

UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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The Secretary, United States )  
Department of Housing and Urban )  
Development, on behalf of )  
Sheryl Pick, )  
Charging Party, )  
 )  
v. )  
 )  
Air Park – Dallas Zoning Committee, )  
Crow-Billingsley Air Park, Ltd., Airpark )  
GP, L.L.C., Henry Billingsley, Lucy )  
Billingsley, David Noell, Lucilo Peña, )  
Respondents. )  
\_\_\_\_\_ )

FHEO No. 06-07-0801-8

CHARGE OF DISCRIMINATION

**I. JURISDICTION**

On June 11, 2007, Sheryl Pick (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Henry Billingsley 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). The complaint was amended on July 20, 2007 to add Air Park – Dallas Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Lucy Billingsley, David Noell, and Lucilo Peña as Respondents. The complaint was again amended on November 20, 2007, to correctly identify Respondent Crow-Billingsley Air Park, Ltd. as a separate entity from Respondent Airpark GP, L.L.C, to change the reasonable modification claim to a reasonable accommodation claim, and to remove Alfred Pick as a complainant.

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 (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel (67 Fed.Reg. 44234) the authority to issue such a Charge, following a determination of reasonable cause by HUD.

By determination of reasonable cause on February 27, 2008, the Director of the Office of Fair Housing and Equal Opportunity for the Southwest HUB, 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 the aforementioned Determination of Reasonable Cause, Respondents Air Park – Dallas Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña are charged with discriminating against Complainant Sheryl Pick, an aggrieved person, based on disability in violation of 42 U.S.C. § 3604(f)(2) and (f)(3) of the Act as follows:

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such a dwelling, because of a disability of that person. 42 U.S.C. § 3604(f)(2).
2. It is unlawful to refuse 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). This includes public and common use areas.
3. Respondent Air Park – Dallas Zoning Committee (hereinafter “Zoning Committee”) is an unincorporated association and the governing body of Air Park Estates, the neighborhood in which Complainant Sheryl Pick resides.
4. Respondent Crow-Billingsley Air Park, Ltd. is a limited partnership that owns the community areas of Air Park Estates. According to Texas Secretary of State records, Crow-Billingsley Air Park, Ltd. is located at 4100 International Parkway, Suite 1100, Carrollton, Texas, 75007. The registered agent for Crow-Billingsley Air Park, Ltd. is Henry Billingsley, located at 4100 International Parkway, Suite 1100, Carrollton, Texas, 75007.
5. Respondent Airpark GP, L.L.C. is the general partner of Crow-Billingsley Air Park, Ltd. According to the Texas Secretary of State records, Airpark GP, L.L.C. is located at 4100 International Parkway, Suite 1100, Carrollton, Texas, 75007. The registered agent for Airpark GP, L.L.C. is Henry Billingsley, located at 4100 International Parkway, Suite 1100, Carrollton, Texas, 75007.
6. At all relevant times, Respondents Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña made up the Board of Directors of the Air Park – Dallas Zoning Committee, and jointly made decisions to deny Complainant Sheryl Pick’s requests for reasonable accommodation.

7. Complainant Sheryl Pick is an individual with a disability as defined by the Fair Housing Act. Complainant has a physical impairment, profound spinal cord dysfunction, which substantially limits her mobility and balance.
8. In the summer of 2002, Complainant Pick and her husband<sup>1</sup> verbally inquired to two members<sup>2</sup> of the Zoning Committee whether they needed to submit a written request to install a footbridge, which was necessary because of Complainant Pick's disability. Those two members stated that a written request was unnecessary and voiced approval for the footbridge's installation.
9. Pursuant to this authorization, in the summer of 2002, Complainant Pick's husband installed a footbridge to cross a drainage ditch at the front of their property, so that Complainant Pick could directly access her mailbox. The footbridge is arched to avoid the water which accumulates in the drainage ditch during rainy periods. The footbridge also has a handrail to aid Complainant Pick in maneuvering over the arched bridge. The footbridge does not extend into the street in front of Complainant's residence; however, Respondent Zoning Committee contends the footbridge extends into a right-of-way owned by Respondent Crow-Billingsley Air Park, Ltd.
10. On September 15, 2004, Respondent Zoning Committee made the first of several written requests to the Picks to remove the footbridge.
11. On October 8, 2004, Complainant Pick notified Respondent Zoning Committee by letter that she was disabled and needed the footbridge in order to cross the drainage ditch at the front of her property so she could access the street and her mailbox.
12. On October 17, 2004, the Zoning Committee, consisting of Respondents Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña, voted to notify Complainant Pick and her husband that they wanted the footbridge removed. That notification took place in writing on October 22, 2004.
13. On January 18, 2006, Respondent Zoning Committee filed a lawsuit against Complainant's husband, Alfred Pick, alleging Mr. Pick violated the restrictive covenants by building the footbridge in the front of his residence, that allegedly extends beyond his property line, without authorization.
14. On February 23, 2006, Alfred Pick filed an Answer to the lawsuit, which included the fact that Sheryl Pick has a disability which requires the use of the

