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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 )  
Bill Joly and Gail Joly )  
 )  
Charging Party, )  
 )  
vs. )  
 )  
The Town of Lake Hunting and Fishing )  
Club, Corporation, )  
 )  
Respondent. )  
\_\_\_\_\_ )

HUDALJ No.  
FHEO Case No. 05-04-1291-8

**CHARGE OF DISCRIMINATION**

I. JURISDICTION

On or about September 9, 2004, Bill Joly and Gail Joly (“Complainants”), aggrieved persons, timely filed a verified complaint with the U.S. Department of Housing and Urban Development (“HUD”), alleging that Respondent, The Town of Lake Hunting and Fishing Club, Corporation (hereinafter the “Club”), discriminated against Complainants on the basis of disability and sex and retaliated against Complainants in violation of the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the “Act”).<sup>1</sup>

The Act authorizes the issuance 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) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel (67 Fed.Reg. 44234), 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 or her designee.

<sup>1</sup> The Determination found reasonable cause to believe that Respondent discriminated against Complainants on the basis of disability in violation of 42 U.S.C. § 3604 (f)(1)(A), (f)(1)(C) and (f)(3)(A) and by retaliating against Complainants in violation of § 3617. The Determination found no reasonable cause to believe Respondent discriminated against Complainant Gail Joly on the basis of sex in violation of 42 U.S.C. § 3604 (b). Furthermore, the Determination found no reasonable cause to believe that Respondent discriminated against Complainants for failing to provide a fence as a reasonable accommodation in violation of 42 U.S.C. § 3604 (f)(3)(B).

The Director of HUD's Office of Fair Housing and Equal Opportunity for Region V, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on disability, and has authorized the issuance of this Charge of Discrimination.

## II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned Complaint and Determination of Reasonable Cause, Respondent Club is charged with discriminating against Complainants Bill Joly and Gail Joly, aggrieved persons, based on disability in violation of 42 U.S.C. §§ 3604 (f)(1)(A), (f)(1)(C), and (f)(3)(A) and with retaliating against Complainants in violation of § 3617 of the Act as follows:

1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of that buyer or renter, or any person associated with that buyer or renter. 42 U.S.C. § 3604 (f)(1)(A) and (f)(1)(C).
2. It is unlawful to refuse to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises. 42 U.S.C. § 3604 (f)(3)(A).
3. It is unlawful to interfere with any person in the exercise or enjoyment of, or account of his having exercised or enjoyed any right granted or protected by §§ 3603 - 3606. 42 U.S.C. § 3617.
4. Respondent Club owns a parcel of property east of the City of Momence along the Kankakee River. The mission of Respondent Club is to facilitate hunting and fishing for its members and to promote sociability among its members. Members of Respondent Club own their own homes on Club grounds as personal property.
5. Respondent Club operates and implements its Constitution and By-Laws ("By-Laws") through its Board of Directors. Respondent Club permits only one individual membership per assigned property. Members of a household cannot share a membership, even if they are spouses, but they can all reside in the home and can own property in common. Respondent Club considers a non-member resident as a "guest" of the member of Respondent Club.
6. In or around 1987, Complainants Bill and Gail Joly purchased a residence on Respondent Club's grounds, located at 3193 N. 16780 E. Road, Momence, IL 60954, also referred to as Route 1, Box 430 ("Subject "Property"). Complainant Bill Joly became a member of Respondent Club in 1987. Complainants subsequently moved into the Subject Property in or around 1988.
7. The Subject Property is a single family home with stairs leading to the front and back entrances.

