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 Joan Anzelone, and Mary Pasko, Charging Party, v. 75 Main Avenue Owners Corp., and Board of Directors 75 Main Avenue Owners Corp., Respondents.	FHEO No. 02-07-0848-8

CHARGE OF DISCRIMINATION

JURISDICTION

1. On or about September 27, 2007, Complainants, Joan Anzelone and Mary Pasko ("Complainants"), filed a verified complaint with the Department of Housing and Urban Development ("HUD"), alleging Respondents violated the Fair Housing Act, as amended in 1988, 42 U.S.C. §§ 3601 *et seq.* ("Act"). In particular, Complainants alleged Respondents unlawfully denied their request to keep an emotional support animal for Ms. Pasko as a reasonable accommodation. 42 U.S.C. §§ 3604 (f) (3) (B).

2. The Act authorizes the Secretary of HUD to issue a Charge of Discrimination ("Charge") on behalf of aggrieved persons 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 re-delegated to the Regional Counsel (67 Fed. Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause.

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

LEGAL AUTHORITY IN SUPPORT OF CHARGE

4. It is unlawful to discriminate against any person in the terms, conditions, or privileges of 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 that dwelling after it is sold, rented or made available. 42 U.S.C. § 3604 (f) (2) (A) and (B). Discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodation may be necessary to afford a person with disabilities equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f) (3) (B).

PARTIES:

5. Complainant Pasko is a 90 year old woman with physical and mental disabilities including, heart disease, hypertension, arthritis and depression. The Complainant's physical impairments coupled with her depression pose substantial limitations on her ability to walk and her ability to care for herself.

6. Complainant Anzelone is Ms. Pasko's daughter and the shareholder of Apt. A1 at 75 Maine Ave. Both Complainants reside at 75 Maine Ave., Apt. A1, Rockville Centre, NY 11570.

7. Respondents 75 Main Avenue Owners Corp. and Board of Directors 75 Main Avenue Owners Corp. are the owners and managers of 75 Maine Avenue, a 20-unit cooperative building in Rockville Centre, New York.

FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

8. In 2002, Ms. Pasko moved in with her daughter, Complainant Anzelone, at 75 Maine Ave., Apt. A1. Because of Respondents' no-pet policy, Ms. Pasko gave her dog, a toy poodle named Coco, to another daughter who lived in Pennsylvania.

9. In 2005, Ms. Pasko's internist, Dr. Zoha F. Gondal, diagnosed that Ms. Pasko suffered from depression and prescribed an anti-depressant drug to help treat that condition.

10. In 2006, Ms. Pasko's daughter in Pennsylvania died of cancer, and Coco was returned to Ms. Pasko.

11. In a letter to Respondent dated January 17, 2007, Complainant Anzelone requested that it waive its no-pet policy and permit Coco to live in the apartment as an emotional support animal for her then 89 year old mother, Ms. Pasko.

12. By letter dated April 25, 2007, from Respondents' attorney, Alison J. Lewis, Respondents denied Ms. Anzelone's request for a waiver of the no-pet policy and gave Ms. Anzelone three weeks to remove Coco, threatening that "if the dog is not removed within said time period the Board will pursue any and all legal remedies available, which can include denial of parking privileges."

13. Thereafter, Ms. Anzelone's attorney, Kevin C. Palmeri, wrote to Ms. Lewis, requesting an accommodation so that Complainants could retain Coco. In his letter, Mr. Palmeri offered to provide Respondents with any further documentation they may require, including physician statements, to grant the requested accommodation.

14. On June 6, 2007, Respondents advised Mr. Palmeri that they had reaffirmed their decision directing Coco's removal, threatening that if Coco were not removed by June 15, they would seek judicial relief and reimbursement of all legal fees; Respondents did not respond to Mr. Palmeri's offer to provide physician statements, or other documentation, in support of Complainants' request for a reasonable accommodation.

