

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)
Kathy Lunde,)
Charging Party,)
)
v.)
)
Stephen Schmidt, Cathryn Schmidt,)
and Cynthia Fulreader,)
Respondents.)
)
_____)

FHEO No. 06-07-0501-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about February 26, 2007, Kathy Lunde (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader (Respondents) 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 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 for Fair Housing Enforcement (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 29, 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 Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader are charged with discriminating against Complainant Kathy Lunde, an aggrieved person, based on disability in violation of 42 U.S.C. § 3604(f) of the Act as follows:

1. It is unlawful to discriminate in the sale or rental, 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).
2. 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)(A).
3. "Disability" means, with respect to a person (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment..." 42 U.S.C. § 3602 (h).
4. At all relevant times, Respondents Stephen Schmidt and Cathryn Schmidt, a married couple, were the owners of the subject property. The subject property is the Amma Center of New Mexico, 48 Stone Cabin, Santa Fe, New Mexico. The subject property is an ashram, which is defined as (1) a secluded dwelling of a Hindu sage; also: the group of disciples instructed there; (2) a religious retreat.
5. Residents of the subject property pay \$350 per month in rent during their tenancy, and may share a room with another resident, depending upon the occupancy. Residents are required to follow the teachings of Amma and follow the rules and policies of the subject property which include doing chores.
6. Respondent Cynthia Fulreader is a volunteer at the ashram and a licensed therapist. Though Respondent Fulreader did not reside at the subject property, she was an agent of Respondent owners Stephen and Cathryn Schmidt. On multiple occasions, Respondent Cathryn Schmidt instructed Complainant Lunde to contact Respondent Fulreader with any issues, if the Schmidts were not available.
7. Complainant Kathy Lunde is an individual with disabilities. She has a degenerative disc disease and bipolar disorder. She has a record of having anorexia, but does not currently have anorexia. She was regarded as having anorexia by Respondents and other residents.
8. At all relevant times, Complainant Kathy Lunde paid \$350 per month in rent, followed the teachings of Amma, completed chores, and was otherwise qualified to reside at the subject property.

9. On or about September 1, 2006, Complainant Lunde moved into the subject property.
10. On or about September 15, 2006, Complainant Lunde completed the application process and was approved by the application committee.
11. Within a few days of move-in, Complainant Lunde was asked by a resident whether she had an eating disorder. Complainant Lunde informed this resident that she was a former marathon runner and developed anorexia during her training. She then informed the resident that she had been recovering from anorexia for over seven years, eats less at a sitting, but eats six to eight times a day, and that anorexia was no longer an issue.
12. During October 2006, Complainant Lunde shared a room with another resident. That resident also questioned Complainant Lunde about her thin build. Complainant Lunde told the roommate about her past history of anorexia and her recovery.
13. During her tenancy, Complainant Lunde gave two residents envelopes containing emergency medical information, including a Do Not Resuscitate Order and a list of doctors' information and medication.
14. During her tenancy, Complainant Lunde had ongoing health issues, including back pain, stomach flu, and exhaustion.
15. In late November 2006, Complainant Lunde left the subject property to visit her father. In her absence, some of the residents of the subject property came together to discuss Complainant Lunde's ongoing health issues and concluded Complainant Lunde was currently anorexic and needed to get medical attention.
16. On or about December 24, 2006, the residents of the subject property met with Respondents Cynthia Fulreader and Cathryn Schmidt to voice their concerns about Complainant Lunde's perceived anorexia and her need to receive better treatment from her doctors. During this meeting, the residents and Respondents Fulreader and Schmidt decided to take a course of action to help Complainant Lunde receive medical attention. Respondent Cathryn Schmidt stated in her interview, "it was not possible to run and function as an Ashram with persons that are mentally unstable."
17. Approximately one week after the December 24, 2006, meeting, Respondents Cathryn Schmidt and Cynthia Fulreader decided, during a telephone conversation, to ask Complainant Lunde to delay her return until a medical assessment could be completed.
18. From January 3, 2007 until approximately January 7, 2007, Respondent Fulreader corresponded with Complainant Lunde via email to request Complainant Lunde delay her return to the subject property.

19. During this period in January, Respondent Fulreader and Complainant Lunde also conversed by telephone wherein Complainant Lunde told Respondent Fulreader that Respondents were overreacting, that there was a misunderstanding, and she was fine. Respondent Fulreader asked Complainant Lunde to provide her doctor's information so Respondent Fulreader could contact her doctor to verify that living at the subject property was not endangering her health.
20. After further discussion, Complainant Lunde asked Respondent Fulreader whether Respondents' request for her delay meant she could not return the following week to the subject property as she originally planned, and Respondent Fulreader concurred Complainant Lunde could not return as planned.
21. Because Respondent Fulreader told Complainant Lunde she could not return, Complainant Lunde then decided to move permanently from the subject property. On or about January 8, 2007, Complainant Lunde had movers remove her belongings from the subject property.
22. By otherwise making unavailable or denying the subject property to Complainant Lunde because she was regarded as having a disability, or because she had a record of having a disability, Respondents Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader violated 42 U.S.C. § 3604(f)(1)(A).
23. By subjecting Complainant Lunde to different terms and conditions because she was regarded as having a disability or because she had a record of having a disability, by requiring Complainant Lunde provide her doctor's contact information so Respondents could consult about her perceived medical condition before Complainant Lunde would be allowed to return to the subject property, Respondents Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader violated 42 U.S.C. § 3604(f)(2)(A).
24. Because of Respondents Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader's discriminatory conduct, Complainant Lunde has suffered damages, including emotional distress, economic loss, inconvenience, and loss of a housing opportunity. Because of Respondents Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader's discriminatory conduct, Complainant Lunde had to hire movers to remove her belongings from the subject property, and she had to live in a hotel for a month before suitable housing could be located. In addition, Complainant was not able to live in a secluded area where she could worship as she wished, and the discrimination and subsequent housing situation negatively impacted Complainant Lunde.

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 Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f) of the Act, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;
2. Enjoins Respondents Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader, 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. Awards such damages as will fully compensate Complainant Kathy Lunde, an aggrieved person, for her damages, including compensation for economic loss and physical and emotional distress caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. §3604(f); and;
4. Awards a civil penalty against Respondents Stephen Schmidt, Cathryn Schmidt, and Cynthia Fulreader 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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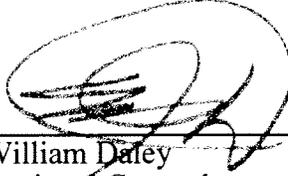
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Respectfully submitted,



William Daley
Regional Counsel
Office of General Counsel
Region VI



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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