

**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	)	
Lorine Snyder,	)	
	)	
Charging Party,	)	
	)	
v.	)	FHEO No. 10-03-0141-8
	)	
Susan R. Reeves, Richard L. Reeves, and	)	
Red Oaks Assisted Living, Inc.,	)	
	)	
Respondents.	)	
_____	)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On May 1, 2003, Complainant, Lorine Snyder, an aggrieved person, filed a timely verified complaint with the United States Department of Housing and Urban Development (“HUD”). The complaint alleged that Respondents, Susan and Richard Reeves and Red Oaks Assisted Living, Inc., discriminated against Complainant by constructively evicting her from her residence because of her disability in violation of the Fair Housing Act (“Act”), as amended, 42 U.S.C. §§ 3601-3619.

The Act authorizes issuance of a charge of discrimination on behalf of the 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)-(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 the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Director of the Fair Housing and Equal Opportunity HUB for the Northwest/Alaska Area has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and authorized the issuance of this Charge of Discrimination.

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

Based on HUD's investigation of the complaint and the attached determination of reasonable cause, Respondents are hereby charged with violations of the Act, specifically, 42 U.S.C. § 3604(f)(1)-(2) and § 3617, as set forth below.

1. It is unlawful to discriminate in the rental of, or to otherwise make unavailable or deny, a dwelling to any renter because of a handicap of that renter. 42 U.S.C. § 3604 (f)(1). Prohibited actions include evicting a tenant because of handicap. 24 C.F.R. § 100.60(b)(5).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person. 42 U.S.C. § 3604(f)(2).
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 Section 803, 804, 805 or 806 of the Act. 42 U.S.C. § 3617.
4. The term "handicap" is defined in the Act as a physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such an impairment or being regarded as having such an impairment.<sup>1</sup> 42 U.S.C. § 3602(h). The HUD regulations define "physical or mental impairment" to include Human Immunodeficiency Virus (HIV) infection. 24 C.F.R. § 100.201.
5. The subject property, Red Oaks Assisted Living ("Red Oaks"), is an assisted living home for up to 16 adult residents with mental and/or physical disabilities. Red Oaks is located at 8811 Cordell Circle, Anchorage, Alaska.
6. Complainant, Lorine Snyder, has multiple physical and mental impairments, including end stage liver disease, major depression, and seizure disorder, which substantially limit her ability to perform certain activities of daily living, including grooming, bathing, dressing, cooking, housekeeping and laundering. Complainant is also a recovering alcoholic, who had been sober for 15 months at the time of the discrimination. Complainant was disabled by these conditions.
7. In late 2001, Complainant was diagnosed as infected with the Human Immunodeficiency Virus (HIV). At all times relevant herein, Complainant's HIV was asymptomatic and did not require medication.

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<sup>1</sup> "Disability" is used interchangeably with "handicap" herein.

8. Complainant's HIV infection is a handicap within the meaning of the Act because asymptomatic HIV substantially limits one or more major life activities or, in the alternative, because Respondents perceived Complainant's HIV infection as substantially limiting one or more major life activities, including her ability to socialize, interact or reside with non-HIV-infected persons.
9. Respondent Red Oaks Assisted Living, Inc., an Alaska corporation, is the legal owner of Red Oaks.
10. Respondents Susan R. Reeves and Richard L. Reeves are the sole shareholders in Respondent Red Oaks Assisted Living, Inc., with each holding a 50 percent ownership interest. Respondents Reeves are also the managers of Red Oaks. The Reeves do not live at the subject property.
11. On or about June 6, 2002, Complainant moved into Red Oaks. Complainant asked her care coordinator, JoAnn Wise, not to disclose her HIV positive status to Respondents. Neither Complainant nor Ms. Wise were legally obligated to disclose this diagnosis.
12. On or about June 12, 2002, Complainant's care coordinator gave Respondents a Plan of Care for Complainant. In the Plan of Care, Ms. Wise wrote that "Universal hand washing will be observed," in reference to the Universal Precautions that should be followed with all patients to avoid the spread of infectious diseases.
13. While residing at Red Oaks, Complainant was careful to maintain the confidentiality of her medical condition.
14. On Friday, January 10, 2003, when Complainant returned to Red Oaks from a medical appointment, she gave the doctor's notes to Respondent Susan Reeves so Respondents could order exercise equipment the doctor had authorized. Complainant did not realize that the notes also stated that she had been recently diagnosed with HIV.
15. Respondent Susan Reeves found the HIV reference in the doctor's notes the same day and asked Complainant if she had been diagnosed with HIV. Complainant confirmed that she had. Ms. Reeves asked her when, and Complainant told her it was "a year ago."
16. On or about January 10, 2003, Respondent Susan Reeves asked Complainant if her HIV positive status was the reason she made a will.
17. On Sunday, January 12, 2003, Respondent Susan Reeves again asked Complainant when she was diagnosed with HIV. Complainant said it was when she was in the hospital. Ms. Reeves asked if this was before she moved into Red Oaks, and Complainant said it was. Ms. Reeves asked if and when Complainant's care coordinator, JoAnn Wise, knew she was HIV positive. Complainant told her that Ms. Wise found out while she was in the hospital.

