

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	)	
	)	
Charging Party,	)	
	)	FHEO No. 09- 10- 11 99-8
v.	)	
	)	
Ron Broward,	)	
Donna Anderson,	)	
Summertree Apartments, a Limited Partnership,	)	
Broward Land Corporation,	)	
	)	
Respondents.	)	
	)	
	)	

CHARGE OF DISCRIMINATION

1. JURISDICTION

On August 19, 2010, \_\_\_\_\_ ("Complainant") filed a timely complaint with the U.S. Department of Housing and Urban Development ("HUD" or the "Department"), alleging that Summer Tree Apartments, a Limited Partnership; Ron Broward; Donna Anderson; and Broward Land Corporation (collectively "Respondents") violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the "Act" or "Fair Housing Act"), by refusing to make a reasonable accommodation in their rules, policies, or practices, when such accommodation was necessary to afford Complainant equal opportunity to use and enjoy her dwelling, in violation of 42 U.S.C. §§ 3604(f)(2)(A) and (0(3)(B).

The Act authorizes the Secretary of HUD to issue 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 of HUD has delegated to the General Counsel (24 C.F.R. §§ 103.400(a)(2)(i) and 103.405), the authority to issue such a Charge of Discrimination. The General Counsel has re-delegated to the Regional Counsel the authority to issue such a Charge (74 Fed. Reg. 62803), following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity, or his or her designee.

The Director of the Office of Fair Housing and Equal Opportunity in Region IX, 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 on the basis of disability, and has authorized and directed the issuance of this Charge of Discrimination. See 42 U.S.C. § 3610(g)(2). HUD's efforts to conciliate the complaint were unsuccessful. See 42 U.S.C. § 3610(b).

## 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, Respondents Summer Tree Apartments, a Limited Partnership; Ron Broward; Donna Anderson and Broward Land Corporation are charged with discriminating against Complainant \_\_\_\_\_ an aggrieved person as defined by 42 U.S.C. § 3602(i), based on disability in violation of 42 U.S.C. §§ 3604(f)(2)(A) and (f)(3)(B) of the Act as follows:

1. It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of the handicap of that person. 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b)(1).
2. For purposes of 42 U.S.C. § 3604(f), discrimination includes a refusal to make reasonable accommodation in rules, policies, practices, or services, when such accommodation 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(b).
3. The Act defines handicap as a physical or mental impairment which substantially limits one or more major life activities, a record of having such an impairment, or being regarded as having such an impairment. 42 U.S.C. § 3602(h), 24 C.F.R. § 100.201.
4. At all times relevant to this Charge, Complainant has had a handicap as defined under the Act. She has depression and lasting physical effects from a stroke she suffered in 2001, including speech and mobility impairments.
5. At all times relevant to this Charge, Complainant has resided at 601 Community Lane, No. 33, Woodland, CA 95695.
6. At all times relevant to this Charge, Complainant's daughter, \_\_\_\_\_ has acted as Complainant's representative ("Complainant's Representative").

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<sup>1</sup> Although the Fair Housing Act uses the term "handicap," for purposes of this Charge of Discrimination, the term "disability" may be used interchangeably. Therefore, "disability" will be used in all instances in which the Act is not directly referenced.

7. Respondent Summertree Apartments is an apartment community that receives HUD Assisted Housing Funds in the form of Section 223(f) financing. The apartment is owned by Respondent Ron Broward and management by Respondent Donna Anderson. Respondent Broward Land Corporation is an apartment management company.
8. Complainant has been a tenant at Summertree Apartments since February 2006.
9. In or around July 2009, Complainant began to babysit her infant grandson
10. On or about June 8, 2010, the maintenance manager at the subject property advised Complainant that she could not babysit her grandson.
11. On or about June 9, 2010, Complainant met with Respondent Anderson and was told that daily babysitting violated the "House Rules" of the subject property.
12. The "House Rules" are attached to each tenant's lease. "House Rule" Number 14 states, "Babysitting is not permitted on a daily basis."
13. During the June 9, 2010 meeting, Complainant verbally requested an accommodation to be allowed to babysit her grandson. Respondent Anderson asked Complainant to provide a doctor's note substantiating her need for an accommodation.
14. Per Respondent Anderson's request, by letter dated June 14, 2010, Dr. Carol Kimball advised Respondents that babysitting provided Complainant "exceptional therapeutic value." In the letter, Dr. Kimball requested that Respondents consider allowing Complainant to continue babysitting her grandson.
15. On or about June 23, 2010, Complainant's Representative called Respondent Broward and stated that she believed that Complainant was being discriminated against.
16. On June 29, 2010, Dr. Kimball sent Respondents another letter which stated that she would encourage them to allow Complainant to babysit her grandson as a "method of rehabilitation and treat[ment] of her disability." Dr. Kimball also stated that although Complainant has done well recovering from her stroke, she has, "done much better when she has been babysitting her grandson." The Mter also stated that Complainant was not well enough to drive to her daughter's home to babysit her grandson.
17. In addition to the earlier verbal request, on or about July 29, 2010, Complainant's Representative sent Respondent Broward a written request that Complainant be allowed to babysit as a reasonable accommodation for her disability.

18. By letter dated August 4, 2010, Respondent Broward denied Complainant's request for a reasonable accommodation. In his denial, Respondent alleged that allowing Complainant to babysit would result in other tenants asking to babysit, and would "fundamentally alter" the nature of the apartment complex, which was intended to be limited to elderly residents. Respondent Broward has also stated that allowing daily babysitting would create a "substantial" danger for elderly tenants.

ng to make a reasonable accommodation in their rules, policies, practices, or services, when such accommodation was necessary to afford Complainant an equal opportunity to use and enjoy her dwelling, Respondents discriminated against Complainant in violation of 42 U.S.C. §§ 3604(f)(2)(A) and (f)(3)(B).

#### HI. CONCLUSION

WHEREFORE, the Secretary of the U.S. 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 Respondents with engaging in discriminatory housing practices in violation of Section 3604(f)(2)(A) and (f)(3)(B) of the Act, and prays that an order be issued that:

- I. 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, and successors, and all other persons in active concert or participation with them from discriminating against any person because of disability in any aspect of the sale, rental, use, or enjoyment of a dwelling;
3. Awards such damages as will fully compensate Complainant including but not limited to, all out-of-pocket and medical expenses related to her emotional and physical distress, embarrassment, substantial inconvenience, stress, and any and all other damages caused by Respondents' discriminatory conduct;
4. Assesses a civil penalty against each Respondent for each violation of the Act that Respondent has committed; pursuant to 42 U.S.C. § 3612(g)(3);

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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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L/ C/Pr-Kimberly Y. Nash  
Regional Counsel, Region IX

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Dated: July 29, 2011