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 [redacted] Charging Party,	)	
v.	)	FHEO No. 06-06-1162-8
Metairie Towers Condominium Association, Inc., Respondent.	)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On August 9, 2006, [redacted] (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Metairie Towers Condominium Association, Inc., (Respondent) violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by discriminating based on disability, in violation of 42 U.S.C. § 3604(f). On or about September 20, 2007, Complainant filed an additional verified complaint alleging Respondent retaliated against her in violation of 42 U.S.C. § 3617 of the Act. The complaint was amended on September 27, 2007, June 24, 2009, and August 4, 2009, to, *inter alia*, clarify the allegations.

The Act authorizes the issuance of a Charge of Discrimination (Charge) 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 (73 Fed.Reg. 68439, 68440), who has redelegated to the Regional Counsel (73 Fed.Reg. 68441, 68442) (Nov. 18, 2008), the authority to issue such a Charge, following a determination of reasonable cause by HUD.

On October 8, 2009, the Director of the Office of Fair Housing and Equal Opportunity for Region VI, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable 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 complaint and Determination of Reasonable Cause, Respondent Metairie Towers Condominium Association, Inc., is charged with discriminating against Complainant [redacted] based on disability in violation of 42 U.S.C. § 3604(f)(2) and 42 U.S.C. § 3604(f)(3)(B) of the Act. Respondents are also charged with discriminating against Complainant based on disability in violation of 42 U.S.C. § 3617 as described below.

1. It is unlawful to discriminate against any person in the terms, conditions or privileges of sale of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person or a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).

2. For purposes of 42 U.S.C. § 3604(f)(2), discrimination includes the 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); 24 C.F.R. § 100.204.

3. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by Sections 803, 804, 805 and 806 of the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400.

4. Complainant [redacted] is an individual with a disability as defined by the Fair Housing Act. Complainant has profound hearing loss in both ears.

5. Respondent Metairie Towers Condominium Association, Inc., is the corporation that controls the subject property, located at 401 Metairie Road, Metairie, Louisiana 70005.

6. The subject property is a "dwelling" as defined by the Act. Metairie Towers Condominium is where the Complainant resided.

7. According to the Louisiana Secretary of State, Metairie Towers Condominium Association, Inc., is located at 401 Metairie Road, Metairie, Louisiana 70005. The registered agent for Metairie Towers Condominium Association, Inc., is Paul F. Dastugue III, located at 4141 Veterans Blvd., Suite 300, Metairie, Louisiana 70002.

8. On November 19, 1999, Complainant's stepbrothers, [redacted] purchased the condominium unit #702 at Metairie Towers Condominiums for her to live in.

9. Metairie Towers Condominiums had a "no pet" policy that stated, "No animals

shall be raised, bred or kept in any Unit for any purpose." In addition, the Rules and Regulations for Metairie Towers Condominium stated, "No animals or reptiles of any kind shall be raised, bred, or permitted on or in any Unit or in the Common Elements."

10. Complainant's stepbrother, [redacted] wrote a letter to the Board requesting a waiver of the "no pet" policy as a condition of purchasing the unit. The letter stated [redacted] has a severe hearing impediment, and she had two cats that would alert her to the telephone and doorbell, therefore, Complainant needed a waiver to the "no pets" policy. Respondent denied the request, and Complainant moved into the unit without the cats on March 16, 2000.

11. In October 2002, Respondent found out Complainant had a cat in her unit. In an October 4, 2002 letter, Respondent informed Complainant that she would have to remove the cat immediately because of the Association's no pet policy.

12. On October 21, 2002, Complainant's stepbrother, [redacted], responded to Respondent, requesting Complainant be allowed to keep the cat as a reasonable accommodation. In support of Complainant's request for a reasonable accommodation, Complainant's physician addressed a letter dated January 13, 2003, to Respondent regarding Complainant's need for the cat. Respondent refused to allow Complainant to keep the cat, and Complainant gave the cat away.

13. On March 3, 2004, as Complainant's hearing deteriorated further, Complainant applied to receive a hearing aid dog through Paws With a Cause®.

14. On May 13, 2004, Complainant made a request for reasonable accommodation by notifying Respondent that she intended to obtain a hearing aid dog to assist her because she could not hear warnings in case of fire and other life threatening situations.

15. On May 20, 2004, Board President, [redacted] informed Complainant that the Board of Directors reviewed her letter dated May 13, 2004, and retained it in her file.

16. On July 11, 2006, Complainant made a request for reasonable accommodation by letter to Respondent informing them that she expected to receive a hearing aid dog within the next few weeks.

