania ("subject property") that was vacant and suitable for conversion to affordable multifamily rental housing. The Complainant alleges that the subject property is zoned R-5A (High Density Without Apartments) and, historically, its use has been non-conforming.

The Complainant alleges that on three previous occasions the Respondents quickly and easily granted zoning relief for the subject property to applicants who did not propose to develop affordable multifamily housing. The Complainant alleges that in 2006, the Board unanimously granted relief in the appeal of Whitehall Manor Retirement Condos Inc. to convert the subject property from a garment factory non-conforming use to a non-conforming use with 43 market-rate condominium units for senior citizens and reduced the requirement for on-site parking. The Board also granted variances from the maximum impervious coverage and density requirements.

The Complainant alleges that on February 26, 2014, it submitted a Site Review application to the Respondents proposing to convert the subject property into affordable multifamily rental housing consisting of 52 units and 52 on-site parking spaces. The Complainant made it clear that the property would not be age-restricted senior housing.

The Complainant further alleges that it sought special exception use approval to convert one non-conforming use to another and also sought variances to make the most effective use of the parcel, including a reduction of the number of required on-site parking spaces from two per unit to one per unit, recognizing that the type of households expected to live at The Lofts would likely have only one automobile and some would likely not own an automobile at all.

The Complainant alleges that on March 19, 2014 the Planning Commission expressed support for the project concept but had concerns about the number of proposed parking spaces and recommended denial of Complainant's application.

On April 15, 2014, Complainant presented the project and the requested special exception and variances to the Board. PathStone made clear that it was proposing affordable rental housing which would be supported by federal tax credits and other funding made available through the Pennsylvania Housing Finance Agency and would be focused on serving households with incomes at 60 percent of the area median. During the hearing, the Board took issue with PathStone's requested variance to reduce the required parking spaces per unit from two to one and the requested variance to reduce the size of parking spaces.

Complainant alleges that the hearing lasted for two hours and was continued into May. Complainant alleges that during the interim, Complainant revised its requested relief based on criticisms voiced during the April hearing. These revisions included reducing the number of units at The Lofts from 52 to 49 so that the proposed parking spaces would be larger. The modifications to the project plan also eliminated other dimensional variance requests. Complainant alleges that its proposed amended application was similar to a previous application approved by Respondents for Whitehall Manor, a non-conforming owner-occupied housing complex, which was geared towards senior citizens, but not age-restricted.

On May 20, 2014, the Respondents denied Complainant's application on the pre-text of inadequate parking at the site. During this hearing, the Board heard more testimony in support of PathStone's requested variance and exceptions, including from a transportation engineer who presented a parking study indicating the presence of sufficient available on-street parking in the neighborhood. Complainant alleges that, in a unanimous vote, the Board denied every element of use and variance relief requested by PathStone, even though that relief was very similar to the package it had previously approved for Whitehall Manor.

The Complainant alleges that the Respondents denial of their application was influenced by the stereotypical and discriminatory views of the objectors at the hearings with respect to the prospective low/moderate income tenants at the site.

The Complainant alleges that the Respondents' actions are consistent with a broader hostility towards affordable rental housing in Whitehall Township, as reflected in the Township's zoning. Whitehall Township has no rent- and income-restricted housing available to families. The Complainant alleges that through the application of the zoning ordinance, almost all of the affordable multifamily rental housing in Whitehall Township has been concentrated in Census Tract 57.03 which has the greatest minority composition of any such tract in the Township. Complaint alleges that the parcel at 215 Quarry Street is located outside of Tract 57.03. Complainant alleges that The Lofts would have an integrative effect on the tract in which the parcel is located, where 85 percent of the residents are white and where the Township has disfavored such housing.

Respondent Whitehall Township is currently considering an ordinance that would establish a local economic revitalization tax assistance program ("LERTA") to encourage developers to develop or renovate deteriorating buildings. Under LERTA, developers receive special tax breaks to renovate buildings that are deteriorating, and may not be attractive to a developer otherwise. One of the properties proposed for the LERTA district in Whitehall is the Quarry Street property that is the subject of the instant complaint. Respondent's proposed designation of the Quarry Street property for inclusion in the LERTA program is an effort to undercut PathStone's ability to pursue redevelopment of that property through this complaint, and is a clear effort to interfere with PathStone's exercise of its rights under the Fair Housing Act, in violation of 42 U.S.C. §3617.

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

June 10, 2014, and is continuing.

**9. Types of Federal Funds identified:**

Community Development Block Grant (CDBG) subrecipient.

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

Sections 804(a), 804(b), and 818 of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

Title VI of the 1964 Civil Rights Act.

Section 109 of the Housing and Community Development Act of 1974.

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.

  
\_\_\_\_\_  
For PathStone Housing Corporation of Pennsylvania

8/13/15  
(Date)

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