

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 Complainant Laura)	
Waldon,)	
)	
Charging Party,)	FHEO Case Number:
)	10-07-0063-8
)	
v.)	
)	
Alaska Housing Finance Corporation,)	
)	
Respondent)	
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CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about November 29, 2006, Laura Waldon (“Complainant”) filed a complaint with the United States Department of Housing and Urban Development (“HUD”). Complainant alleged that Alaska Housing Finance Corporation (“Respondent” or “AHFC”) violated the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19, based on disability¹ by failing to approve a request for reasonable accommodation, in violation of 42 U.S.C. § 3604(f)(2) and (f)(3)(B). Efforts at conciliating this complaint were unsuccessful.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons 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 that authority to the General Counsel, who has redelegated the authority to the Assistant General Counsel for Fair Housing Enforcement. 73 Fed. Reg. 68441, 68442 (Nov. 18, 2008).

The Regional Director of the Office of Fair Housing and Equal Opportunity for Region X, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing

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

[REDACTED]. She requires a live-in aide and multiple auxiliary apparatus to live independently. She has an elliptical trainer and ski machine as well as other physical training equipment that she needs to use daily.

8. In the letter described in the preceding paragraph, AHFC further stated that:

You are currently a participant in the Housing Choice Voucher Program. Your family composition qualifies you for a one bedroom subsidy. I have verified that you have added [your daughter] as your live-in aide. I have also spoken with [your physician], and she has verified that she has prescribed your exercise equipment for you.

Complainant was also advised that she must meet verification requirements annually.

9. Complainant received her voucher for a three bedroom unit on November 9, 2005.

10. Complainant entered into a lease for a three bedroom house located at [REDACTED], on November 14, 2005. The house is a dwelling as defined by the Act. 42 U.S.C. § 3602(b). The rent was \$873 per month; the voucher was for \$813 per month and Complainant paid \$60 per month.

11. In an August 14, 2006 letter, Respondent informed Complainant of her annual Section 8 voucher recertification requirements. According to this letter, Complainant was required to provide verification of her “continued need for any additional subsidy (extra bedroom) [she] may have been granted.”

12. In support of Complainant’s recertification, Complainant’s physician submitted medical verification on behalf of Complainant. In the “Medical Verification for a Live-in Aide” form received by Respondent on September 22, 2006, the physician indicated that Complainant required a live-in aide and stated that “Mrs. Waldon must also have an extra room for all of her health equipment.” The physician also submitted a “Medical Verification for Auxiliary Apparatus” form which Respondent received on October 4, 2006, in which she marked the option “YES” to indicate that “[t]he above-named person (Laura Waldon) has a permanent disability requiring the use of in-home medical apparatus to enable [her] to live independently, and enable an adult family member to be gainfully employed.”

13. In support of Complainant’s recertification, Complainant’s medical social worker submitted a letter which Respondent received on October 4, 2006, stating:

It would be contraindicated to this client’s health to move her to another location where she would ... have to modify her environment to fit the exercise equipment and accommodate for a Live-In Aide. Exercise for [REDACTED]

██ is consistently one of the most helpful interventions prescribed by her doctors. The prescribed exercise activities are [to be done] seven days a week[,] twice daily.

14. In addition to documents submitted on her behalf by her physician and medical social worker, Complainant submitted a form titled, “Reasonable Accommodation Request [for] Applicants and Participants in the Housing Choice Voucher Program” on which she marked that she would need “[a] higher subsidy standard (an additional bedroom) to house a live-in aide or medical apparatus” and “[a]n increase in the payment standard.” In response to the prompt, “[t]he accommodation I request is needed because,” Complainant stated that she is ██ who requires assistance to live independently. Respondent received this form on October 4, 2006.

15. On October 17, 2006, Respondent denied Complainant’s request for a three bedroom voucher and approved only a two bedroom voucher. Respondent stated that the request for a three bedroom voucher was not reasonable, was an undue financial burden on the program, and “would have no direct bearing on the multiple ways that an individual can perform daily physical exercise.”

16. Complainant requested a hearing with Respondent on October 23, 2006. Respondent describes these hearings as “the final step AHFC will offer for the family to request a change in a decision made by AHFC.”

17. The hearing regarding Respondent’s denial of Complainant’s request for a three bedroom voucher was held on November 15, 2006.

18. On or about November 28, 2006, Complainant was notified of the AHFC hearing officer’s decision. AHFC, through the hearing officer, sustained Respondent’s decision to deny Complainant a three bedroom voucher, while acknowledging that Complainant required the exercise equipment in question. The decision stated that while Respondent “may” consider disability as a mitigating factor when determining unit size for a particular family, it was not required to do so.

19. In a document dated December 21, 2006, Complainant and her landlord were informed that the portion of monthly rent she was responsible for had increased to \$307 per month, with Respondent contributing only \$569 towards her rent.

20. On October 24, 2007, subsequent to the complaint in this case and almost a full year after denying her request for a reasonable accommodation, Respondent reinstated Complainant’s three bedroom voucher.

21. By failing to grant Complainant’s reasonable accommodation request in accordance with 42 U.S.C. § 3604(f)(3)(B), Respondent discriminated in the terms, conditions, or privileges of the rental of dwellings, or in the provision of services or

facilities in connection with such dwellings, because of disability. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100. 202(b).

22. Because of Respondent's discriminatory conduct, Complainant has suffered actual damages, including out of pocket expenses and emotional distress damages. Complainant has experienced emotional distress, including anxiety, humiliation, and stress.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondent Alaska Housing Finance Corporation with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(f)(2), and (f)(3)(B) 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, 42 U.S.C. § 3604(f)(2) and (f)(3)(B);
2. Enjoins Respondent, its 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 violation of the Fair Housing Act;
3. Enjoins Respondent, its agents, employees, and successors, and all other persons in active concert or participation with any of them, from coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed or aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Act;
4. Awards such damages as will fully compensate Complainant, including damages for emotional distress, pursuant to 42 U.S.C. § 3612(g)(3); and
5. Assesses a civil penalty of \$16,000 against Respondent for violating the Act, pursuant to 42 U.S.C. § 3612(g)(3); 24 C.F.R. § 180.671.

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

Respectfully submitted on this 30th day of September, 2009

Kathleen M. Pennington, Assistant General Counsel
for Fair Housing Enforcement

Akila Kannan, Trial Attorney
Fair Housing Enforcement
Office of General Counsel
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 10270
Washington, DC 20410
Phone: 202-402-5488
Fax: 202-619-8004
Akila.Kannan@hud.gov

Of Counsel: Estelle Franklin
Associate General Counsel for Fair Housing