17. On July 19, 2006, in response to Complainant's July 11, 2006 letter, Respondent stated, by letter, that no animals were allowed to be kept in the building and told Complainant to board her dog at another location "until such time, if ever," Respondent approved her request.

18. In the July 19th letter, Respondent asked Complainant for a report from her doctor detailing the nature and extent of the hearing problem, its onset and possible

duration, and any other potential problems that may exist besides the fire alarm. Respondent suggested other remedies besides a hearing dog, such as a louder alarm, flashing light alarm, or relocation to a unit on a lower floor. Respondent requested a copy of Complainant's contract to live in the unit along with information on the organization training the dog. Repondent also requested warranties and insurance regarding the dog living in the building.

19. On July 26, 2006, Complainant provided Respondent with a letter from a Paws With a Cause representative. The letter stated Complainant's assistance animal was a female sable and white Papillion dog named "ROO"and further elaborated the assistance animal had completed training and would be placed with Complainant in July 2006.

20. Respondent did not respond to the July 26, 2006 letter.

21. On July 31, 2006, Complainant received her assistance dog, "ROO". Because of Complainant's anxiety about the Board members and other residents' reactions, a representative from Paws with a Cause requested a police escort.

22. On September 12, 2006, Complainant's physician prepared a statement for her to provide to Respondent. The doctor stated Complainant had profound neural hearing loss in both ears, and she should have some form of visual or tactile alarm system for her personal safety. He strongly recommended the use of a service dog.

23. On November 3, 2006, Complainant's stepbrothers [redacted] received a letter from Respondent. The letter informed the stepbrothers of the circumstances of events that had transpired regarding the service dog. The letter also stated Respondent "may soon face the unenviable prospect of initiating proceedings to remove [redacted] and/or the dog from Metairie Towers."

24. On November 9, 2006, Complainant's physician wrote a second letter stating Complainant was profoundly deaf and a hearing dog would be of value in providing alarm notification to Complainant.

25. The investigation revealed that no response or action by the Board was made following the November 9, 2006 letter from the doctor.

26. On February 7, 2007, the doctor provided a third letter regarding Complainant's need for a service animal. The statement read as follows:

> "It is my opinion that [redacted] is in need of a service dog due to her profound hearing loss. An alarm system within her residence would be of minimal value as it would probably not awaken her from a sound sleep. An alarm system would be of no value whatsoever when she is not at home. A

service dog would provide safety for [redacted] both inside and outside of her home."

27. Complainant moved out of her unit at Metairie Towers in March 2008. As of that date, Respondent had never granted Complainant's reasonable accommodation request.

28. By refusing to grant Complainant's request for reasonable accomodation to waive Metairie Towers' "no-pet" policy in accordance with 42 U.S.C. § 3604(f)(3)(B), Respondent discriminated in the terms, conditions, or privileges of sale of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).

29. Respondent violated the Act because it coerced, intimidated, threatened, or interfered with Complainant's exercise or enjoyment of rights granted or protected by the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400.

30. As a result of Respondent Metairie Towers Condominium Association, Inc.'s discriminatory conduct, Complainant suffered damages, including emotional and physical distress and inconvenience.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondent Metairie Towers Condominium Association, Inc., with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f)(2), (f)(3)(B), and 42 U.S.C. § 3617 of the Act, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondent Metairie Towers Condominium Association, Inc., as set forth above violated the Fair Housing Act, as amended, 42 U.S.C. § 3601 et seq.;

2. Enjoins Respondent Metairie Towers Condominium Association, Inc., their 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 any aspect of the purchase or rental of a dwelling;

3. Directs Respondent Metairie Towers Condominium Association, Inc., to maintain and follow a written policy at Metairie Towers Condominium regarding consideration of requests for reasonable accommodation;

4. Awards such damages pursuant to 42 U.S.C. § 3612(g)(3) as will fully compensate Complainant for her damages, including compensation for emotional and physical distress, caused by Respondent's discriminatory conduct; and,

5. Assesses a civil penalty of against Respondent Metairie Towers Condominium Association, Inc., for violating the Act, pursuant to 42 U.S.C. § 3612(g)(3); 24 C.F.R. § 180.671(a)(1).

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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William J. Daley
Regional Counsel
Office of General Counsel
Region VI

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Allyssa D. Wheaton-Rodriguez
Supervising Attorney for Fair
Housing, Region VI

_____
Betsy A. Darling
Trial Attorney
U.S. Department of Housing
and Urban Development
Office of General Counsel
801 Cherry Street
Unit # 45, Ste. 2500
Fort Worth, TX 76102
Phone: (817) 978-5994
Fax: (817) 978-5563

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Date