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 [Complainant], Charging Party, v. 4 Anchorage Lane Owners, Inc., and Total Community Management Corp., Respondents.	)	**FHEO No. 02-10-0481-8**

CHARGE OF DISCRIMINATION

JURISDICTION

On April 6, 2010, [Complainant] ("Complainant") filed a verified complaint with the United States Department of Housing and Urban Development ("HUD"). Complainant, who is physically disabled, alleged that 4 Anchorage Lane Owners, Inc., and Total Community Management Corp., hereinafter collectively referred to as "Respondents," refused to grant his request for a reasonable accommodation in violation of the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* ("Act"). In particular, Complainant alleged that Respondents refused to provide him with a reserved parking space close to the entrance of his apartment.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination ("Charge") on behalf of aggrieved persons following an investigation and determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(2). The Secretary has delegated to the General Counsel, who has re-delegated to the Regional Counsel, the authority to issue such a charge following a determination of reasonable cause. 24 C.F.R. §§ 103.405, 180.410 (2010); 73 Fed. Reg. 68,441, 68,442 (Nov. 18, 2008).

The Director of the Office of Fair Housing and Equal Opportunity ("FHEO") for the New York/New Jersey Region, on behalf of the Assistant Secretary for FHEO, has authorized this Charge because he has determined after investigation that reasonable cause exists to believe that a discriminatory housing practice has occurred. *See* 42 U.S.C. § 3610(b).

LEGAL AUTHORITY IN SUPPORT OF CHARGE

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person or a person residing in or intending to reside in that dwelling after it is sold, rented or made available. 42 U.S.C. § 3604(f)(2)(A) and (B).

2. Discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B).

PARTIES

3. Complainant has a neurological disorder known as neuropathy, which substantially limits his ability to walk and maintain balance. In December 2009, Complaint had a ventriculoperitoneal shunt placement procedure. According to an April 5, 2010 letter from Complainant's neurosurgeon, Complainant experienced "worsening ability to walk, gait, and balance dysfunction[;]" and "[i]t is difficult for [Complainant] to walk long distances or up hills." Complainant is therefore a handicap person as defined by the Act, 42 USC § 3602(h).

4. Respondent 4 Anchorage Lane Owners, Inc. is the owner of a cooperative housing development in Oyster Bay, New York containing 156 residential units.

5. Upon information and belief, Respondent Total Community Management Corp. acts as managing agent for the property, including the administration of parking facilities.

FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

6. Respondents' housing development is divided into two sections: Harbour Lane and Anchorage Lane. Complainant resides in the Harbour Lane section at [Complainant's address]. Complainant's apartment is a "dwelling" within the meaning of the Act, 42 U.S.C. § 3602(b).

7. Complainant is able to walk with the assistance of a walker. At other times, Complaint uses a wheelchair. Complainant possesses a parking permit identifying him as disabled.

8. The two sections of Respondents' housing development contain approximately 213 parking spaces, of which 7 are designated for "handicapped parking." Parking spaces are located in several parking lots throughout the development. All parking spaces are available on a first-come-first-serve basis.

9. Complainant's complex surrounds a parking lot with approximately 38 parking spaces. Complainant has access to that parking lot by a concrete walkway that runs from the entrance door of his apartment to the lot. The first two parking spaces nearest the walkway are designated "handicap parking."

10. Complainant utilizes one of the two handicap parking spaces whenever possible; but because those spaces are not reserved, he must compete for them with other residents or guests who possess handicap parking permits. From time to time, those two spaces have been unavailable to Complainant, requiring him to park further from his apartment.

11. On or about March 20, 2009, Complainant sent a letter to Respondent Community Management Corp. in which he identified himself as disabled and "request[ed] a reserved parking space close to and accessible to the entrance of [his] apartment."

12. On or about March 23, 2009, Respondent Total Community Management Corp. sent a letter to Complainant acknowledging receipt of his request and informing him that it was being submitted to the Board of Directors for review and response.

13. On or about April 9, 2009, Respondents denied Complainant's request for a reserved parking space stating that they were in full compliance with local codes regarding handicap parking and the they have "provided reasonable handicapped parking accommodations for all residents at the Cooperative complex."

14. Complainant's medical condition requires that he walk as short a distance as possible.

15. Respondents acknowledge Complainant has submitted several statements and related documents from medical personnel regarding his various physical ailments, medical issues, and conditions.

16. Despite the information provided to Respondents by Complainant, Respondents have denied Complainant's request for a designated parking space close to his residence.

17. Respondents' refusal to reasonably accommodate Complainant's handicap has denied Complainant equal opportunity to use and enjoy his dwelling, and has caused him to suffer damages, including emotional and physical distress.

FAIR HOUSING ACT VIOLATIONS

18. Respondent violated the Act because it refused to make a reasonable accommodation in their rules, policies, practices, or services, when such an accommodation was necessary to afford Complainant equal opportunity to use and enjoy his dwelling. 42 U.S.C. § 3604(f)(2) and (3)(B); 24 C.F.R § 100.204(a).

CONCLUSIONS

WHEREFORE, the Secretary of HUD, through the Office of General Counsel and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f)(2) and (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, 42 U.S.C. §§ 3601-3619;

2. Requires Respondent to reserve for Complainant's exclusive use a parking space near the entrance to his apartment that will accommodate Complainant's handicap;

3. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating because of a handicap of any person in any aspect of the sale, rental, use, or enjoyment of a dwelling pursuant to 42 U.S.C. § 3612(g)(3);

4. Awards such damages pursuant to 42 U.S.C. § 3612(g)(3) as will fully compensate Complainant for actual injuries he suffered because of Respondents' discriminatory conduct, including but not limited to inconvenience and economic loss, humiliation, embarrassment, and emotional distress;

5. Assesses a civil penalty against Respondents for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 CFR § 180.671; and

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

Respectfully submitted,

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