

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)	
)	
Richard Singsime,)	
)	
Charging Party,)	HUD ALJ No.
)	FHEO Nos. 05-09-0210-8
v.)	
)	
WHPC-DWR LLC and)	
Cardinal Capital Management, Inc.,)	
)	
Respondents.)	
_____)	

CHARGE OF DISCRIMINATION

I. **JURISDICTION**

On or about November 18, 2008, Complainant Richard Singsime officially filed a verified complaint with the United States Department of Housing and Urban Development (“HUD” or “the Department”) alleging that Respondents Dee Luebke of Village Square Apartments and Respondents Bob McCormick and [REDACTED] of Cardinal Capital Management, Incorporated violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the “Act”), by discriminating based on disability, specifically, in violation of 42 U.S.C. §§ 3604(f)(3)(B), by refusing to provide him with a reasonable accommodation in the form of an accessible parking space. On April 28, 2010, the complaint was amended to add Respondents WHPC-DWR LLC and Cardinal Capital Management, Inc., and remove [REDACTED]

The Act authorizes the issuance of a Charge of Discrimination 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.

¹ The determination finds reasonable cause against all respondents, but the Department has not authorized a Charge of Discrimination against Respondents Dee Luebke or Bob McCormick in their individual capacities. In addition, a Section 504 violation is alleged and will be addressed under separate administrative process.

§ 3610(g)(1) and (2).² The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has retained and re-delegated to the Regional Counsel (73 Fed.Reg. 68442) 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 Office of Fair Housing and Equal Opportunity Region V Director, 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 Determination of Reasonable Cause, Respondents WHPC-DWR, LLC ("WHPC") and Cardinal Capital Management, Inc. ("CCM") are charged with discriminating against Complainant Richard Singsime, an aggrieved person as defined by 42 U.S.C. § 3602(i), based on disability in violation of 42 U.S.C. 3604(f)(1) and (f)(3)(B) 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-- (A) that buyer or renter, (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available, or (C) any person associated with that buyer or renter. 42 U.S.C. §3604(f)(1).
2. Discrimination includes a refusal to make a reasonable accommodation 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. "Disabled" 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 impairment, or (3) being regarded as having such impairment. 42 U.S.C. §3602(h).³
4. Village Square Apartments ("Village Square") is a federally funded multi-family dwelling containing eighteen (18) one bedroom units located at 204 Madison Street, Walworth, Walworth County, Wisconsin. It has a project based Section 8 Housing Assistance Payment ("HAP") contract with HUD. Its tenancy is limited to elderly and disabled individuals. All of its units are Section 8 subsidized.

² Complainant's 903 complaint included an allegation of retaliation in violation of 42 U.S.C. §3617. After an investigation, the Office of Fair Housing and Equal Opportunity determined that there was no reasonable cause to believe the violation occurred.

³ The term "disabled" has been substituted for "handicap" in this Charge, and has precisely the same meaning.

5. The HAP contract for Village Square (Section 8 Project Number WI39-H200-192) states at Section 2.11 "Nondiscrimination" at (a): "The owner shall not in the selection of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, national origin, or handicap."
6. At all times relevant to this charge, Respondent WHPC owned Village Square. According to the State of Wisconsin, WHPC was formed by the state exclusively for charitable and educational purposes. The principal purposes of WHPC include, without limitation, the development of programs to provide housing: (i) that would otherwise not be affordable to persons of very low, low and moderate income in the State of Wisconsin; (ii) for the purpose of reducing or eliminating prejudice and discrimination and which will promote the lessening of neighborhood tension; and (iii) which will combat community deterioration.
7. At all times relevant to this charge, Respondent CCM was the property management agent for WHPC and provided property management services at Village Square, which included the review of reasonable accommodation requests by tenants. Respondent CCM holds itself out to the public as a corporation committed to housing preservation and special-needs and multi-family housing development. It self-describes its activities as: 1) property acquisition of multifamily market rate and affordable housing in Wisconsin and its neighboring states; 2) special needs housing; 3) property management for profit and non-profit organizations, government agencies and institutions. It states that its subsidiary, Cardinal/Astar, manages over 5300 units of housing in 111 distinct projects for WHPC.
8. At all times relevant to this Charge, Dee Luebke was employed by Respondent CCM as an onsite manager at Village Square.
9. At all times relevant to this Charge, Robert McCormick was employed by Respondent CCM as a senior property manager and Section 504 compliance officer, whose duties included oversight of the property management of Village Square. On information and belief, Luebke reported to McCormick.
10. Complainant Richard Singsime is a 52 year old man who has [REDACTED]
[REDACTED]
[REDACTED]. As a result of his disabilities, Complainant is unable to work and receives Social Security Disability Income. Complainant uses assistive devices to help him walk, including a cane and braces on both legs from the ankle to the thigh. He has also been approved for medical use of a scooter and maintains an accessible parking placard that entitles him to park in accessible parking spaces reserved for the physically disabled. Complainant Singsime was a

tenant at Village Square from on or about October 1, 2008 to on or about November 19, 2009.

