

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

The Secretary, United States Department)	
of Housing and Urban Development,)	
on behalf of XXX,)	HUD ALJ No.
Charging Party,)	FHEO No. 01-11-0294-8
)	
v.)	
)	
Springbrook Condominium Association)	
and Bess Mosley, President, Board of Directors)	
of the Springbrook Condominium Association)	
Respondents.)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On May 3, 2011, XXX (“Complainant”) filed a complaint with the United States Department of Housing and Urban Development (“HUD”) alleging that the Springbrook Condominium Association and Bess Mosley, President of the Board of Directors of the Springbrook Condominium Association (“Respondents” or “the Association”), discriminated against her in violation of the Fair Housing Act (“the Act”). 42 U.S.C. Sections 3601-3619.

The Act authorizes the Secretary of HUD to issue of a Charge of Discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1)-(2). The Secretary has delegated to the General Counsel, who has redelegated to the Regional Counsel, the authority to issue such a Charge, following a Determination of Reasonable Cause by the Assistant Secretary for Fair Housing and Equal Opportunity, or his designee. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed.Reg. 42,463, 42,465 (July 18, 2011).

By Determination of Reasonable Cause dated _____, the Director of the Fair Housing Hub, Office of Fair Housing and Equal Opportunity for New England, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case, and has authorized and directed the issuance of this Charge of Discrimination by the Regional Counsel 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned complaint, and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to refuse to make a reasonable accommodation in rules, policies, practices, or services, when such accommodation may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a) (2008).
2. The Act defines “handicap” as a physical or mental impairment which substantially limits one or more of such person’s major life activities, a record of such impairment, or being regarded as having such an impairment. 42 U.S.C. § 3602(h)(1), (2) & (3); 24 C.F.R. § 100.201 (2008).

B. PARTIES AND SUBJECT PROPERTY

3. Complainant owns and resides at a condominium unit located at XX Portsmouth, New Hampshire.
4. At all times relevant to this Charge, Complainant has had a disability as defined under the Act. As a result of Complainant’s disability, she is unable to lift objects weighing in excess of fifteen pounds without risk of serious injury, suffers from a limited range of motion, and experiences permanent numbness in her right hand.¹
5. Respondent Springbrook Condominium Association and its Board of Directors are responsible for establishing and enforcing the by-laws and policies that govern the Association’s 144 condominium units, including Complainant’s unit.

C. FACTUAL ALLEGATIONS

6. In 2007, Complainant installed a “Comfort Bilt Self Storing” model storm door on her condominium unit.
7. The “Comfort Bilt Self-Storing” storm door contains glass and mesh screen inserts that slide up and down, that do not require physical removal, and that require only minimal exertion of lifting force.
8. In February, 2011, Respondents notified Complainant in writing that the Association permitted the use of only “Harvey Hollywood” model storm doors and that Complainant’s non-conforming door would have to be replaced with a “Harvey Hollywood” door.
9. The glass panel inserts for the “Harvey Hollywood” model storm door weigh twenty-four pounds and must be removed from the door entirely in order to install the screen mesh inserts.

¹ Although the term “handicap” appears in the Fair Housing Act, the Charge and Determination will use “disability” in its place.

10. On or about March 21, 2011, Complainant made a written reasonable accommodation request to Respondents seeking permission to continue using her “Comfort Bilt” storm door.
11. Complainant’s reasonable accommodation request described her disability and in particular her inability to lift more than fifteen pounds.
12. Complainant’s request explained that Complainant would be unable to change the inserts in the “Harvey Hollywood” model door due to her lifting limitation.
13. By notice dated April 30, 2011, Respondents denied Complainant’s request for an exception to Respondents’ “Harvey Hollywood” storm door policy as a reasonable accommodation.
14. Respondents’ denial stated that only the “Harvey Hollywood” storm door was approved for use by the Association, and that while exceptions to the policy were made for doors that were architecturally indistinguishable from the “Harvey Hollywood” model, Respondents did not deem Complainant’s “Comfort Bilt” model door to be architecturally indistinguishable.
15. Because of Respondents’ refusal to permit Complainant to utilize the “Comfort Bilt” storm door rather than the “Harvey Hollywood” storm door, Complainant will need to replace her current door with the “Harvey Hollywood” model or else use no storm door at all. Thus, Complainant will be unable to exchange her storm door’s glass and screen inserts to the same extent as other residents of the Springbrook Condominium Association.
16. As a result of Respondents’ statements and conduct, Complainant has suffered damages, including emotional distress.

D. FAIR HOUSING ACT VIOLATIONS

17. Respondents have violated the Act by refusing to make a reasonable accommodation in rules, policies, practices, or services, when such accommodation is necessary to afford Complainant an equal opportunity to use and enjoy her dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(b).

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. Section 3610(g)(2)(A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. Sections 3604(f)(3)(B) and prays that an order be issued that:

- A. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. Sections 3601-3619;

- B. Enjoins Respondents from further violations of 42 U.S.C. § 3604(f)(3)(B);
- C. Awards such damages as will fully compensate Complainant for her emotional distress caused by Respondents' failure to afford Complainant a reasonable accommodation in violation of statements and actions in violation of 42 U.S.C. § 3604(f)(3)(B);
- D. Awards a civil penalty against Respondents for each violation of the Act pursuant to 42 U.S.C. Section 3612(g)(3);
- E. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

_____/s/
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_____/s/
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