

**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 Miguel Rodriguez, Lazara Rodriguez, )  
Dayana Ortega, Dianela Rodriguez, )  
individually, and on behalf of Miguel and )  
Lazara Rodriguez, as parents and guardians )  
of Emmanuel Rodriguez, minor aggrieved )  
child, )  
)  
Charging Party )  
v. )  
)  
Hialeah Housing Authority, )  
)  
Respondent. )

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HUD ALJ No. \_\_\_\_\_  
FHEO No. 04-06-1018-8

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about June 28, 2006, Complainant Miguel Rodriguez filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Hialeah Housing Authority (Respondent) violated the Fair Housing Act, as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), on the basis of disability.<sup>1</sup> In particular, Mr. Rodriguez alleged Respondent denied his request for a reasonable accommodation when Respondent refused to transfer him to a unit that would have allowed him bathroom access without climbing stairs.

The Fair Housing Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of an aggrieved person following an investigation and 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 re-delegated 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.

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<sup>1</sup> The complaint was amended on July 23, 2008 to include Mr. Rodriguez's wife and his three children as co-complainants or aggrieved persons.

The Director of the Office of Fair Housing and Equal Opportunity for Region III, on behalf of the Assistant Secretary, has authorized this Charge because she has determined after investigation that reasonable cause exists to believe Respondent engaged in a discriminatory housing practice. HUD's efforts to conciliate the complaint were unsuccessful. 42 U.S.C. § 3610(b).

## **II. SUMMARY OF THE ALLEGATIONS THAT SUPPORT THIS CHARGE**

Based on HUD's investigation of the allegations contained in the aforementioned Complaints and Determinations of Reasonable Cause, Respondent is charged with violating Section 3604(f)(3) of the Act as follows:

### **A. LEGAL AUTHORITY**

1. "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i).
2. It is unlawful to refuse to make 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. PARTIES AND SUBJECT PROPERTY**

3. Mr. Rodriguez is a person with a physical and/or mental disability. He has physical limitations that limit his ability to walk and climb stairs. Because climbing stairs aggravates his medical condition, Mr. Rodriguez is forced to limit his stair climbing. He has been diagnosed with osteoarthritis, chronic back pain, chronic shoulder pain, and depression. Mr. Rodriguez is not able to work; he receives social security disability benefits.
4. Respondent Hialeah Housing Authority owns and controls public housing developments in Hialeah, Florida.
5. Mr. Rodriguez and his family moved into 6329 West 24th Street, Apartment 202, Hialeah, Florida in 1994 and lived there for approximately eleven years until they were forced to move because of the actions of Respondent. All living space, including the bathroom, was located on one floor, which suited the needs of Mr. Rodriguez.<sup>2</sup>
6. The subject property is owned and controlled by the Respondent.

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<sup>2</sup> To enter the unit at 6329 West 24th Street, Mr. Rodriguez had to climb stairs. Mr. Rodriguez, however, left his unit infrequently, usually no more than once per day to attend a therapy or medical appointment. While he was able to climb stairs on a limited basis, climbing stairs every time that he needed to access the bathroom would have aggravated Mr. Rodriguez's physical condition.

7. At all times relevant to this Charge, Complaints Miguel Rodriguez and Lazara Rodriguez were married and resided at the subject property with their children, Dianela Rodriguez and Emmanuel Rodriguez.
8. At all times relevant to this Charge, Dayana Ortega, the daughter of Miguel and Lazara Rodriguez, although she was not living at the subject property with her parents, was adversely affected by the actions of Respondent. Ms. Ortega was exposed to the troubles afflicting her parents and attempted to intervene.
9. At all times relevant to this Charge, Alex Morales, Executive Director, Joel Bonilla, Area Supervisor, and Chabela Aneiros, Section 8 Coordinator, were employed by Respondent.