11. At all relevant times to this Charge, Village Square had 12 parking spaces—numbered 1-12 -available for the tenants of its 18 units, 2 of which were designated “handicap accessible.” Parking spaces 8-12 were the most proximate parking spaces to the Village Square entrance, with space 12 being closest to the door. Parking spaces numbered 1-7 were located across the parking lot; it was necessary to cross the parking lot to get to the entrance door from these spaces. All parking at Village Square was available on a “first-come, first-served” basis, including the accessible parking.
12. At all relevant times to this Charge, the accessible parking spaces were numbered 11 and 12, and were designated by signage and/or marking with the universal symbol of accessibility. Spaces 11 and 12 shared a diagonally striped access aisle. Space 12 was closest to the door and had the only access to an accessible pedestrian path of travel, as space 11 lacked a curb cut. Space 11 also lacked appropriate signage, making it difficult to identify as an accessible parking space.
- ~~13. On information and belief, at all times relevant to this Charge, 9 Village Square residents, including Complainant, had vehicles; of those, 4, including Complainant, had accessible parking placards or license plates that permitted them to park in reserved accessible parking for the physically disabled.~~
14. In or around September of 2008, Complainant, who was on a waiting list for Village Square, received a call inviting him to apply. On or about September 18, 2008, he visited the property in person and met with Dee Luebke. At that meeting, Complainant was wearing shorts and his leg braces were clearly visible to Luebke. Noting that Complainant had a dog, Luebke suggested that Complainant rent an apartment near the exit door and commented that Complainant wouldn’t have to walk as far, or words to that effect. In his application process, Complainant identified himself as disabled and identified his source of income as Social Security.
15. Complainant’s HUD certification of tenant eligibility identifies Complainant’s source of income as “Social Security” and the “Special Status” box is marked “H.” The certification indicates that Complainant was approved as eligible to live at Village Square, where the only individuals eligible for tenancy are elderly or disabled.
16. In an interview, Luebke admitted to a HUD Equal Opportunity Specialist that she knew that Complainant was disabled.

17. Complainant moved into Village Square on October 1, 2008, and immediately began parking in space 12, the accessible parking space closest to the Village Square entrance.
18. On or about October 11, 2008, Luebke visited Complainant and informed him that he was not permitted to park in space 12, the accessible parking space closest to the Village Square entrance and the only space with an accessible pedestrian path of travel. When Complainant protested that he could not walk far and needed a parking space close to the building, Luebke responded that it was management's policy to prohibit any parking in space 12, which was used exclusively for pick-up and drop-off of tenants, disabled or not, who did not drive.
19. Approximately one month after moving in, Complainant contacted Luebke and requested permission to install an ADA accessible toilet because his physical disability made it difficult for him to use a toilet at standard height. Luebke ordered and caused to have the ADA toilet installed in Complainant's unit. On or about November 3, 2008, Luebke filled out a form entitled "Cardinal Capital Management Reasonable Accommodation Request." Complainant believed the form to be an acknowledgement of receipt of the ADA accessible toilet and signed it at Luebke's direction.
20. Luebke admits ordering an accessible toilet feature for Complainant's bathroom to accommodate his physical disability.
21. After Luebke's visit in October 2008, Complainant began parking in available spaces across the parking lot, which caused him severe pain and took him an extended period of time to reach his car and unit. Inclement weather made his walk through the parking lot treacherous.
22. In or around the fall of 2008, Complainant contacted HUD's Office of Fair Housing and Equal Opportunity for assistance. A HUD Equal Opportunity Specialist advised Complainant to provide Luebke with medical documentation and renew his request for an accessible parking space, which advice Complainant followed. However, when Complainant approached Luebke, she did not look at him or at his medical documentation, but simply stated that the prohibition on parking in accessible parking space 12 "is our policy and that's how we do things here" or words to that effect.
23. On or about October 27, 2008 Complainant telephoned Respondent CCM and spoke with Bob McCormick, the senior property manager and Section 504 coordinator for Village Square. Complainant repeated his request for reasonable accommodation and shared with McCormick his frustration with Luebke for rejecting his request. McCormick told Complainant that he would look into the matter, but a week passed and McCormick did not return Complainant's call. Complainant subsequently filed his fair housing complaint with HUD.

