

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)	
Gail Griswold,)	
)	HUD ALJ No.
Charging Party,)	FHEO No. 05-06-0156-8
)	
v.)	
)	
Georgina and Martin Estrada,)	
)	
Respondents.)	
)	
)	
)	

CHARGE OF DISCRIMINATION

I. **JURISDICTION**

On or about November 4, 2005, the complainant, Gail Griswold (“Complainant”), filed a verified complaint with the United States Department of Housing and Urban Development (the “HUD Complaint”), alleging that Respondents Georgina and Martin Estrada violated the Fair Housing Act as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (the “Act”), by refusing to provide her with a reasonable accommodation of her disability in violation of 42 U.S.C. §§3604(f)(2) and (f)(3)(B), and by discriminating against her on the basis of her race in violation of 42 U.S.C. §3604(b) of the Act.¹

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.

The Office of Fair Housing and Equal Opportunity Region V Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable

¹ The Determination concluded that there was reasonable cause to believe that discrimination occurred with respect to the 42 U.S.C. §§3604(f)(2) and (f)(3)(B) allegations because of Complainant’s disability, but not with respect to the 42 U.S.C. §3604(b) allegation based on Complainant’s race. Therefore, this Charge of Discrimination will only address the 42 U.S.C. §§3604(f)(2) and (f)(3)(B) allegations.

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 HUD Complaint and Determination of Reasonable Cause, Respondents Georgina and Martin Estrada (collectively referred to as Respondents) are charged with discriminating against Complainant Gail Griswold, an aggrieved person as defined by 42 U.S.C. §3602(i), based on disability in violation of 42 U.S.C. §§3604(f)(2)(A) and (f)(3)(B) of the Act as follows:

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling because of a disability of (A) that person; or (B) a person residing in or intending to reside in that dwelling after it is sold, rented or made available; or (C) any person associated with that person. 42 U.S.C. §3604(f)(2); see also 24 C.F.R. §100.202.
2. For purposes of 42 U.S.C. § 3604(f), discrimination includes "a refusal 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." 42 U.S.C. § 3604(f)(3)(B).
3. At all times relevant to this Charge, Respondents were Georgina Estrada, owner of the property located at 1089 Dickens Way, Schaumburg, Illinois ("subject property"), and her son Martin Estrada, Manager of the subject property.
4. At all times relevant to this Charge, Gail Griswold was the leaseholder of Apartment A at the subject property. The subject property is comprised of 6 units.
5. Complainant is a disabled person as defined by 42 U.S.C. §3602(h) of the Act. Complainant is limited in her ability to walk, has osteoarthritis of the knees and hips, diabetic neuropathy, heart disease, obesity, and herniated discs in her back. At all times relevant to this Charge, Complainant on occasion used a cane to assist her with walking.
6. Respondents were aware of Complainant's disability as they admitted to seeing the accessible parking placard for the disabled in her car; Complainant showed them her Social Security disability check; Respondents saw Complainant with a cane; and in or around April 2005, during her introduction to Respondents, Complainant verbally informed Georgina Estrada and Martin Estrada of the reasonable accommodation² provided to her by the former landlord, Mr. Houshmand Sharyari.

² Mr. Sharyari allowed Complainant to park in the parking space with the faded universal symbol of accessibility logo painted on it and also requested that the other tenants in the building not park in the space as it was reserved for Complainant.

7. On or about November 1, 2004, Complainant moved into the subject property. At the time Complainant moved into the subject property, Houshmand Sharyari owned the property, and her lease was between her and Mr. Sharyari.
8. On or about April 12, 2005, Georgina Estrada acquired ownership of the subject property, and assumed the leases that Mr. Sharyari formerly had been a party to.
9. In April 2005, upon meeting Respondents and learning that they were her new landlords Complainant notified Respondents that the former landlord had assigned the accessible parking space to her and she requested that Respondents continue this accommodation and inform the other tenants of her assigned parking space. Respondent Martin Estrada's response to this request was that the universal symbol of accessibility is "painted on the parking lot—what else do you want?" Respondents did not inform the tenants that the parking space was assigned to Complainant.
10. In or around July 2005, the parking lot that services the subject property was repaved, removing the universal symbol of accessibility logo on the accessible parking spot that Complainant was using. As a result, tenants and visitors began parking in this space, as it was no longer designated as an accessible parking space after the repaving.
11. In or around July 2005, Complainant verbally requested from Respondent Martin Estrada a reasonable accommodation to assign her the parking space closest to the front door of the subject property where the faded universal symbol of accessibility logo had previously been painted, to notify the other tenants at the subject property of her assigned accessible parking space, and to replace the universal symbol of accessibility logo on the assigned space. After approximately 5 weeks of requesting an assigned accessible parking space, and replacement of the universal symbol of accessibility logo on the parking space, Complainant requested that Respondents place the accessible parking sign, which was located on the subject property in a storage room, in front of that space.
12. Complainant made numerous verbal requests to Respondents throughout her tenancy for the painted universal symbol of accessibility logo and accessible parking sign.
13. In response to Complainant's request, Respondent Martin Estrada told her he had to call the Pickwick Place Apartment Owner's Association ("the Association") about her request. He also told her that he would install the accessible parking sign "if there were any handicapped tenants in need of it."
14. On December 21, 2005, Respondents admitted in an interview that the "handicapped" parking logo was removed in June or July of 2005 when, at the request of the Association, they repaved the parking lot. Respondents further acknowledged that