18. On or about January 12, 2003, Respondent Susan Reeves asked Complainant to sign a release of records. Complainant did not sign the release.
19. On January 12, 2003, Complainant called Ms. Wise and told her that Respondents had asked her about her HIV diagnosis and wanted her to sign a release. Ms. Wise noticed that Complainant was starting to shut down emotionally.
20. On January 12, 2003, Respondent Susan Reeves sent a fax to JoAnn Wise, asking her to fax or email a copy of Complainant's Medicaid Choice Assessment and General Relief application to Ms. Reeves the next day, Monday. Ms. Wise sent a reply fax asking Ms. Reeves to call her on Monday, adding "I think you want the Plan of Care - ?"
21. On Monday, January 13, 2003, Respondent Susan Reeves sent a second fax to JoAnn Wise stating, "I have the Plan of Care. I would like the Medicaid Choice Assessment and General Relief Application."
22. On January 14, 2003, JoAnn Wise went to Red Oaks to meet with Complainant and Respondent Susan Reeves. Upon learning that Ms. Reeves was not there, Ms. Wise called her cell phone. Ms. Wise asked Ms. Reeves why she needed a copy of the Medicaid Choice Assessment, to which Ms. Reeves replied that she needed a copy of Complainant's official diagnosis. Ms. Wise said the Assessment is not something she ordinarily gives to assisted living homes and she would have to ask Complainant to sign a release. Ms. Reeves then asked instead for a physician's statement. Ms. Wise said this would also require a release. Ms. Reeves hung up on Ms. Wise.
23. A few minutes later, Respondent Susan Reeves called JoAnn Wise, saying she still wanted the Medicaid Choice Assessment. Ms. Wise again asked why, and Ms. Reeves responded that Ms. Wise lied to her in placing Complainant. She accused Ms. Wise of putting Ms. Reeves, her family, her staff, and her residents at risk for contracting HIV. Ms. Reeves said it was an irresponsible placement because Ms. Wise knew that her young children often came to work with her. Ms. Wise told Respondent that she had been told by the Department of Senior Services that she did not have to disclose an HIV diagnosis when placing a resident.
24. Respondent Susan Reeves then told JoAnn Wise that she was going to evict Complainant because of Ms. Wise's dishonesty and because Respondents were not knowledgeable or trained on how to work with someone with HIV. Ms. Reeves also said she would sue Ms. Wise for assault and reckless endangerment.
25. As soon as the call ended, JoAnn Wise told Complainant that Respondents were going to evict her and sue Ms. Wise. Ms. Wise asked Complainant what she wanted to do, and Complainant replied that she wanted to leave right away.

26. A few minutes after the call, Respondent Richard Reeves arrived at Red Oaks with a large black dog and came up the stairs. Ms. Wise did not recognize him or the dog. Mr. Reeves asked if she was JoAnn Wise, then told her to leave the property immediately. Mr. Reeves was angry and Ms. Wise felt intimidated; she left the property.
27. From her car, Ms. Wise called Adult Protective Services (APS). APS told her that Complainant was in danger and should be moved out of Red Oaks as soon as possible. APS advised Ms. Wise not to return to Red Oaks and to call the police for assistance. Ms. Wise did not call police but immediately began searching for replacement housing for Complainant.
28. On January 14, 2003, after Ms. Wise left Red Oaks, Respondent Susan Reeves was told by two state agencies not to evict Complainant. APS informed her that Ms. Wise was not required to disclose Complainant's diagnosis and Respondents could not legally evict Complainant. The Division of Mental Health and Developmental Disabilities told her to hold off on serving a 30-day notice until they consulted their attorneys.
29. Complainant moved out of Red Oaks in the evening of January 14, 2003. Respondents gave Complainant a voluntary termination of contract form to sign, but she refused, as she did not consider her leaving to be voluntary.
30. Respondents never retracted Ms. Reeves' threat to evict Complainant, nor did they take any steps to ameliorate the environment they created prior to Complainant's departure.
31. Complainant's HIV positive status did not present a threat to the health or safety of the residents, staff or guests of Red Oaks. None of the services provided by Red Oaks involved exposure to Complainant's blood.
32. Complainant was devastated by the treatment she and her care coordinator received after Respondents learned of her HIV diagnosis. Complainant realized that staying where she was not wanted would jeopardize her physical and mental health. She worried that she would start drinking or taking drugs again if she stayed. Prior to the Respondents' discovery of her HIV status, Complainant had no plans to move from Red Oaks. Her experience intensified her fear of further rejection if others learned she had HIV.
33. Respondents committed unlawful discrimination by constructively evicting Complainant from the subject property because of her handicap, in violation of 42 U.S.C. § 3604 (f)(1).

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34. Respondents engaged in unlawful conduct by subjecting Complainant to discrimination in the terms, conditions, or privileges of rental at the subject property because of her handicap, including demanding that her care coordinator leave the property, threatening to terminate her tenancy, threatening to sue her care coordinator, asking her to sign an additional medical release, seeking detailed medical information about her HIV diagnosis, and repeatedly asking questions about her diagnosis, in violation of 42 U.S.C. § 3604(f)(2).
35. Respondents further committed unlawful discrimination by intimidating and threatening Complainant and substantially interfering with her enjoyment of the subject property because of her handicap, violation of 42 U.S.C. § 3617.
36. As a result of Respondents' discriminatory conduct, Complainant, Lorine Snyder, has suffered damages, including economic loss, inconvenience, emotional distress and loss of an important housing opportunity.

III. PRAYER FOR RELIEF

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Regional Counsel for Region X, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 and § 3617, and prays that an order be issued pursuant to 42 U.S.C. § 3612(g)(3) that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with them from discriminating on the basis of handicap in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant, Lorine Snyder, for her damages caused by Respondents' discriminatory conduct;
4. Awards a civil penalty against Respondents Red Oaks Assisted Living, Inc., Susan Reeves and Richard Reeves for each violation of the Act committed; and,

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5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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DAVID F. MORADO  
Regional Counsel, Region X

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