



The Region IV Director of the Office of Fair Housing and Equal Opportunity, on behalf of the Assistant Secretary of Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case based on disability, and has authorized the issuance of this Charge of Discrimination.

## II. SUMMARY OF THE ALLEGATIONS THAT SUPPORT THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and as set forth in the attached Determination of Reasonable Cause, Respondents are charged with discriminating against Complainant based on disability and interfering with Complainant's exercise and enjoyment of his fair housing rights in violation of Sections 3604 (f)(3)(B) and 3617 of the Act.

### A. LEGAL AUTHORITY

1. "Disability" means, with respect to a person, a physical or mental impairment which substantially limits one or more of the person's major life activities; a record of such an impairment; or being regarded as having such an impairment. 42 U.S.C. § 3602(h).
2. It is unlawful to discriminate against a person in the rental of a dwelling by refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B).
3. It is unlawful to coerce, intimidate, threaten, or interfere with 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 Sections 803, 804, 805, or 806 of the Fair Housing Act. 42 U.S.C. § 3617.

### B. PARTIES AND SUBJECT PROPERTY

4. Donald Akers ("Complainant") is a sixty-eight year old man and he is disabled. Complainant is an "aggrieved person" as defined by the Act. 42 U.S.C. § 3602(i).
5. Complainant suffers from lung disease, a heart condition, and mobility impairments. These physical impairments substantially limit one or more of Complainant's major life activities, including his ability to stand and walk. As a result, Complainant uses a motorized scooter and a wheelchair for mobility. He also uses portable oxygen to aid with his lung conditions. Complainant is a "disabled person" as defined by the Act. 42 U.S.C. § 3602(h).
6. At all times relevant to this charge, Complainant rented an apartment at Gulf Towers Apartments, 940 Beach Boulevard, Biloxi, Harrison County, Mississippi 39530 (the "subject property" or "Gulf Towers"). The subject property is comprised of

approximately one hundred-ten (110) single-family "dwellings" as defined by the Act. 42 U.S.C. § 3602(b).

7. Midtown Development, LLC is the legal owner of Gulf Tower Apartments, the subject property.

8. At all times relevant to this charge, Respondent Deborah Stracener was employed by Midtown Development, LLC as the Site Manager at the subject property.

### C. FACTUAL ALLEGATIONS

9. On March 1, 2005, Complainant executed an apartment lease agreement for the rental of apartment #510 at Gulf Towers. During his lease, Complainant moved to a two-bedroom unit, apartment #609.

10. Respondents became aware of Complainant's physical disabilities during his lease.

11. On several occasions in June 2005 through August 2005, Complainant requested that Respondent Stracener provide him with an accessible parking space designated specifically for his use. Respondent Stracener knew Complainant was disabled when he made his request.

12. HUD's investigation established that ten (10) disabled residents lived at Gulf Towers at the time Complainant made his reasonable accommodation requests for a designated accessible parking space.

13. None of the other disabled residents ever made a reasonable accommodation request.

14. HUD's investigation established that Respondents designated between two (2) and seven (7) of the parking spaces at Gulf Towers for use by disabled individuals at the time Complainant made his requests for a parking space. Complainant and another former resident who is disabled often found it difficult to find an unoccupied accessible parking space.

15. Respondents repeatedly refused to provide Complainant with an accessible parking space designated specifically for his use.

16. On one occasion, Respondent Stracener tore up Complainant's written request for a designated accessible parking space. Respondent Stracener did this in front of Complainant and threw it in the trash.

17. On another occasion, Respondent Stracener responded to Complainant's oral request for a designated accessible parking space by stating: "I don't have to give you a handicap parking space. I'll just evict you". Another former resident overheard this statement.

18. On August 3, 2005 and again on August 11, 2005, following Complainant's requests for a reasonable accommodation and complaints made to the Respondents about the lack

of adequate accessible parking, Complainant received a three-day eviction notice signed by Respondent Stracener. The notice indicated that Complainant was being evicted "for breach of 6-7 of the Lease. Disorderly conduct that interferes with other Resident's enjoyment." Rules six (6) and seven (7) of Gulf Towers' "Rules and Regulations" concern pets and the use of parking facilities, respectively.

19. Hurricane Katrina decimated the Gulf Towers property on August 29, 2005, and the property was rendered uninhabitable. Complainant has since relocated.

20. Complainant has suffered injuries, including, but not limited to, emotional and physical distress, inconvenience, and humiliation as a result of Respondents' refusal to provide him with a reasonable accommodation and Respondents' attempts to evict him and interfere with Complainant's exercise and enjoyment of his fair housing rights.

#### D. FAIR HOUSING ACT VIOLATIONS

21. By refusing to provide Complainant with the requested accessible parking space designated specifically for his use, despite being aware of his disability and the lack of an adequate number of accessible parking spaces designated for disabled individuals, Respondents failed to provide Complainant with a reasonable accommodation, in violation of 42 U.S.C. § 3604(f)(3)(B).

22. By tearing up Complainant's written request for a reasonable accommodation, threatening Complainant with eviction in response to such a request, and by actually attempting to evict Complainant after he made the request, Respondents coerced, intimidated, threatened, and interfered with Complainant's fair housing rights, in violation of 42 U.S.C. § 3617.

#### III. CONCLUSION

Wherefore, the Secretary of HUD, through the Office of General Counsel, and pursuant to 42 U.S.C. §§ 3610(g)(2)(A) and (g)(3), hereby charges Respondents with engaging in discriminatory housing practices as set forth above, and prays that an order be issued that:

A. Declares that the Respondents' discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;

B. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating against any person based on disability in any aspect of the rental, sale, occupancy, use or enjoyment of a dwelling;

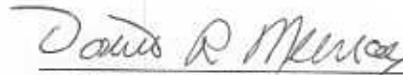
C. Awards such monetary damages as will fully compensate Complainant for his economic loss, including but not limited to, out-of-pocket expenses, and for emotional

and physical distress, embarrassment, humiliation, inconvenience, and all other damages caused by the Respondents' discriminatory conduct;

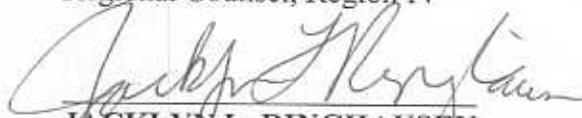
D. Awards a \$16,000 civil penalty against each Respondent for each violation of the Act; and

E. Awards such additional relief as may be appropriate pursuant to 42 U.S.C. § 3612 (g)(3).

Respectfully submitted,



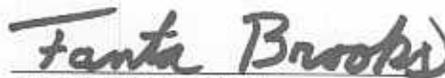
**DONNIE R. MURRAY**  
Regional Counsel, Region IV



**JACKLYN L. RINGHAUSEN**  
Deputy Regional Counsel



**SHERRIL R. SMITH**  
Associate Regional Counsel



**FANTA BROOKS**  
Attorney Advisor  
U.S. Department of Housing  
and Urban Development  
Office of Counsel – Region IV  
Five Points Plaza – 3<sup>rd</sup> Floor  
40 Marietta Street, S.W.  
Atlanta, GA 30303-2806  
Tel: 404.331.5001 ext. 2078  
Fax: 404.730.3315

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