

**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 [REDACTED] and [REDACTED])	
)	
Charging Party)	HUD ALJ No.
)	FHEO No. 01-12-0001-8
v.)	
)	
Talgar General Partnership, H. William Gardner & Bruce Talbot, d/b/a Sleepy Hollow Mobile Home Park)	
)	
Respondents)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On October 3, 2011, Complainants [REDACTED] and [REDACTED] filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Respondents H. William Gardner and Bruce Talbot, sole partners of Respondent Talgar General Partnership, discriminated against them in violation of the Fair Housing Act ("the Act"), as amended. 42 U.S.C. Sections 3601-3619.

The Act authorizes the Secretary of HUD to issue 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), (2). The Secretary has delegated to the General Counsel, who has redelegate to the Regional Counsel, 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. 24 C.F.R. §§ 103.400, 103.405; 76 Fed.Reg. 42463, 42465 (July 18, 2011).

The Director of the Fair Housing Hub, Office of Fair Housing and Equal Opportunity for New England, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case, and has authorized the issuance of this Charge of Discrimination by the Regional Counsel. 42 U.S.C. §3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on 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 the Respondents with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to refuse to make a dwelling unavailable because of a person's disability or because of a person's association with a person with a disability. 42 U.S.C. § 3604(f)(1)(A), (C); 24 C.F.R. § 100.202(a).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of a disability of that tenant or because of a disability of a person associated with that tenant. 42 U.S.C. §§ 3604(f)(2)(A), (C); 24 C.F.R. § 100.202(b).
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(a).
4. It is unlawful to coerce, intimidate, threaten, interfere, or retaliate against any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Section 804 of the Fair Housing Act. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b), (c)(1-5).

B. PARTIES AND SUBJECT PROPERTY

5. The subject property is [REDACTED] of the [REDACTED] Mobile Home Park at [REDACTED] [REDACTED] in Newmarket, New Hampshire ("the Park"). Complainant [REDACTED] leased this lot as a location for his home. Accordingly this property constitutes a dwelling under the Act. 42 U.S.C. § 3602(b).
6. At all times relevant to the action, Respondent Talgar General Partnership, consisting of Respondents Bruce Talbot and H. William Gardner, owned the Park.
7. Complainant [REDACTED] is in a relationship with Complainant [REDACTED] and is an aggrieved person as defined by the Act. 42 U.S.C. § 3602(i).
8. Complainant [REDACTED] is a disabled person under the Act by virtue of her deafness and psychological limitations in her ability to deal with stress and anxiety. Complainant [REDACTED] is an aggrieved person as defined by the Act. 42 U.S.C. § 3602(i).

C. FACTUAL ALLEGATIONS

9. In 1988, Complainant [REDACTED] rented Lot [REDACTED] of the Park and located his home on that lot.

10. In 2009, Complainant [REDACTED] moved into Complainant [REDACTED]'s home.
11. In March 2011, Complainant [REDACTED] adopted a dog, Benny, from a local shelter to provide assistance and emotional support to Complainant [REDACTED].
12. Complainants and Ms. [REDACTED], another resident of the Park, trained Benny to alert Complainant [REDACTED] to sounds such as doorbells and alarms.
13. Respondents maintain a "no dog" policy at the Park.
14. On July 29, 2011, Complainant [REDACTED] received a Notice of Violation from Respondents citing the Park rule against dogs and requiring him remove Benny from the premises within 10 days.
15. By letter dated August 7, 2011 to Respondents, Complainant [REDACTED] asserted that Benny had been brought onto the property to serve as an assistance animal for Complainant [REDACTED].
16. Along with the August 7, 2011 letter, Complainants provided a medical note from Complainant [REDACTED]'s doctor, dated August 3, 2011, stating that Complainant [REDACTED] is disabled under the Fair Housing Act and stating that her condition necessitates an assistance animal to provide emotional support and help her function independently.
17. Complainants' August 7, 2011, letter constitutes a request for accommodation regarding Respondents' "no dog" rule.
18. The request was denied. In a September 2, 2011 letter from their attorney to Complainant [REDACTED], Respondents required Complainant [REDACTED] to choose between removing the dog from the property and applying for residency at the property or of leaving the property altogether.
19. On September 22, 2011 Respondents delivered an eviction notice to Complainant [REDACTED] seeking eviction of "ALL OCCUPANTS" of the subject property for "refusal to adhere to park rules and regulations relative to guests and animals."
20. Upon information and belief, Respondents had this notice placed on Complainants' door on September 22, 2011, and again on September 26, 2011. Respondents also mailed these notices on two separate occasions and Complainants received these on September 23 and 24, 2011.
21. Each copy of this eviction notice demanded that Complainants vacate the premises and remove all of their property and appurtenances from Lot [REDACTED] on or before December 1, 2011.