8. In addition to owning the Subject Property, Complainants also own a three-bedroom home located in Bolingbrook, Illinois. At all relevant times, while Complainants resided at the Subject Property, they leased the Bolingbrook home to tenants, generating approximately \$1,100 per month in rental income.
9. Complainant Gail Joly is an individual with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602 (h). Complainant Gail Joly has osteoarthritis of the hips, heart disease, severe back pain, radicular symptomatology of the knees, myotonic dystrophy, spinal stenosis and depression. By 1998, Complainant Gail Joly was limited in her ability to ambulate with any comfort. She was therefore, at all times relevant, substantially limited in the major life activities of walking and ambulating.
10. In or around 1998, Complainant Gail Joly was using a cane or walker to aid in mobility. In or around March 2001, Complainant began using a manual wheelchair. On or about May 8, 2001, Complainant Gail Joly's doctor, Dr. Michael N. Skaredoff, prescribed an at-home hospital bed for Complainant, due to the difficulty she was having using a standard bed at home. On or about October 27, 2001, Dr. Skaredoff prescribed a wheelchair for Complainant Gail Joly. In response, Complainant Gail Joly purchased a motorized wheelchair. Complainant Gail Joly is able to walk but with severe pain.
11. At all relevant times, Complainant Gail Joly was unable to ambulate without the use of a cane, walker, or wheelchair. Each time she wanted to leave and return to her dwelling, Complainant Gail Joly had to sit and scoot up the stairs leading to the front entrance doorway in order to gain access to her home.
12. From 2001 to 2003, Complainant Bill Joly presented, both informally and in writing, a reasonable modification request for the installation of the wheelchair ramps. Respondent denied his requests by "tabling" the requests based on insufficiency of documentation, namely, the lack of a detailed sketch of the ramps.
13. On or about October 30, 2003, Complainant Bill Joly applied for a building permit at the Kankakee County Planning Department Building Division ("Kankakee County") to obtain approval of the construction of the ramp and building permit. Upon information and belief, on or about October 31, 2003, Kankakee County approved the permit for a wheelchair ramp and issued a permit, post-dated on November 3, 2003, because it was issued late in the afternoon on the last day of the month.
14. By letter dated October 31, 2003, Complainant Bill Joly again requested permission from Respondent Club to construct ramps to the front and rear entrance of the Subject Property. Complainant Bill Joly informed Respondent Club that this was necessary in order for him and his wife to move back to the Subject Property. Attached to his letter was a sketch of the wheelchair ramps, the building permit issued by Kankakee and a letter from Complainant Gail Joly's doctor, Dr. Skaredoff, supporting Complainants' request for a wheelchair ramp. On behalf of Respondent Club, member Jim Mottys dated the documents received on October 31, 2003.

15. By letter dated November 14, 2003, Respondent Club denied Complainants' request for modification to install wheelchair ramps, giving as a reason that Complainant Bill Joly was not considered a member in good standing.<sup>2</sup> The letter also threatened that a lien would be placed against the Subject Property if Complainants did not pay Respondent Club's legal fees related to the litigation over Complainants' fence.
16. By letter dated December 2, 2003, addressed to Respondent Club's attorney, Tina Olton, Complainants' attorney, David Bergdahl, again requested that his clients be allowed to install wheelchair ramps needed for Complainant Gail Joly to access her home.
17. On or about December 7, 2003, Complainant Bill Joly and his attorney, David Bergdahl, attended the regular Club meeting to discuss the status of Complainant Bill Joly's membership and the installation of the wheelchair ramps. At the meeting, Respondent Club advised Complainant Bill Joly and his attorney that Complainant Bill Joly was not in good standing. Respondent Club explained that no action would be taken on Complainant Bill Joly's request for modifications to his property because Complainant Bill Joly's membership was not in good standing. Respondent Club informed Complainant that once he became a member in good standing, Respondent Club would reconsider his request.
18. By letter dated April 15, 2004, Complainants' new attorney, Daniel Loewenstein, informed Respondent Club that Complainants' request for installation of wheelchair ramps should be granted in order to accommodate Complainant Gail Joly's disability and that the claim for legal fees that formed the basis for the fines was disputed. Further, he informed Respondent Club that if the Club failed to grant Complainants' request to install the ramp, Complainants would seek legal remedies.
19. On or about May 2, 2004, Respondent Club held a meeting where the above-mentioned letter from Attorney Loewenstein was discussed, and the type of action to be taken in response was decided. On or about June 6, 2004, Respondent Club voted to expel Complainant Bill Joly from the Club.
20. By letter dated June 9, 2004, Respondent Club notified Complainant Bill Joly that he was expelled from the Club and informed him that he had six months to dispose of the Subject Property.
21. Complainants allege that Respondent Club failed to grant their reasonable modification request, which was necessary to allow Complainant Gail Joly an equal opportunity to use and enjoy her dwelling.
22. Respondent Club was aware that Complainant Gail Joly was disabled and in need of a modification in order to use and enjoy the Subject Property. The lack of a ramp to make their home wheelchair accessible effectively denied Complainants an equal opportunity to