15. In August 2007, Respondents filed a Summons and Complaint in the Supreme Court of Nassau County, requesting judgment compelling Complainant Anzelone to abide by Respondents' no-pet policy and the proprietary lease, and seeking the sum of $3000.

16. By letter dated September 21, 2007, to Ms. Lewis, Complainants' new attorney, Karen Copeland, reiterated Complainants' request for a reasonable accommodation of "non-enforcement of any applicable 'no-pet' clause in Ms. Anzelone's proprietary lease," based on Ms. Pasko's disabilities. Ms. Copeland's letter included notes from two of Ms. Pasko's doctors, each of whom requested that she be permitted to retain Coco.

17. In a letter dated September 25, 2007, Respondents advised the shareholders of 75 Main Ave. Owners Corp. that they would continue to seek a court determination of their right to enforce the no-pet policy.

18. Beginning in November 2007, Ms. Pasko began seeing a clinical psychologist, Lynn B. Means, Ph.D.

19. In a "Psychological Evaluation" dated December 11, 2007, Dr. Means stated that Ms. Pasko is clinically depressed and Coco helps her deal with her ongoing pain and depression and alleviates "what would otherwise be a great deal of loneliness."

20. Dr. Means also stated that Coco clearly helps keep Ms. Pasko's depression from worsening. Dr. Means noted that "some days Ms. Pasko's only motivation for getting out of bed is to take care of the dog." Dr. Means recommended that Ms. Pasko be allowed to keep her dog in her residence.

21. On or about April 23, 2008, Dr. Means' Psychological Evaluation was given to Respondents for their review and consideration.

22. In a letter to HUD dated May 7, 2008, Respondents once again refused to waive their no-pet policy, alleging, among other things, that there was no "nexus between the presence of this dog and Mrs. Pasko's ability to perform 'major life activities'."

23. Ms. Pasko has been reunited with Coco for an extended period, and in the view of her doctors Coco has become a vital part of Ms. Pasko's life, tempering her depression and enabling her to better cope with her daily activities.

24. Complainants have suffered emotional and financial damages because Respondents have refused to grant Ms. Pasko a reasonable accommodation.

FAIR HOUSING ACT VIOLATIONS:

25. Respondents have violated the Act by refusing to make reasonable accommodations in their rules, policies, practices, or services, when such accommodations were necessary to afford Complainant Pasko an equal opportunity to use and enjoy her dwelling. 42 U.S.C. § 3604 (f) (2) (A) and (B); 42 U.S.C. § 3604 (f) (3) (B); 24 C.F.R. § 100.204.

CONCLUSION:

WHEREFORE, the Secretary of HUD, through the Office of General Counsel and pursuant to 42 U.S.C. § 3610(g) (2) (A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 (f) (2) (A) and (B) and 42 U.S.C. § 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, 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 refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford disabled persons equal opportunity to use and enjoy their dwellings pursuant to 42 U.S.C. § 3612(g)(3);

3. Awards such damages pursuant to 42 U.S.C. § 3612(g) (3) as will fully compensate Complainants for the emotional distress and financial cost they have suffered because of Respondents violation of the Act.

4. Awards a civil penalty against the Respondents for each violation of the Act, pursuant to 42 U.S.C. § 3612(g) (3); and

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

Respectfully submitted,

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Date: August 1, 2008

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Charge of Discrimination," "Notice," and "Determination" in Aznelone v. 75 Main Avenue Owners Corp., et al., FHEO No. 02-07-0848-8, was sent via overnight mail:

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75 Main Avenue Owners Corp. (Respondent)
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Board of Directors 75 Main Avenue Owners Corp. (Respondent)
75 Maine Avenue
Rockville Centre, NY 11570

And:

By Overnight Mail and Fax:
Chief Docket Clerk
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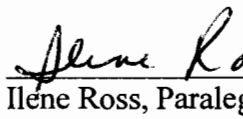
This 1st day of August 2008.



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