22. On October 11, 2011, Complainant [REDACTED] wrote to Respondents asserting that keeping the dog constituted a reasonable accommodation under the Americans with Disabilities Act and the Fair Housing Act. He also requested that Respondents rescind the eviction process.
23. Complainant [REDACTED]'s October 11, 2011 letter was accompanied by a second note, dated October 6, 2011, from Complainant [REDACTED]'s doctor in which he states that Complainant [REDACTED] is disabled under the Fair Housing Act and that, in addition to being an emotional support animal, Benny also provides services related to Complainant [REDACTED]'s deafness.
24. Respondents did not respond to Complainants' request for reasonable accommodation to allow Complainant [REDACTED]'s service animal to remain on the premises.
25. By letters dated October 13 and October 14, 2011 Complainant [REDACTED] wrote to Respondents requesting a copy of the required form to add Complainant [REDACTED] as a resident.
26. Sometime between October 14, 2011 and October 20, 2011, Respondents forwarded to Complainants the resident registration form.
27. Complainants completed the registration form and submitted it to Respondents on or around October 20, 2011. Along with the form, Complainants provided a \$30.00 check to Respondents to cover the fee required to be submitted along with the form.
28. Upon information and belief, Respondents have never required any other person to pay a fee or fill out a registration form to join a current resident's household.
29. Respondents failed to reply to this form. Respondents have suspended the eviction proceeding pending the outcome of this complaint.
30. Due to the continuing stress of the situation, Complainant [REDACTED] left the subject property until this issue is resolved.

D. FAIR HOUSING ACT VIOLATIONS

31. By refusing to allow Complainant [REDACTED] to become part of Complainant [REDACTED]'s household because of her disabilities and by attempting to evict her, Respondents made housing unavailable to Complainant [REDACTED] because of disability in violation of Section 804(f)(1)(A) of the Act. 42 U.S.C. § 3604(f)(1)(A); 24 C.F.R. § 100.202(a)(1).
32. Respondents violated Section 804(f)(1)(C) of the Act by attempting to evict Complainant [REDACTED] based on his association with Complainant [REDACTED], a disabled individual. U.S.C. § 3604(f)(1)(C); 24 C.F.R. § 100.202(a)(3).

33. By treating Complainant [REDACTED] differently from other similarly-situated new household members because of her disabilities, Respondents violated section 804(f)(2)(A) of the Act, 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b)(1).
34. Respondents violated Section 804(f)(2)(C) of the Act by imposing different terms and conditions on Complainant [REDACTED] by requiring him to submit a completed application form and fee before allowing an individual to be added to his household. These discriminatory requirements were based on Complainant [REDACTED]'s association with Complainant [REDACTED], a disabled individual needing accommodation. 42 U.S.C. § 3604(f)(2)(C); 24 C.F.R. § 100.202(b)(3).
35. Respondents failed to make a reasonable accommodation under Section 804(f)(3)(B) of the Act by refusing allow Complainant [REDACTED] to keep an assistance animal in violation of Section 804(f)(2) of the Act. 42 U.S.C. § 3604(f)(3)(B); 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.204(a).
36. Each of Respondents' multiple eviction notices to Complainants violated Section 818 of the Act by interfering, coercing, intimidating, and retaliating against Complainants in their assertions of their right to be treated equally with other non-disabled tenants of the property in the application of Rules and Regulations and in their assertions of Complainant [REDACTED]'s right to have reasonable accommodations granted when necessary. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b), (c)(1-5).
37. As a result of the Respondents' actions, Complainants have suffered damages including but not limited to emotional distress, inconvenience, loss of housing opportunity, and interference with free association.

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel, Region I, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents Talgar General Partnership, H. William Gardner, and Bruce Talbot with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f)(1), § 3604(f)(2), § 3604(f)(3)(B), and § 3617 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 the Respondents from further violations of the Act;
3. Awards such damages as will fully compensate Complainants for their economic loss, loss of housing opportunity, inconvenience, and emotional distress caused by the Respondents discriminatory conduct;
4. Awards a civil penalty against each Respondent for each violation of the Act pursuant to 42 U.S.C. Section 3612(g)(3);

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

Respectfully submitted,

/s/

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/s/

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