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<sup>2</sup> Over a period of approximately five years, the parties were engaged in litigation regarding Respondents removal of a fence enclosing Complainants' yard. As a result of the litigation filed by Complainants, Respondent began to assess fines against Complainant Bill Joly in an attempt to recover the attorneys' fees incurred by Respondents for defensive representation. Complainant disputes Respondents' right to charge them for Respondents' attorneys' fees under the terms of the association's declaration and By-Laws.

use and enjoy their home. Without the ramp, Complainant Gail Joly was subjected to risk of injury and humiliation each time she wanted to leave and return to her dwelling as she was forced to sit and scoot up the stairs leading to the doorway in order to gain access to her home. Furthermore, Complainants were forced to leave the Subject Property as Complainant Gail Joly did not have adequate access to the home.

23. While it was reasonable for Respondent Club to have requested that Complainant Bill Joly provide sketches and dimensions of the proposed ramp in accordance to Respondent Club By-Laws, it is not reasonable to enforce a policy prohibiting structural improvements, regardless of whether a member is in bad standing, when the member is disabled and the modification relates to a disability.
24. Based on the investigation and findings of facts provided for in the Determination of Reasonable Cause, the Charge of Discrimination is limited to Respondent Club's discriminatory refusal to grant Complainants' reasonable modification request of October 31, 2003, when Complainant Joly provided Respondent with a building permit and sketches, sufficient to satisfy Respondent Board's request for specifications on the ramp, in compliance with its By-Laws.
25. At all relevant times, while Complainants resided at the Subject Property, they leased the Bolingbrook home to tenants, generating approximately \$1,100 per month in rental income.
26. Complainants have resided at their Bolingbrook home since 2001 and have been unable to generate a monthly rental income as the direct result of Respondent Club's discrimination at least since their October 2003 reasonable modification request.
27. By requesting a wheelchair ramp since at least October 2003, Complainants sought a modification that was reasonable and necessary to afford Complainants an equal opportunity to use and enjoy their dwelling.
28. By refusing to grant Complainants' reasonable modification request on October 31, 2003, Respondent constructively denied, or otherwise made unavailable the Subject Property because of Complainant Gail Joly's disability in violation of 42 U.S.C. § 3604 (f)(1)(A) and (f)(1)(C).
29. By refusing to grant Complainants' reasonable modification request on October 31, 2003, Respondent discriminated against Complainants in violation of 42 U.S.C. § 3604 (f)(3)(A).
30. Because of Respondent's discriminatory conduct, Complainants Bill and Gail Joly have suffered damages, including but not limited to economic loss, humiliation, embarrassment, inconvenience, emotional distress and the loss of a housing opportunity.

### III. PRAYER FOR RELIEF

WHEREFORE, the Secretary of Housing and Urban Development, through the Regional Counsel for the Midwest, Region V, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges the Respondent with engaging in discriminatory housing practices in violation of

42 U.S.C. § 3604 (f)(1)(A), (f)(1)(C), (f)(3)(A) and § 3617 of the Act and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondent as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*;
2. Enjoins Respondent, its agents, employees, and successors, and all other persons in active concert or participation with Respondent from discriminating on the basis of disability against any person in any aspect of the purchase or rental of a dwelling;
3. Awards such damages as will fully compensate Complainants Bill Joly and Gail Joly, aggrieved persons, for their economic loss, emotional distress, inconvenience, humiliation, embarrassment and loss of housing opportunity caused by Respondent's discriminatory conduct;
4. Awards a civil penalty of \$8,000.00 against Respondent pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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COURTNEY B. MINOR  
Regional Counsel for the Midwest  
Region V

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