

3. 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. 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 the sale or rental of a dwelling because of a disability of that person or a person residing in that dwelling after it is sold. 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 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).
5. It is unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by the Act. 42 U.S.C. § 3617.

PARTIES:

6. Mr. Garcia-Guillen is a seventy-three year old man who suffers from numerous physical conditions which substantially impair his mobility. He suffered from severe left hip problems, requiring the use of crutches until undergoing surgery to replace the hip in April 2007. Since recovering from surgery, he walks with a cane. Mr. Garcia-Guillen also suffers from herniated discs and arthritis in his knees, and will likely need knee replacements. As a result of his ailments, he has difficulty sitting down and standing, requiring an access aisle for his parking space in order to have sufficient room to maneuver into the driver’s seat of his car. Mr. Garcia-Guillen co-owns and resides in Apt. 318 at Astralis Condominium, in Isla Verde, Carolina, Puerto Rico.
7. Ms. Velez resides with her husband and co-owns their residence. She suffers from various ailments which substantially impair her mobility. She suffers from degeneration of the lumbar-sacral spine and disc protrusions which result in her suffering low back pain radiating to the right side of her body. She also has osteoarthritis in her knees and may require knee replacements. Ms. Velez suffers pain when standing or walking and uses a cane to walk. She requires an access aisle for her parking space in order to fully open the vehicle’s door to have sufficient space to properly use her cane.
8. Respondent Astralis Condominium Association (“Astralis”) is an incorporated association that manages the Astralis Condominium project, a high rise residential condominium in Carolina, Puerto Rico. It has 210 units, distributed in eleven adjacent residential towers and 493 parking spaces, 442 of which are owned by

individual unit owners. The remaining 51 parking spaces are for visitors and ten of those are handicapped accessible.

FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

9. Complainants purchased a unit in Astralis Condominium in February 2005 and moved into the unit on December 31, 2005.
10. On February 6, 2006, Mr. Garcia-Guillen sent a letter to Omar Alvarado, an agent for the Astralis' developer, Verde Isla Court, requesting the use of a handicapped accessible parking space close to their unit. Both Respondent's Board of Directors ("Board") and administrator were copied on the letter. No one responded to this letter.
11. Because Mr. Garcia-Guillen received no response, Ms. Velez sent a follow up letter directly to the Board on February 22, 2006, requesting a handicapped parking space for her husband, who at the time used crutches to assist him with walking.
12. The Board did not respond to Ms. Velez's letter.
13. On August 28, 2006, Complainants wrote Astralis' administrator, Beatriz Benitez, requesting a reasonable accommodation. Complainants requested that they be permitted to exchange their two assigned parking spaces, which were approximately 190 feet from their dwelling unit, for two existing accessible, handicapped parking spaces, closer to their unit. Complainants now required two accessible parking spaces because of Ms. Velez's disabilities.
14. Complainants, receiving no response to their August letter, parked from time to time in the handicapped spaces close to their unit.
15. On November 22, 2006, Complainants wrote the Board, stating that they would no longer use the accessible parking spaces near their unit because they had received a \$250 ticket for parking there illegally and because they felt that they had been the subject of personal attacks.
16. On November 30, 2006, the Board's president, Angel Luis Ortiz, wrote Complainants, indicating that he was unaware of their prior requests for a reasonable accommodation.
17. On January 12, 2007, Mr. Ortiz entered into an agreement with Complainants, granting them the right to the exclusive use of two handicapped parking spaces close to their unit in exchange for Astralis' right to use Complainants' two assigned private parking spaces.

18. On February 13, 2007, a Board vice-president, Jose Londono, informed Complainants that the January 12, agreement would not be honored and that Complainants were required to immediately remove their vehicles from the handicapped spaces.
19. On February 15, 2007, Astralis' administrator, pursuant to Board instructions, contacted the police, requesting that Complainants' vehicles be towed from the handicapped parking spaces.
20. On February 22, 2007, then Board President, Ernesto Sgroi, wrote Complainants advising them that they could not use the accessible parking spaces near their unit.
21. Thereafter, the Board instructed that "no parking stickers" be placed on Complainants' vehicles when parked at the handicapped accessible spaces. These stickers, which were difficult to remove, were then placed on Complainants' vehicles so as to block the driver's view, rendering the vehicles inoperable.
22. On March 26, 2007, Respondent filed a court action against Complainants in the San Juan Superior Court, requesting that the court issue a 'cease and desist' order directed at Complainants' use of the handicapped parking spaces. The case was later withdrawn on June 26, 2007, after Complainants agreed to stop using the handicapped parking spaces.
23. On October 16, 2007, Respondent's president and vice-president told Complainants that their vehicles would be towed if they parked in the handicapped spaces and that they would incur all legal fees the Board expended in dealing with the handicapped parking issue.
24. Because Complainants are not permitted to use the available handicapped accessible parking spaces close to their unit, they do not leave their home unless absolutely necessary.

FAIR HOUSING ACT VIOLATIONS:

25. 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 Complainants equal opportunity to use and enjoy their dwelling.
26. Respondent violated the Act because it coerced, intimidated, threatened or interfered with Complainants' exercise or enjoyment of rights granted or protected by the Act.

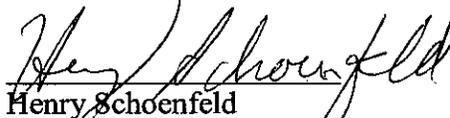
CONCLUSION:

WHEREFORE, the Secretary of HUD, through the Office of General Counsel and pursuant to 42 U.S.C. § 3610(g) (2) (A), hereby charges Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 (f) (2), § 3604 (f) (3) (B) and § 3617 and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondent as set forth above violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondent, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating because of handicap against any person in any aspect of the rental, sale, use or enjoyment of a dwelling pursuant to 42 U.S.C. § 3612 (g) (3);
3. Permanently assigns Complainants two handicapped accessible parking spaces near their residential building;
4. Enjoins Respondent, their agents, employees, and successors, and all other persons in active concert or participation with them, from coercing, intimidating, threatening or interfering with Complainants' exercise or enjoyment of rights granted or protected by the Act;
5. Awards such damages pursuant to 42 U.S.C. § 3612(g) (3) as will fully compensate Complainants for emotional distress, including embarrassment and humiliation, inconvenience, and economic loss caused by Respondent's discriminatory conduct;
6. Awards civil penalty against Respondent for violation of the Act, pursuant to 42 U.S.C. §3612(g) (3); and
7. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g) (3).

Respectfully submitted,


John J. Cahill
Regional Counsel for
New York/New Jersey


Henry Schoenfeld
Associate Regional Counsel
for Program Enforcement and Litigation


Lorena Alvarado
Attorney Advisor

Office of Regional Counsel
U.S. Department of Housing and
Urban Development
26 Federal Plaza, Room 3500
New York, New York 10278-0068
(212) 542-7734

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