Complainant requested several times after the removal of the “handicapped” parking logo that a “handicapped” sign be reinstalled in the spot.

15. During the December 21, 2005 interview, Respondent Martin Estrada admitted that he did not inquire about accessible parking with the Village of Schaumburg official until after he received the HUD Complaint and not in response to Complainant’s request.
16. Also, during the December 21, 2005 interview, Respondent Martin Estrada alleges that he told Complainant that she would need to call the Association to have the sign installed because he thought that was the process.
17. In an April 28, 2006 interview with a representative of Vista Property, the management company for the Association, the representative explained that landlord-owners at the Association do not have to obtain permission from the board before installing a “handicap” parking sign, so long as the space is not being restriped to make it wider, which in Complainant’s case was unnecessary.
18. At the December 21, 2005 interview, Respondent Martin Estrada admitted that he did not think that Complainant was disabled or in need of an accessible parking space because, based on his observation of Complainant, she allegedly had no difficulty walking. However, both Respondents acknowledge that Complainant had a disability placard in her car window, carried a cane, and walked slowly.
19. In response to Complainant’s reasonable accommodation request, after viewing the accessible parking placard in Complainant’s car and seeing her with a cane, Respondents never asked Complainant to confirm that she was disabled and needed the requested accessible parking space. Respondents never asked Complainant if she had trouble with her mobility, nor did they attempt to investigate Complainant’s need for an assigned accessible parking space prior to rejecting her request.
20. By failing to grant Complainant’s request that Respondents (1) assign an accessible parking space, (2) replace the universal symbol of accessibility logo onto the parking space and (3) install an accessible parking sign in front of the parking space, Respondents committed unlawful discrimination in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling because of a disability of Complainant in violation of 42 U.S.C. §3604(f)(2)(A).
21. By failing to grant Complainant’s request that Respondents (1) assign an accessible parking space, (2) replace the universal symbol of accessibility logo onto the parking space and (3) install an accessible parking sign in front of the parking space, Respondents committed unlawful discrimination by refusing to provide Complainant with a reasonable accommodation in violation of 42 U.S.C. §3604(f)(3)(B).

22. As a result of Respondents' discriminatory conduct, Complainant has suffered damages, including economic loss, emotional distress, and inconvenience.
23. Respondents' failure to grant her reasonable accommodation was emotionally stressful for Complainant. The discriminatory conduct caused Complainant to become upset. She felt anxious about when she could leave her home. She was often afraid that she would not be able to secure a parking space when she returned. Therefore, Complainant reduced her trips, which required her to stockpile food items. Complainant often feared that she would fall and injure herself because she had to carry more items into her home than she would have otherwise.
24. Complainant felt helpless, frustrated, and hopeless because Respondents did not believe that she was disabled and would not provide her with a proximate assigned parking space.
25. Complainant Griswold's emotional distress also manifested itself physically. She began sleeping more, and was depressed.
26. Complainant was inconvenienced by Respondents' discriminatory act. Complainant's daily routine was altered. Complainant used to leave her home daily to run errands and meet friends, but once the parking lot was repaved, she reduced her trips out of her home to one per week. She also only left her home in the later evening when she thought her neighbors were home from work so she could secure a parking spot when she returned. However, because she left later in the evening, Complainant feared for her safety coming home later at night.

III. CONCLUSION

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

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. §3601, *et seq.*;
2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with them from retaliating and 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 Complainant, an aggrieved person, for her actual damages caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. §§3604(f)(2) and 3604(f)(3)(B); and

4. Awards a civil penalty against each Respondent 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).

Respectfully submitted,

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Date: _____

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27. She rejected Complainant's requests for a parking space based solely on her observations of Complainant's comings and goings. Because she frequently saw Complainant moving about without any apparent difficulty, Ms. Sellin concluded that Complainant was not sufficiently impaired to require a special accommodation. (T1 159-60, 169-73, 181-82). Ms. Sellin admits that she made this decision on her own, without consulting with her superiors at Jankowski Lee & Associates.