

The Office of Fair Housing and Equal Opportunity Region V Director, 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 HUD Complaint and Determination of Reasonable Cause, Respondents Big Norway, LLC, Northern Management Real Estate Services, Inc., and Laura Schroden, (collectively referred to as "Respondents"), are charged with discriminating against Complainants [REDACTED], [REDACTED], aggrieved persons as defined by 42 U.S.C. §3602(i), based on disability in violation of Sections 804(c), (f)(1)(A) and (f)(2)(A) of the Act as follows:

1. It is unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling unit that indicates any preference, limitation, or discrimination based on race, color, religion, sex, "handicap,"¹ familial status, or national origin, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. §3604(c).
2. It shall be unlawful to discriminate in the sale or rental of, or to otherwise 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).
3. It is unlawful 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 person. 42 U.S.C. §3604(f)(2)(A).
4. The Act, at 42 U.S.C. § 3602(h), defines "handicap" as "(1) a physical or mental impairment which substantially limits one or more of such persons' major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment...."
5. Individuals are "regarded as" disabled under the Act if they have a condition that does not substantially impair a major life activity but are treated by others as having such a limitation. 24 C.F.R. § 100.201(d) (2011).
6. Major life activities include, but are not limited to, "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." 24 C.F.R. § 100.201(b) (2011).

¹ While federal laws still use the obsolete term "handicap," this Charge uses the modern term "disability" as interchangeable with "handicap."

7. At all times relevant to this Charge, Respondent Northern Management Real Estate Services, Inc. ("Respondent Northern Management") was the management company of Meadow Creek Village Apartments, located at 170 Main Street, Unit 103, Foley, Minnesota ("Meadow Creek" or "subject property"), which is owned by Respondent Big Norway, LLC. Upon information and belief, the subject property consists of 2 buildings with each building containing 18 apartment units.
8. Complainants [REDACTED], an elderly married couple, leased the subject property from approximately [REDACTED] until they vacated the unit in or around [REDACTED]. The lease that Complainants signed in or around September 2006 was with Respondent Northern Management. On or about October 1, 2006, Complainants moved into the subject property. After the expiration of Complainants' October 2006 lease, the parties entered into subsequent leases, the most recent of which covered the period of May 1, 2009 through April 25, 2010. Complainants' most recent lease was a month-to-month lease.
9. At all relevant times to this Charge, Respondent Laura Schroden was the Vice President of Operations for Respondent Northern Management and had direct contact with residents at the subject property.
10. Upon information and belief, Respondent Northern Management has a policy of obtaining emergency contact information from its residents. Although not labeled as "emergency contacts," on Complainants' lease agreement, Complainants listed their grandson, [REDACTED], and their son, [REDACTED], as "resident references."
11. In or around the last year of Complainants' tenancy, Respondent Northern Management and Respondent Schroden formed the opinion that one and/or both of the complainants were disabled. Respondents admit that Complainants' "forgetfulness" was a concern and contend that it was unsafe for them to live at the subject property.
12. In or around the last year of Complainants' tenancy, Respondents assert that Complainants became increasingly more confrontational and "agitated" during the frequent interactions between the parties.
13. On or about July 21, 2009, Respondents made a note in Complainants' tenant file regarding a conversation in which Complainant [REDACTED] requested that the lock to the rear door be repaired because it was too difficult for Complainant [REDACTED] to walk the longer distance to the front door. The note read, in relevant part, "...Well than, [sic] [REDACTED] needs to go to a home was my thought."
14. In or around February 2010, Respondents Northern Management and Schroden determined that Complainants were becoming a threat to the health and safety of others and decided to contact Complainants' family.

15. Upon information and belief, Respondents attempted to contact [REDACTED], Complainants' son, but his telephone number was no longer in service.
16. On or about February 9, 2010, Respondent Schroden attempted to contact Complainants' grandson, [REDACTED]. Respondent Schroden, however, reached his wife, [REDACTED]. Respondent Schroden admits, and her notes of the conversation record, that she raised the issue of Complainants' "forgetfulness" with [REDACTED] and discussed finding a new place for Complainants to live. Respondent Schroden's note to the file states, in relevant part, that [REDACTED] said that, "...it will be a hard sell to make them move."
17. When interviewed, [REDACTED] stated that at all times relevant to this Charge, she and her husband visited Complainants on a bi-weekly basis and that Complainants paid their bills on their own, and did other activities on their own, such as grocery shopping and laundry.
18. On or about February 15, 2010, Respondent Schroden, spoke with Complainants' grandson, [REDACTED]. Respondents' notes of that conversation state, in relevant part "... [REDACTED] called in to find out about the problems with his grandparents. Explained to him that we are concerned for their safety and that we believe they should be in assisted living...."
19. When interviewed, [REDACTED] stated that during his February 15, 2010 conversation with Respondents, Respondent Schroden complained about his grandparents' complaints to management and told him that Complainants should move "right away or they may find themselves without housing," or similar words to that effect.
20. When interviewed, [REDACTED] stated that, at all times relevant to this Charge, Complainants functioned independently, going to the store and to the casino by themselves. [REDACTED] also stated that, at all times relevant to this Charge, Complainants babysat for his children, who were then nine and four, respectively.
21. On or about February 16, 2010, Respondent Schroden met with Complainants at the subject property. Respondent Schroden's notes of that meeting state, in relevant part, that she told Complainants that Respondents had contacted Complainants' grandson, [REDACTED], "because we are worried about their safety" and "we have noticed the memory issues...." and "we feel the best interest for them is to get into some type of assisted living situation."
22. On or about March 6, 2010, Respondents noted in Complainants' tenant file that Complainant [REDACTED] approached one of Respondent Northern Management's staff members to express upset that her grandson had been contacted. Respondents' notes to the file state, in relevant part, that Complainants' grandson had been contacted "out of concern for their safety." Respondents' notes reflect that

