

REQUEST FOR RECONSIDERATION

Via Electronic Mail

April 9, 2026

Director Tiffany Fleming
Office of Fair Housing & Equal Opportunity
Office of Enforcement
U.S. Department of Housing and Urban Development
451 7th Street SW, Room 5226
Washington, DC 20410-2000
Tiffany.T.Fleming@hud.gov

**Re: *Nyinaku v. Wrentham Asset Management, et al.*
HUD Case No. 01-21-8951-8**

Dear Director Fleming:

Lawyers for Civil Rights respectfully submits this Request for Reconsideration on behalf of Complainants Kweku Nyinaku and Lauren Murphy in response to the No Reasonable Cause Determination (Determination), issued on March 12, 2026, in their housing discrimination complaint, *Nyinaku v. Wrentham Asset Management, et al.*

The Determination from the Office of Fair Housing & Equal Opportunity (FHEO) states that there was insufficient evidence to find that the Complainants' refinancing appraiser, Respondent Kelsey, treated them less favorably based on race. But the Determination has fatal factual and legal flaws: It failed to properly consider evidence that gave rise to a presumption of racial discrimination and analyzed the complaint under the wrong legal standard.

Specifically, FHEO's Determination: (1) unjustifiably disregarded evidence that Respondent Kelsey did not comply with professional standards in conducting Complainants' appraisal; (2) incorrectly used the higher standard of discriminatory animus instead of the correct, less rigorous standard of discriminatory intent; and (3) unreasonably discredited Complainants' allegations of Respondent Kelsey's comportment and demeanor upon encountering Mr. Nyinaku, a Black man.

By providing less favorable terms because of Complainants' race, Respondent Kelsey violated Section 805 of the Fair Housing Act. FHEO must reconsider its Determination using the correct standards for analyzing evidence of Respondent Kelsey's disparate treatment.

Factual and Procedural History

Mr. Nyinaku and Ms. Murphy had their new construction home appraised twice over the course of a year. The first appraisal was prior to move-in and completed by Bankers Residential on February 4, 2020. This appraisal valued their home at \$776,000. The next appraisal was for refinancing their mortgage loan and ordered by Respondent LoanDepot through an appraisal management company. That company assigned the appraisal to Respondent Wrentham, who used a contract appraiser, Respondent Kelsey, to complete the appraisal on January 4, 2021.

Mr. Nyinaku and Ms. Murphy explain that Respondent Kelsey's conduct during the appraisal reflected a stark change in demeanor correlated with race. Complainants explain that during Respondent Kelsey's appraisal, he was initially friendly, conversational, and at ease with Ms. Murphy, who is white, but this demeanor changed once he was greeted by Mr. Nyinaku, who is Black. Complainants allege that Respondent Kelsey would not look Mr. Nyinaku in the eye, cut the conversation short, and completed the appraisal in a rushed and cursory manner—all evincing a visceral, visible, and palpable discomfort with his race.

Complainants received Respondent Kelsey's appraisal two days later. His appraisal valued the property at \$675,000, almost \$100,000 less than Complainants' original appraisal—a material disparity that Complainants allege was driven by the appraiser's discriminatory intent toward Mr. Nyinaku because he is Black. The low appraisal also reflects hostility toward the couple's interracial association and an intent to penalize them for being an interracial couple.

Complainants appealed Respondent Kelsey's appraisal with Respondent LoanDepot on January 9, 2021. Complainants' appeal stated that they believed Respondent Kelsey discriminated against them because Mr. Nyinaku is Black. They explained that Respondent Kelsey should have used a higher quality rating and more appropriate comparable properties. After Complainant Murphy continued to raise racial bias concerns about Respondent Kelsey's appraisal, Respondent LoanDepot reduced its closing costs. But despite asking for clarification multiple times, Complainants were never informed if the reduction was because Respondent LoanDepot used the original appraisal amount or because it made a property tax calculation error.

On March 8, 2021, Complainants filed a complaint against Respondent Kelsey with the Office of Investigations of the Massachusetts Division of Professional Licensure. In July 2022, Respondent Kelsey entered into a disciplinary Consent Agreement with the Massachusetts Board of Registration of Real Estate Appraisers (Board). In the publicly filed agreement, Respondent Kelsey admits that “[s]ufficient facts exist whereby the Board could find” that Respondent Kelsey violated professional appraisal practice standards because his report did not contain adequate support for adjustments he made nor an adequate analysis of the market. Respondent Kelsey agreed to pay the Board a \$1,000 fine and complete 45 hours of training. This constitutes a material admission by the appraiser whose discriminatory conduct is at the center of this housing discrimination complaint. By acknowledging that sufficient facts existed for the Board to find professional standards violations, Respondent Kelsey effectively conceded that his appraisal lacked adequate support for the adjustments he made and failed to include an adequate analysis of the market.

