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 Marilyn Dirks,	)	
Charging Party,	)	
v.	)	FHEO No. 10-08-0169-8
Ronald A. Lucas, and R.A. Lucas Developments, LLC	)	
Respondents.	)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On February 11, 2008, Complainant, Marilyn Dirks ("Complainant Dirks"), an aggrieved person, filed a timely verified complaint with the United States Department of Housing and Urban Development ("HUD"). The complaint alleged that Respondents, Ronald Lucas ("Respondent Lucas") and R.A. Lucas Developments, LLC, ("Respondent Lucas Developments") discriminated against her because of her physical disability by refusing to grant complainant's reasonable accommodation request for a waiver of their no pet policy. On March 11, 2008, Complainant Dirks amended the complaint to clarify that she is a person with a mental disability who needs a dog as a companion animal due to her disability and that Respondents' refusal to grant her reasonable accommodation request is a violation of the Fair Housing Act ("Act"), as amended, 42 U.S.C. §§ 3601-3619.

The Act authorizes issuance of a charge of discrimination on behalf of the 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)-(2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has redelegated to the Regional Counsel (67 Fed. Reg. 44234), 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 Center Director for Fair Housing and Equal Opportunity, Region X, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the complaint and the attached determination of reasonable cause, Respondent is hereby charged with violations of the Act, specifically, 42 U.S.C. Sections 3604(f)(2) and 3604(f)(3)(B), as set forth below.

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person. 42 U.S.C. § 3604(f)(2).

2. It is unlawful discrimination to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B).

3. The term "handicap" is defined in the Act as a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such an impairment, or being regarded as having such an impairment.[1] 42 U.S.C. § 3602(h).

4. The subject property is a 15-unit apartment building located at 1691 Old Portland Road, St Helens, Oregon 97501. At all times relevant herein there was a "no pets" policy at the subject property.

5. Complainant Marilyn Dirks is person with a handicap within the meaning of the Act. Complainant has multiple disabling medical conditions, including depression, arthritis, fibromyalgia, PTSD and bipolar disorder, which substantially limit one or more of her major life activities. Because of theses conditions, her treating physician has prescribed a companion dog which he believes will lessen her depression, improve her eating and sleeping, increase her exercise level and help her cope with the pain from her arthritis and fibromyalgia.

6. Respondent Lucas Developments is the owner of record for the subject property. Respondent Lucas manages the property from an off-site location.

7. Complainant Dirks entered into a rental agreement for Unit 15 with "Ron Lucas dba R.A. Lucas Developments, LLC." The rental agreement is dated December 11 or 12, 2006, however the term began November 20, 2006. At all times relevant herein, Complainant Dirks resided in Unit 15 of the subject property.

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[1] "Disability" is used interchangeably with "handicap" herein.

8. In the summer of 2007, Complainant Dirks made an oral request for a reasonable accommodation. After her son died in May, 2007, Complainant Dirks told Respondent Lucas in person that she needed a companion animal because of the stress that she was experiencing and that her doctor was going to write her a letter. Respondent Lucas denied Complainant Dirks' request and told her she could get a bird.

9. In late November or early December 2007, Complainant Dirks made a written request for a reasonable accommodation. With the help of a legal aid attorney, Complainant Dirks drafted a written request for reasonable accommodation and obtained letters from her treating physician and her mental health counselor to support her request. Complainant Dirks sent her written request, including the letters from her physician and mental health counselor, to Respondent Lucas. She did not receive a written reply, however, in a subsequent conversation on the matter, Respondent Lucas denied Complainant Dirks' request and stated that he only made reasonable accommodations for those with physical disabilities and "If I let you have a dog, everyone will want one."

10. Legal aid attorney Michael Pijanowski submitted a written request for reasonable accommodation for Complainant Dirks to Respondent Lucas via a letter dated December 13, 2007. Mr. Pijanowski asserts Respondent Lucas "verbally denied her request based on your erroneous belief of the following: 1) That 'anyone' can get a letter from their doctor in support; and 2) That federal law only requires you to make a reasonable accommodation when the accommodation is one for a service animal necessary to assist with physically obvious disabilities." Mr. Pijanowski goes on to state that "Ms. Dirks has already provided you with letters from her care providers stating that she is disabled and prescribing her a companion animal to assist her in easing the symptoms of her disability."

11. Mr. Pijanowski enclosed copies of the letters from the treating physician and mental health counselor along with an updated written request from Complainant Dirks. Respondent Lucas did not reply orally or in writing to Mr. Pijanowski.

12. During HUD's investigation, Respondent Lucas sent a letter dated April 19, 2008, to the HUD Investigator in which he admitted that Complainant Dirks approached him about getting a companion dog after her son died. Respondent Lucas admitted that he denied Complainant Dirks' request, claiming that he could tell from his own observations that she was not physically or mentally handicapped.

13. In the April 19, 2008, letter referenced above, Respondent Lucas also admitted that he received a letter in December 2007 from an attorney representing Complainant Dirks. Respondent Lucas admitted that he denied Complainant Dirks request for a companion dog and asserted that he would allow a small animal like a hamster or bird.

14. Respondents subjected Complainant to unlawful discrimination in the terms, conditions, or privileges of rental at the subject property because of her disability, by refusing to make a reasonable accommodation to their "no pets" policy to allow Complainant Dirks an equal opportunity to use and enjoy her dwelling at the subject property, in violation of 42 U.S.C. § 3604(f)(2) and (f)(3)(B).

15. As a result of Respondents' discriminatory conduct, Complainant Dirks has suffered damages, including physical and emotional distress. Complainant Dirks has experienced considerable emotional stress dealing with Respondents' rejection of her reasonable accommodation requests. This emotional stress adversely affected Complainant Dirks' mental and physical health.

III. PRAYER FOR RELIEF

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Regional Counsel for Region X, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondent Ronald Lucas and Respondent R.A. Lucas Developments, LLC, with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f)(2) and (f)(3)(B), and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents Lucas and Lucas Developments, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;

2. Enjoins Respondents Lucas and Lucas Developments, their agents, employees, successors, and all other persons in active concert or participation with them from discriminating on the basis of handicap against any person in any aspect of the rental of a dwelling;

3. Awards such damages as will fully compensate Complainant Dirks for her emotional distress, including embarrassment and humiliation, inconvenience and economic loss caused by Respondents' discriminatory conduct;

4. Awards a civil penalty against Respondents Lucas and Lucas Developments for each violation of the Act committed, 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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