

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

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The Secretary, United States )  
Department of Housing and Urban )  
Development, on behalf of )  
Antonio and Josefina Maldonado, )  
Charging Party, )  
 )  
v. )  
 )  
Housing Authority of the City of San )  
Antonio, Pat Matherly, and Pilgrim Allena )  
Housing Development Corporation, )  
Respondents. )  
\_\_\_\_\_ )

FHEO No. 06-04-0597-8

CHARGE OF DISCRIMINATION

**I. JURISDICTION**

On or about April 19, 2004, Antonio and Josefina Maldonado (Complainants) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation (Respondents) violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by discriminating based on disability, in violation of 42 U.S.C. § 3604(f). On or about July 1, 2004, the complaint was amended to add Pilgrim Allena Housing Development Corporation as a Respondent.

The Act authorizes the issuance of a Charge of Discrimination (Charge) 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 HUD.

By determination of reasonable cause on February 22, 2005, the Director of the Office of Fair Housing and Equal Opportunity for the Southwest HUB, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in

this case based on disability, and has authorized and directed 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 the aforementioned Determination of Reasonable Cause, Respondents the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation are charged with discriminating against Complainants Antonio and Josefina Maldonado, aggrieved persons, based on disability in violation of 42 U.S.C. § 3604(f) 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 renter because of a handicap of that renter, or any person associated with that renter. 42 U.S.C. § 3604(f)(1).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling because of a handicap of that renter, or any person associated with that renter. 42 U.S.C. § 3604(f)(2).
3. It is unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling unit, including public and common use areas. 42 U.S.C. § 3604(f)(3)(B).
4. Respondent Housing Authority of the City of San Antonio manages Westminster Square Apartments, the subject property. The subject property is a Section 202 multi-family apartment complex of 107 units located at 1838 Basse Road, San Antonio, Texas.
5. Respondent Pilgrim Allena Housing Development Corporation owns the subject property. The Texas Secretary of State lists the resident agent of this corporation as E. Howard Jones, located at 1838 Basse Road, San Antonio, Texas.
6. Respondent Pat Matherly is an employee of the Housing Authority of the City of San Antonio and the on-site manager for the subject property.
7. Complainants Antonio and Josefina Maldonado are individuals with disabilities as defined by the Fair Housing Act. Antonio Maldonado is a double amputee; such physical impairment substantially limits his major life activity of walking. Josefina Maldonado has osteoporosis, hyperlipidemia, angina, diffuse arthritis, and diabetes, all of which are physical impairments which substantially limit her major life activity of walking and ambulation.
8. Complainants Antonio and Josefina Maldonado have lived in an accessible third-floor unit at the subject property since 1989. In recent years, Complainant

Josefina Maldonado has been experiencing increased fatigue due to her disabilities. On or about February 23, 2004, Complainant Josefina Maldonado orally requested a reasonable accommodation from Respondent Pat Matherly, stating she and her husband needed to be transferred to an accessible first floor apartment due to her deteriorating health and their disabilities. Complainant Josefina Maldonado provided Respondent Pat Matherly with copies of letters from their doctors. Respondent Pat Matherly then requested the original letters from Complainants' doctors.

9. On or about March 15, 2004, Complainant Josefina Maldonado provided Respondent Pat Matherly with a letter from Dr. E. Roberto China, Complainant Josefina Maldonado's doctor, and from Dr. Terry Glover, Complainant Antonio Maldonado's doctor. Both letters requested their respective patients be transferred to a first floor unit due to their disabilities. In addition, Complainant Josefina Maldonado submitted her own letter, requesting a transfer.
10. According to Respondent Pat Matherly, Rosalinda Contreras, an employee of Respondent Housing Authority of San Antonio and a co-worker of Respondent Pat Matherly, denied the request for reasonable accommodation, stating Complainants did not need the accommodation as there were elevators for them to use. According to Complainant Josefina Maldonado, when Josefina inquired as to management's response to her request, Respondent Pat Matherly said she would contact Complainants' doctors.
11. Complainants Antonio and Josefina Maldonado's second letter to Westminster Square Apartments on March 17, 2004, written by their representative, the Fair Housing Council of Greater San Antonio (FHCGSA), clearly states Complainants' disabilities and their need for a reasonable accommodation by being transferred to a first floor unit. The March 17, 2004 letter was accompanied by copies of the previously submitted doctors' letters.
12. On or about March 25, 2004, Respondents denied Complainants' request for reasonable accommodation in a letter from their attorney, which states "Westminster have [sic] accommodated Mr. and Mrs. Maldonado. Westminster provides an elevator for disabled tenants at Westminster."
13. On March 31, 2004, Complainants, through a letter from their representative FHCGSA, again requested to be transferred to an accessible first floor unit, stating that though they were aware of the elevators, for many reasons, the elevators were not a suitable accommodation in their circumstances. These reasons include Antonio Maldonado had been trapped in the elevator on several occasions; the elevators were inoperable on several occasions in the past; the elevators are not near their unit, which requires them to travel a much further distance to access their unit; Complainants fear for their safety in case of an emergency situation where the elevators would not be useful; and Complainant Josefina Maldonado's doctor believes that a first floor unit is required to avoid deterioration of her health. In addition, Complainant Josefina Maldonado is

progressively becoming unable to maneuver her husband in his wheelchair. Respondents have not responded to Complainants' request, and Complainants still remain in their third floor apartment.

14. By refusing to grant Complainants' request for a transfer, by making acceptable housing unavailable to Complainants, by subjecting Complainants to different terms and conditions, and by refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford Complainants equal opportunity to use and enjoy a dwelling unit, Respondents the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation violated 42 U.S.C. § 3604(f).
15. Because of Respondents the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation's discriminatory conduct, Complainants Antonio and Josefina Maldonado have suffered damages, including emotional and physical distress, inconvenience, and denial of a housing opportunity. In addition to the difficulties discussed in paragraph 13, Complainant Josefina Maldonado continues to struggle in assisting her husband, who uses a wheelchair. Her fatigue and chronic leg pain caused by her disabilities make it difficult for her to maneuver her husband's wheelchair and cause her difficulties in her own ambulation.

### **III. CONCLUSION**

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f) of the Act, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of the Respondents the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation, as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation, their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of disability against any person in any aspect of the purchase or rental of a dwelling;
3. Directs Respondents the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation to provide reasonable accommodation to Complainants by moving them to the first available

ground floor apartment of the appropriate size, and to pay for all costs associated with the transfer;

4. Awards such damages as will fully compensate Complainants Antonio and Josefina Maldonado, aggrieved persons, for their damages, including compensation for emotional and physical distress, and loss of the enjoyment of a housing opportunity caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3604(f); and,
5. Awards a civil penalty against Respondents the Housing Authority of the City of San Antonio, Pat Matherly, and Pilgrim Allena Housing Development Corporation for each violation of the Act committed, 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).

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Respectfully submitted,

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William J. Daley  
Regional Counsel  
Office of General Counsel  
Region VI

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