Mr. Nyinaku filed a complaint against Respondent Wrentham with the Massachusetts Commission Against Discrimination on April 15, 2021. The complaint, which alleged disparate terms and conditions based on race, in violation of Section 805 of the Fair Housing Act, was transferred to HUD on July 19, 2021. On March 21, 2023, the complaint was amended to add Complainant Murphy and Respondents Kelsey and LoanDepot.

On March 12, 2026, FHEO issued a No Reasonable Cause Determination and corresponding dismissal.

Basis for Reconsideration

Complainants request reconsideration because FHEO’s Determination unjustifiably disregards evidence of disparate treatment and uses the wrong legal standard in its analysis.

To support a likely Fair Housing Act violation, Complainants “may ‘simply produce direct or circumstantial evidence demonstrating that a discriminatory reason more likely than not motivated’ the defendant and that the defendant's actions adversely affected the plaintiff in some way.” *Pac. Shores Props., LLC v. City of Newport Beach*, 730 F.3d 1142, 1158 (9th Cir. 2013).

Here, Complainants submitted evidence that a neutral third-party, the Massachusetts Board of Registration of Real Estate Appraisers, found that Respondent Kelsey’s methods did not comply with professional and industry standards, resulting in the discriminatory adverse action of a significantly lower home appraisal. Complainants also alleged that Respondent Kelsey’s demeanor changed upon meeting Mr. Nyinaku. This evidence of unprofessional behavior is sufficient to infer discriminatory motive. *See Int’l Bhd. of Teamsters v. United States*, 431 U.S. 324, 335 (1977) (proof of discriminatory motive can be inferred from differences in treatment); *L.C. v. LeFrak Org., Inc.*, 987 F. Supp. 2d 391, 400 (S.D.N.Y. 2013) (“Discriminatory intent may be inferred from the totality of the circumstances.”).

Mr. Nyinaku and Ms. Murphy have consistently and credibly explained that Respondent Kelsey’s conduct during the appraisal reflected a stark change in demeanor correlated with race. According to Complainants, he was initially friendly, conversational, and at ease with Ms. Murphy, who is white, but became abruptly distant and dismissive upon meeting Mr. Nyinaku, who is Black. Respondent Kelsey avoided eye contact with Mr. Nyinaku, cut the interaction short, and completed the appraisal in a rushed and cursory manner. The significance of these allegations is heightened by the fact that the comparators are embedded in the facts of this case and built into the encounter itself: the appraiser’s treatment of the white complainant and the Black complainant can be compared directly, in the same setting, during the same visit, in real time, under identical circumstances, and under the same roof. This contrast is probative of discriminatory intent.

To rebut the presumption of discrimination, respondents must provide a legitimate, non-discriminatory reason for their differential treatment. *See generally FHEO Handbook: Title VIII*

Complaint Intake, Investigation, and Conciliation, 8024.01 (explaining that respondents may only rebut evidence of disparate treatment with a legitimate, non-discriminatory reason).

No such justification was cited. Instead, FHEO’s Determination summarily dismisses Complainants’ evidence of unprofessional conduct as insufficient for a finding of “discriminatory animus.” But the less rigorous discriminatory intent—not discriminatory animus—is the correct standard for disparate treatment claims. *See, e.g., Saint-Jean v. Emigrant Mortg. Co.*, 129 F.4th 124, 154 (2d Cir. 2025), *cert. denied*, 2026 WL 79895 (U.S. Jan. 12, 2026) (holding that plaintiffs need only show discriminatory intent, not discriminatory animus, to succeed on a disparate treatment claim).

Similarly, FHEO’s Determination inexplicably cites a review of Respondent Kelsey’s other appraisals showing “similar methods and practices” as the reason for not substantiating Complainants’ allegations regarding Respondent Kelsey’s unfriendly demeanor while at the property. A review of written appraisals is, at best, a dubious source of evidence for assessing and comparing Respondent’s demeanor. Written appraisals do not meaningfully illuminate how Respondent Kelsey behaved toward Complainants during the appraisal visit at issue here. As described above, the relevant comparator is built into the facts of this case itself, which allege differential treatment of a white complainant and a Black complainant during the same in-person encounter.

Reviewing other appraisals is especially flawed here, where Respondent Kelsey has already been fined and required to undergo training by the professional body governing his field. Once the appraiser has admitted conduct warranting professional sanction and has been found to have fallen short of industry standards, HUD has no factual or legal basis to look beyond the record to shield Respondent Kelsey’s discriminatory conduct from scrutiny and accountability.

Without a legitimate, non-discriminatory justification to explain Respondent Kelsey’s substantiated unprofessional conduct and resulting reduced home valuation, there is no basis to disregard Complainants’ presumption of disparate treatment. The Determination thus fails to sufficiently justify its outcome.

For the above reasons, Complainants respectfully request that HUD reconsider its No Reasonable Cause Determination.

Sincerely,

Jillian Lenson, Esq.
Lawyers for Civil Rights