### **C. FACTUAL ALLEGATIONS**

10. On or about October 15, 1997, Mr. Rodriguez was hired by Respondent as the Night Manager for the subject property. Mr. Rodriguez held the part-time position of Night Manager, in addition to his full-time job at a lumber supply yard.
11. In 2002, Mr. Rodriguez suffered a work-related fall at his place of full-time employment. As a result of his physical injuries, Mr. Rodriguez's wife, Lazara Rodriguez, assumed the duties of Night Manager because Mr. Rodriguez was unable to perform the necessary tasks. Respondent was aware that Mr. Rodriguez had sustained physical injuries and that Ms. Rodriguez assumed the duties of Night Manager because her husband was no longer able to perform those duties.
12. On or about June 13, 2003, Respondent became aware that Mr. Rodriguez received a check for \$66,368.00 to settle his Workers' Compensation claim.
13. On or about January 3, 2005, the Rodriguez family received a Notice of Lease Termination. Upon information and belief, three tenant families, including the Rodriguez family, received the eviction notices. Upon information and belief, the eviction notices were issued because of an ongoing conflict between the three tenant families that had resulted in several instances of police intervention.
14. Julio Amparo, one of the tenants who received an eviction notice, filed a fair housing complaint alleging that Hialeah Housing Authority had violated the Fair Housing Act. In its response to HUD, the Authority states that Mr. Amparo repeatedly engaged in conduct that disturbed other residents' peace and enjoyment and threatened the ability of the Authority to provide safe and decent housing by repeatedly harassing and threatening neighbors and Authority staff. The Respondent's answer also states that the Amparo

household “commenced a campaign to have Ms. Rodriguez removed as night manager and evicted from public housing.”

15. On or about January 20, 2005, Mr. and Mrs. Rodriguez attended an informal hearing to dispute the eviction, as part of the Respondent’s internal grievance process. Chabela Aneiros and Joel Bonilla, employees of Respondent, conducted and participated in the informal hearing. During the informal hearing, both Mr. and Mrs. Rodriguez stated that Mr. Rodriguez was unable to climb stairs as a result of his physical condition and therefore required a unit with a bathroom that could be accessed without climbing stairs. The Informal Hearing Summary, written by Ms. Aneiros, indicates that Mr. Rodriguez stated during the informal hearing that his “health is not good.”
16. During the informal hearing, Mr. and Mrs. Rodriguez were offered the opportunity to transfer to Hoffman Gardens, a project also owned and controlled by Respondent, in lieu of eviction. They agreed to the transfer because they were reassured that the unit in Hoffman Gardens had a half-bath on the first floor.
17. Immediately after having the opportunity to see the unit at Hoffman Gardens that they were being transferred to, Lazara Rodriguez, on or about January 21, 2005, sent a letter to Respondent asking Respondent not to transfer the family to Hoffman Gardens because, among other reasons, there was not a bathroom on the first floor, as they were told, and Mr. Rodriguez would be unable to climb stairs each time he needed to use the bathroom. The letter also mentions that the lack of air conditioning would be a problem because Mr. Rodriguez cannot sleep without air conditioning and that he takes anti-anxiety medication due to his difficulty sleeping. The letter states that there was medical documentation available to support the request.
18. Respondent did not respond to the January 21, 2005 letter written by Mrs. Rodriguez.
19. On or about January 24, 2005, Respondent issued a decision in regard to the informal hearing held on January 21, 2005 wherein Respondent upheld the decision to terminate Mr. Rodriguez’s assistance.
20. On or about May 4, 2005, Respondent filed a “Complaint for Eviction and Summary Removal of Tenant” in Miami-Dade County Court, Civil Division.
21. On or about May 17, 2005, Mr. Rodriguez filed an Answer/Motion to Dismiss in response to the eviction complaint stating that Respondent failed to provide a reasonable accommodation, that he is disabled and unable to climb stairs to the second-floor bathroom due to hip and back problems, and that Respondent was told of the need for a reasonable accommodation on January 21, 2005.