Complainant ██████ went on to object that she and her husband did not want to move and they did not need help. When, at the end of the conversation, Complainant remarked that she had to return to her unit because she didn't like to leave Complainant ██████ alone for long, Respondents' notes comment, in response, "...but yet they do not need any help (?)."

23. On or about April 1, 2010, Respondent Schroden spoke with Complainants' daughter, ██████. Respondent Schroden explained to ██████ that Complainants had health problems, suffered from forgetfulness and referenced incidents which had occurred during Complainants' tenancy, in support of these points. In the course of this conversation, Respondent Schroden told ██████ that her parents were "handicapped" and should not be living on their own, as they needed too much assistance. Respondent Schroden then told ██████ that Complainants should be placed in assisted living.
24. When interviewed, ██████ stated that, at all times relevant to this Charge, she visited Complainants weekly and witnessed their ability to care for themselves. She stated that they are active and independent and noted that they have lived independently since vacating the subject property.
25. On or about April 1, 2010, Respondent Schroden again spoke with ██████. Respondent Schroden's notes regarding this conversation, state, in relevant part, "█████ – ██████ [sic] wife called in to see if we gave them [Complainants] official notice because ██████ told ██████ we did. Explained to ██████ again that we didn't but do believe that they should not be living at Meadow Creek...."
26. Responding to pressure from Respondents, on or about April 16, 2010, Complainants submitted to Respondents their two month's notice of intent to vacate their unit by June 25, 2010.
27. Upon information and belief, Complainants vacated their unit on or before May 31, 2010. Respondents, nevertheless, charged Complainants for June 2010 rent, alleging that Complainants were liable for rent until the move-out date of June 25, 2010. As a result, Complainants owed Respondents a total of \$513, even though Respondents insisted that they vacate "right away."
28. As late as May of 2009, Complainants were considered tenants in good standing as evidenced by a lease renewal letter from Respondents to Complainants, dated May 8, 2009, which reads, in relevant part, "[a]gain, we truly appreciate good residents like yourself and are delighted that you have decided to stay with us!"
29. At no time during Complainants' tenancy did they receive any notice of lease infractions, nor did Respondents receive any complaints from other tenants concerning Complainants' tenancy.

30. Upon information and belief, with the exception of one late payment, Complainants timely paid their rent, and Respondents never issued any late payment notices to Complainants.
31. After vacating the subject property, Complainants moved to a townhouse located in a senior community. Complainants currently live independently as the senior community where they live does not provide assisted living services.
32. When interviewed, Complainants' new property manager stated that Complainants have resided in their new home without incident.
33. When interviewed, on or about August 17, 2011, Dave Magelssen, President of Respondent Northern Management, stated that it is the policy of Respondent Northern Management to use the emergency contact information of its tenants in the event that there is a lease violation, such as a noise violation, when a resident fails to pay rent, and/or when someone dies.
34. When interviewed, Respondent Magelssen admitted that Respondents contacted Complainants' emergency contacts for a reason other than a lease violation, failure to pay rent or death. When asked why Respondents decided to call Complainants' emergency contact, Magelssen stated that the decision to contact Complainants' emergency contact was to inquire about Complainants' health, because Respondents had learned about a few "odd" situations, such as not calling 911 when injured.
35. When Elizabeth Tuffs, Respondent Northern Management's Resident Manager, was interviewed, on or about August 17, 2011, she admitted that Complainants were not a direct threat to the health and safety of other residents, stating that she would not "necessarily call them a threat [to others], but more to themselves."
36. There is no record, during the time that Complainants resided at the subject property, that Complainants harmed anyone, or themselves, or caused a direct threat to others.
37. Respondents admit that they did not offer Complainants a reasonable accommodation before determining that they were a direct threat to the health or safety of others and should leave the subject property, stating, in their response to HUD's data request letter, "[t]here were not [*sic*] reasonable accommodations that needed to be addressed."
38. Although Respondents contend that Complainants posed a direct threat to others, there is no record that Respondents engaged in an interactive discussion with Complainants to determine if a reasonable accommodation was available in order to ameliorate any alleged threat or concern so that Complainants could continue to live at the subject property.
39. Respondents contacted Complainants' emergency contacts even though the evidence demonstrated that Complainants were tenants in good standing, did not have any