24. On or about November 18, 2008, after HUD sent notice of Complainant's complaint to Respondents, Luebke posted a notice at the entrance to Village Square that read, "Visitors and family members: Due to the fact that we are filled and have only 1 extra parking stall, we have to ask you to park on the road. We will continue to use the 1 handicapped stall to pick up or drop off tenants. I know this is inconvenient, but we need to work together on this so our tenants all have a place to park when they come home. Thank you for your cooperation! Dee"
25. On or about December 6, 2008, Complainant parked in a parking space at Village Square that was not accessible and required him to walk across the parking lot. It was icy and Complainant slipped and fell, causing him to sustain injury and require emergency medical attention.
26. Respondent CCM maintains a "Resident Services Reasonable Accommodation Request" policy which, in relevant part, directs staff responding to reasonable accommodation requests to "Please always have them put their request, in writing, on the Reasonable Accommodation Request Form for consideration. Always fax their request to the Corporate Office for review immediately upon receiving it and discuss the request with the Senior Property Manager. Any determination will be made by the Corporate Office with your input. The resident must also provide a written statement of need from an unrelated qualified third party, such as a physician or physical therapist...Do not do anything that would deter their request in any way, as the resident has the right to ask for consideration."
27. At no time did Luebke, McCormick or any employee or agent of Respondent CCM or WHPC inform Complainant of its reasonable accommodation policy or offer him a reasonable accommodation request form in response to his request for an accessible parking space.
28. At no time did Respondents grant Complainant's request for an accessible parking space or change its policy prohibiting parking in accessible parking space number 12.
29. On or about November 19, 2009, facing the prospect of another winter without accessible parking at Village Square, Complainant terminated his tenancy and moved to a non-subsidized rental with covered parking.
30. By denying Complainant's request for an accessible parking space close to the entrance door to Village Square, Respondents otherwise made unavailable or denied a dwelling to Complainant in violation 42 U.S.C. Section 3604(f)(1).
31. By denying Complainant's request for an accessible parking space close to the entrance door to Village Square, Respondents denied Complainant's request for a reasonable accommodation to their parking rules, policies and procedures in violation of 42 U.S.C. Section 3604(f)(3)(B), 24 C.F.R Section 100.204.

32. As a result of Respondents' discriminatory conduct, Complainant Singsime has suffered severe injury including financial loss when he was forced to vacate his subsidized unit and rent a market rate dwelling with accessible parking and forego groceries donated to him by a local charity located close to Village Square. He also suffered physical injury from falling in the parking lot because he was forced to park in an inaccessible location. Finally, Complainant suffered emotional distress from losing the social interaction with other tenants at Village Square after he moved to a single family dwelling, as well as the frustration of having his requested accommodation ignored and denied even though it was reasonable and he desperately needed it to have an equal opportunity to use and enjoy the dwelling.

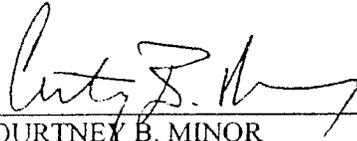
III. PRAYER FOR RELIEF

WHEREFORE, the Secretary of Housing and Urban Development, through the Regional Counsel, Region V, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §3604(f)(1) and §3604(f)(3)(B), and prays that an order be issued that:

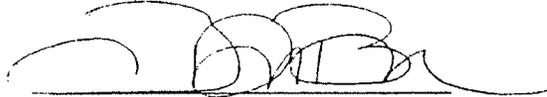
1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*;
2. Enjoins Respondents, their agents, employees and successors and all other persons in active concert or participation with them from discriminating on the basis of disability against any person in any aspect of the rental or sale of a dwelling in violation of the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*;
3. Awards such damages as will fully compensate Complainant Richard Singsime, for his emotional distress, physical and economic injuries caused by Respondents' discriminatory conduct in violation of 42 U.S.C. § 3604(f)(1) and § 3604(f)(3)(B); and
4. Assesses a civil penalty of sixteen thousand dollars (\$16,000) against each Respondent for each violation of the Fair Housing Act that Respondents committed pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(a)(1).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

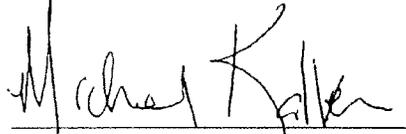
Respectfully submitted,



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