22. Respondent failed to respond to the information presented in the Answer/Motion to Dismiss and, instead, continued the eviction process.
23. On or about June 20, 2005, the Rodriguez family filled out and forwarded to Respondent an annual recertification form. According to the recertification form, a member of the family has a disability. The recertification form also states that Mr. Rodriguez receives social security benefits. Because the form indicates Mr. Rodriguez's age and this age would not qualify him for retirement benefits, Respondent was, or should have been, on notice that Mr. Rodriguez was receiving social security disability benefits.
24. Respondent failed to engage in any interactive process to determine whether Mr. Rodriguez was requesting or required a reasonable accommodation.
25. On or about June 30, 2005, Respondent and Mr. Rodriguez engaged in court-ordered mediation. At the mediation, Respondent again offered Mr. Rodriguez the opportunity to move to a unit in Hoffman Gardens. In response to Mr. Rodriguez's statement that he cannot move to Hoffman Gardens because that unit did not have a first-floor bathroom, Respondent offered to place him on the waiting list for an accessible unit, if adequate medical documentation was submitted. Respondent also informed Mr. Rodriguez that he would have to vacate his present unit until an accessible unit became available because the other families were required to vacate their units. Thereafter, he was forced to reject Respondent's offer because it was unsuitable for his disability; Mr. Rodriguez signed a Stipulation and Order of Dismissal wherein he agreed to vacate the subject property by August 31, 2005.
26. Although there were units available that could have accommodated his disability, including the unit that the Rodriguez family had lived in at 6329 West 24th Street, Respondent refused to allow them to remain in the unit or to transfer the family to another unit that would have allowed for bathroom access without climbing stairs.
27. Because of Mr. Rodriguez's need for access to a bathroom that did not require him to climb stairs and the Respondent's refusal to provide the requested reasonable accommodation, the Rodriguez family was forced to move out of the property owned and operated by Respondent and to relinquish their housing assistance.
28. The requested accommodation, a unit with access to a bathroom that would not require the climbing of stairs, was necessary in order to afford Mr. Rodriguez full enjoyment of equal housing rights; such access would have improved his quality of life by reducing the effects of his disability.

29. As a result of Respondent's failure to grant a reasonable accommodation, Complainants have suffered the loss of a housing opportunity, economic loss, humiliation, and mental and emotional distress.
30. After leaving their unit at 6329 West 24th Street, the Rodriguez family secured private housing. The family moved into a mobile home suited to Mr. Rodriguez's disability where Mr. Rodriguez can access the bathroom without climbing stairs.

#### **D. FAIR HOUSING ACT VIOLATIONS**

31. Respondent has violated the Act by refusing to make reasonable accommodation in its rules, policies, practices, or services, when such accommodation was necessary to afford Complainant an equal opportunity to use and enjoy his dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204.

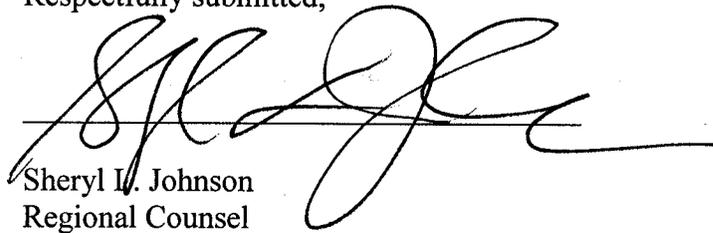
### **III. CONCLUSION**

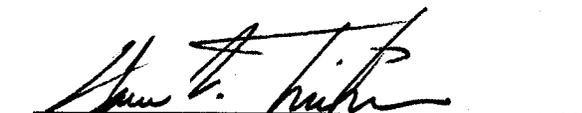
**WHEREFORE**, the Secretary of HUD, through the Office of General Counsel and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges the Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f)(3)(B) and prays that an order be issued that:

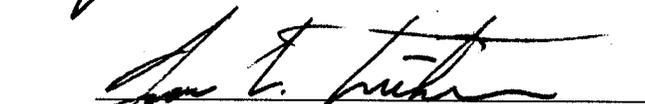
1. Declares that Respondent's discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;
2. Enjoins Respondent, its agents, employees, and successors, and all other persons in active concert or participation with Respondent, from discriminating because of handicap status against any person in any aspect of sale, rental, use, or enjoyment of a dwelling pursuant to 42 U.S.C. § 3612(g)(3).
3. Awards such damages pursuant to 42 U.S.C. § 3612(g)(3) as will fully compensate Complainants and their aggrieved child for the emotional distress and financial costs associated with Respondent's discriminatory conduct.
4. Awards a civil penalty against Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3).

5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

  
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