

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

Secretary, United States Department	)	
of Housing and Urban Development, on	)	
behalf of Wendy Walsh and HOPE Fair Housing Center	)	
	)	
Charging Party,	)	
	)	
v.	)	
	)	FHEO No. 05-02-0083-8
Chateau Village Apartments L.L.C.,	)	FHEO No. 05-02-0116-8
Banner Property Management, Inc., and Anita Zubor	)	
	)	
Respondents.	)	
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**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about December 10, 2001, Wendy Walsh, an aggrieved person, and on December 18, 2001 HOPE Fair Housing Center, an aggrieved person, filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Chateau Village Apartments L.L.C., Banner Property Management, Inc., and Anita Zubor ("Respondents") discriminated against Ms. Walsh on the basis of her disability, in violation of the Fair Housing Act ("the Act"). 42 U.S.C. Section 3601-3619.

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. Section 3610(g)(1) and (2). The Secretary of HUD 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 Director, Region V, Fair Housing Enforcement Center, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred and authorizes the issuance of this Charge of Discrimination.

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

Based upon HUD's investigation of the allegations contained in the aforementioned complaint and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondent with violating the Act as follows:

1. It is unlawful for any person to make unavailable or deny a dwelling to any buyer or renter because of a disability of that buyer or renter. 42 U.S.C. § 3604 (f)(1)(A); 24 C.F.R. §§ 100.50 (b)(3) and 100.202 (a)(1).
2. It is unlawful for any person 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 that buyer or renter. 42 U.S.C. §3604(f)(2)(A); §§100.50(b)(2) and 100.202(b)(1).
3. It is unlawful to refuse to make reasonable accommodations 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); 24 C.F.R. §100.204.
4. Complainant Wendy Walsh has a disability as the term is defined in the Act. 42 U.S.C. Section 3602(h); 24 C.F.R. Section 100.201. She has cervical and spinal disorders which substantially limit a major life activity, namely walking. Ms. Walsh's mobility impairment is such that she requires the use of crutches to walk and she has great difficulty climbing and descending stairs.
5. Complainant HOPE is a non-profit fair housing organization that, among other objectives, assists persons who believe they have been victims of housing discrimination in pursuing their rights. HOPE serves Chicago's Western Suburbs as well as twenty-eight other counties in Northern and North Central Illinois.
6. At all times relevant to the allegations contained herein, Respondent Chateau Village L.L.C., owned the subject property, Chateau Village Apartments, 326 President St., Carol Stream, Illinois, a multifamily apartment complex consisting of 73 Section 8 project-based<sup>1</sup> one-bedroom apartments; 45 market-rate one-bedroom apartments; 59 Section 8

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<sup>1</sup> Under the Section 8 "project-based" program, the owner enters into a Housing Assistance Payments contract with HUD or a Contract Administrator to provide rental subsidies for low-income families. The subsidies are tied to units at the development and cannot be transferred to other developments.

project-based two-bedroom apartments and 33 market-rate two-bedroom apartments for a total of 210 units.

7. At all times relevant to the allegations contained herein, Respondent Banner Property Management, Inc., managed the subject property.
8. Respondent Anita Zubor is an agent of Banner Management, Inc. Ms. Zubor is the property manager for Chateau Village Apartments.
9. In or about October 2000, Ms. Walsh was offered, and she accepted, a one-bedroom apartment on the first floor of the complex.
10. To enter her apartment on the first floor from the front entrance, which is the closest entrance from the parking lot, Complaint Walsh had to negotiate sixteen steps.
11. After moving in to the first floor unit, Complainant Walsh found the unit to be very difficult to access due to the number of steps and her mobility disability. In addition, the unit proved to be too small to accommodate her exercise and therapeutic equipment.
12. Complainant Walsh needed a two-bedroom unit on the second/main floor in order to use and enjoy the Chateau Village development. To access the second or main floor of the building, Complainant Walsh had to negotiate only four steps.
13. In or about October 2001, Complainant Walsh contacted Complainant HOPE Fair Housing Center to assist her in obtaining a transfer to a two-bedroom unit on the second/main floor at Chateau Village.
14. In November 2001, Complainant Walsh sought and received a two-bedroom Section 8 Housing Choice Voucher<sup>2</sup> from the DuPage Housing Authority. DuPage Housing Authority awarded her a two-bedroom voucher as a reasonable accommodation for the needs of her disability because she demonstrated a need for additional space in order to store her therapeutic and exercise equipment.
15. Complainant HOPE helped Ms. Walsh prepare a letter to Respondents requesting a transfer to a two-bedroom unit on the second/main floor as a reasonable accommodation for her mobility impairments.
16. On December 14, 2001, Complainant Walsh submitted a letter to Respondent Anita Zubor that stated:

Due to my disability, I need a two bedroom apartment on the main

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<sup>2</sup> Under the Section 8 Housing Choice Voucher program (also known as the “tenant-based” program), low-income families are granted a portable rental subsidy, which they can use to rent any “eligible” apartment. Unlike the “project-based” program, the rental subsidy can be transferred with the tenant to other developments.

floor. In a letter and prescription note dated May 14, 2001 and May 17, 2001, respectively, my doctors indicated that because of my condition, I need more space and should be on a floor that is at least more accessible than the one that I am in now.