lease violations in their tenant file, and had no resident complaints filed against them with Respondents. In addition, with the exception of one late payment, Complainants timely paid their rent, and Respondents never issued any late payment notices to Complainants.

40. Complainants were “regarded as” disabled by Respondents, as evidenced by Respondents referring to Complainants as “handicapped” when speaking to Complainants’ daughter; and telling Complainants and Complainants’ family members that Complainants should live in an assisted living arrangement. In support of their position that Complainants belonged in assisted living, rather than living independently, Respondents cited Complainants’ “forgetfulness,” and safety, which are examples of substantial limitations to the major life activities of thinking and caring for oneself.
41. Complainants [REDACTED] are protected under the disability provisions of the Act, as they were “regarded as” disabled by Respondents and, on that basis, meet the Act’s definition of disability, pursuant to 42 U.S.C. § 3602(h).
42. By repeatedly contacting Complainants and their family and insisting that Complainants move to an assisted living facility, based on Respondents’ misguided belief that Complainants were disabled and could no longer live independently, Respondents otherwise made housing unavailable to Complainants in violation of 42 U.S.C. § 3604(f)(1)(A).
43. By contacting Complainants’ emergency contact, even though Complainants were tenants in good standing as they did not have any lease violations in their tenant file, had no resident complaints filed against them and timely paid their rent, Respondents diverted from their standard policy and subjected Complainants to different terms and conditions of rental based on Complainants’ perceived disabilities, in violation of 42 U.S.C. §3604(f)(2)(A).
44. By making, printing or publishing statements made in relation to Complainants’ tenancy and their need to move to assisted living due to Complainants’ perceived disabilities and alleged inability to continue to live independently, Respondents violated 42 U.S.C. § 3604(c) of the Act.
45. Complainants are aggrieved persons within the meaning of 42 U.S.C. § 3602(i). As such, Complainants suffered damages, including, but not limited to, economic loss, emotional distress, inconvenience, embarrassment, humiliation and the loss of a housing opportunity as a result of Respondents’ discriminatory conduct.
46. Upon information and belief, Respondents’ actions subjected Complainants to economic loss, as they incurred expenses relating to having to vacate the subject property, including being responsible for June 2010 rent, even though they vacated the subject property at Respondents’ insistence.

47. Respondents' actions caused Complainants inconvenience, as the location of the subject property was ideal for Complainants. The subject unit was manageable in size and in close proximity to Complainants' family. At the time Complainants resided at the subject property, Complainants' family visited them frequently, almost weekly, and Complainants were also able to spend a great deal of time with their great-grandchildren by babysitting.
48. Complainants also suffered emotional distress when Respondents contacted Complainants' family regarding their concerns about Complainants. Respondents' actions, specifically Respondent Schroden's actions, upset Complainants. After Respondent Schroden informed Complainants that Respondents were worried about Complainants' "memory issues," Complainants became upset and emotional as they, along with their family, did not feel that they needed assistance and were able to live independently.
49. As a result of the aforementioned discrimination, Complainants were in a very difficult situation, as they were forced to find another place to live rather quickly which caused them inconvenience and emotional distress. Complainants, unsure of where they were going to move, were upset as Complainants and their family were relentlessly told by Respondents that they needed to move and should not be living at Meadow Creek.
50. Complainants ultimately found a townhouse, approximately 20 miles away from the subject property. As a result, Complainants were distressed, as they were forced to move further away from their family and friends. Consequently, Complainants' family no longer visits Complainants as often, because they live too far away, making it difficult to visit on a regular basis. Even more upsetting, Complainants do not babysit their great-grandchildren as often, due to the distance between their family and the location of their new home.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to Section 42 U.S.C. §3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §3604(c), (f)(1)(A) and (f)(2)(A) of the Act, 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. §3601, *et seq.*;
2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with them from discriminating on the basis of disability against any person in any aspect of the purchase or rental of a dwelling;

3. Awards such damages as will fully compensate Complainants, aggrieved persons, for their actual damages caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. §3604(c), (f)(1)(A) and (f)(2)(A); and
4. Awards a \$16,000 civil penalty against each Respondent for each violation of the Act committed pursuant to 42 U.S.C. §3612(g)(3).

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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