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<sup>1</sup> Complainant's husband, Alfred Pick, is not a party to this case. Because he was sued by Respondent Zoning Committee regarding the footbridge and signed a Mediation Agreement to settle the dispute, Alfred Pick terminated his interest in the HUD Fair Housing Act lawsuit.

<sup>2</sup> One of these members was the President of the Zoning Committee at the time; however, these two individuals are no longer members of the Zoning Committee.

footbridge to access her mailbox. Mr. Pick also filed three Amended Answers, each of which identified Ms. Pick as needing the footbridge due to her disability.

15. On February 26, 2007, Complainant Pick requested by letter that Respondents allow her to keep the footbridge because she needed it for her disability. Complainant Pick also provided documentation in the form of a letter from her doctor which substantiated her need for the footbridge.
16. On March 2, 2007, Respondent Zoning Committee, consisting of Henry Billingsley, Lucy Billingsley, and David Noell (Lucilo Peña was not present), voted not to allow the existing footbridge, but to offer Complainant Pick an at-grade walkway as an alternative.<sup>3</sup> Respondents' offer of an at-grade walkway was not communicated to Complainant Pick until March 28, 2007.
17. On July 18, 2007 and November 29, 2007, HUD conducted an onsite investigation during which it was observed that many residents had structures located in the alleged right-of-way, ranging from a flagpole to trees and shrubbery. The investigation revealed that these structures were erected without previous authorization from the Zoning Committee, and Respondent Zoning Committee has not sued any other residents over the location of these structures.
18. By subjecting Complainant Pick to different terms and conditions because of her disability and by failing to grant Complainant Pick's request for reasonable accommodation in the form of allowing the existing footbridge, when such accommodation may be necessary to afford Complainant equal opportunity to use and enjoy a dwelling unit, Respondents Air Park – Dallas Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña have violated 42 U.S.C. § 3604(f)(2) and (f)(3)(B).
19. Because of Respondents Air Park – Dallas Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña's discriminatory conduct, Complainant Sheryl Pick suffered damages, including emotional and physical distress and inconvenience. She has had to seek psychiatric help to deal with her emotional distress, and the situation has aggravated her medical condition, causing her to increase her use of medications.

### **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 Respondents Air Park – Dallas

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<sup>3</sup> In an effort to settle the lawsuit against her husband, Complainant Sheryl Pick tentatively agreed to an alternative walkway. However, as of the date of the filing of this Charge, no final resolution has been reached.

Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 of the Act, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents Air Park – Dallas Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña, as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 et seq.;
2. Enjoins Respondents Air Park – Dallas Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña, 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 Respondents Air Park – Dallas Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña to maintain and follow a written policy at Airpark – Dallas Estates regarding consideration of requests for reasonable accommodation;
4. Awards such damages as will fully compensate Complainant Sheryl Pick, an aggrieved person, for her damages, including compensation for emotional and physical distress, caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3604; and,
5. Awards a civil penalty against Respondents Air Park – Dallas Zoning Committee, Crow-Billingsley Air Park, Ltd., Airpark GP, L.L.C., Henry Billingsley, Lucy Billingsley, David Noell, and Lucilo Peña 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).

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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  
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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