Therefore, I am requesting that you place me on your waiting list for a two bedroom apartment on the main floor and that because of my disability I be given priority when an apartment becomes available.

The DuPage Housing Authority has given me a voucher for a two bedroom unit because of my disability and my need for a larger apartment. Please inform me of your decision as soon as possible. Thank you.

17. Complainant Walsh submitted two doctors' notes with her December 14, 2001 letter verifying her disability, her need for a two-bedroom unit and her need for a more accessible unit.
18. Complainant Walsh was eligible to rent any two-bedroom unit on the second/main floor.
19. Respondent Anita Zubor responded to Complainant Walsh's December 14, 2001 request for a reasonable accommodation with a letter dated December 17, 2001, which states in part: "NO LANDLORD is required to accept a DuPage Housing voucher. CHATEAU VILLAGE APARTMENTS only takes DuPage Housing vouchers for those whom already live here and stay in place in the same apartment."
20. Complainant Wendy Walsh needed a two-bedroom unit on the second/main floor in order to afford her an equal opportunity to use and enjoy a dwelling at Chateau Village.
21. Respondents have allowed other tenants at Chateau Village to transfer units.
22. In February 2002, after Complainant Walsh had made a request to be transferred to a two-bedroom unit on the second/main floor as a reasonable accommodation, a two-bedroom second/main floor unit became available yet Respondents refused to allow Complainant Walsh to move into the unit.
23. Because Respondents refused to accommodate Ms. Walsh's disability, Ms. Walsh was forced to move from Chateau Village in or about March 2002.
24. Complainant HOPE assisted Ms. Walsh in drafting her reasonable accommodation request and counseled her on her fair housing rights.
25. Respondents' refusal to allow Complainant Walsh to transfer to a two-bedroom unit on the second/main floor constitutes a failure to grant a reasonable accommodation in violation of §804(f)(3)(B) of the Act. 42 U.S.C. § 3604(f)(3)(B).

26. When Respondents refused to transfer Complainant Walsh or place her on a waiting list for a two-bedroom unit on the second/main floor, they denied housing or otherwise made housing unavailable to Complainant Walsh because of her disability in violation of §804(f)(1)(A) of the Act. 42 U.S.C. § 3604(f)(1)(A).
27. When Respondents refused to transfer Complainant Walsh or place her on a waiting list for a two-bedroom unit on the second/main floor, they discriminated against Complainant Walsh in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling because of her disability in violation of §804(f)(2)(A). 42 U.S.C. §3604(f)(2)(A).
28. As a result of Respondents' conduct, Complainant Wendy Walsh suffered damages, including economic loss and emotional distress.
29. As a result of Respondents' conduct, Complainant HOPE expended time and resources investigating this complaint, which otherwise would have been directed to education and client counseling, resulting in economic loss and frustration of its organizational mission. HOPE suffered compensable out-of-pocket financial losses in assisting Ms. Walsh with her request for a reasonable accommodation and with her complaint.

### III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. §3610(g)(2)(A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §3604(f) 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. Sections 3601-3619;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of handicap against any person in any aspect of the purchase or rental of a dwelling;
3. Awards such damages as will fully compensate Wendy Walsh for her economic loss and emotional distress caused by the Respondents' discriminatory conduct;
4. Awards such damages as will fully compensate HOPE for its economic loss caused by the Respondents' discriminatory conduct;
5. Awards a civil penalty against Respondents for each violation of the Act pursuant to 42 U.S.C. Section 3612(g)(3);

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

Respectfully submitted,

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Thomas Rodick  
Acting Regional Counsel  
for New England

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Abraham Brandwein  
Acting Supervisory Attorney

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(617) 994-8250

Date: September 30, 2004

CERTIFICATE OF SERVICE

I hereby certify that the foregoing “Determination of Reasonable Cause and Charge of Discrimination” and “Notice” in FHEO No. 05-02-0083-8 and FHEO No. 05-02-0116-8 were served in the following manner on the office of Administrative Law Judges, the named parties and counsel:

**FACSIMILE AND FEDERAL EXPRESS**

Chief Docket Clerk  
Office of Administrative Law Judges  
U.S. Department of Housing and  
Urban Development  
409 3d Street, S.W., Suite 320  
Washington, D.C. 20024

**FEDERAL EXPRESS**

Wendy Walsh, 1135 W. Ogden, Apt. 105, Naperville, IL 60563

HOPE Fair Housing Center, 2100 Manchester Boulevard, Suite 1070, Bldg. B, Wheaton, IL 60187

Kathy Clark, Lawyer’s Committee for Better Housing, 220 S. State, Ste. 2100, Chicago, IL 60604

Chateau Village Apartments L.L.C., c/o Banner Property Management, Inc., 770 Frontage Road, Suite 123, Northfield, IL 60093

Banner Property Management, Inc., 770 Frontage Road, Suite 123, Northfield, IL 60093

Anita Zubor, Property Manager, Chateau Village Apts., 326 President Street, Carol Stream, IL 60108

Harry Kelly, Esq., Nixon Peabody LLP, 401 9<sup>th</sup> Street, NW, Suite 900, Washington, DC 20004-2128

This 30<sup>th</sup> day of September, 2004

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