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 Plato Neocleous, Charging Party, v. Arbors Owners' Ass'n, Inc., and First Columbia Cmty. Mgmt., Inc. Respondents.	)	FHEO No. 09-07-1587-8

CHARGE OF DISCRIMINATION

JURISDICTION

1. On or about September 6, 2007, Plato Neocleous (Complainant) filed a verified complaint with the U.S. Department of Housing and Urban Development (HUD), alleging that the Arbors Homeowners Association, and First Colonial Community Management, Inc. violated the Fair Housing Act, as amended in 1988, 42 U.S.C. §§ 3601-3619 (the Act or Fair Housing Act), by coercing, intimidating, threatening or interfering with Complainant in the exercise or enjoyment of a right granted by Section 803, 804, 805 or 806 of the Act and by refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations were necessary to afford Complainant equal opportunity to use and enjoy Complainant's dwelling. On or about April 30, 2008, Complainant amended the complaint to correctly identify Respondents as Respondent Arbors Owners' Association, Inc., and Respondent First Columbia Community Management, Inc. (Respondents).

2. 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. § 3610(g)(1) and (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 the Office of Fair Housing and Equal Opportunity (FHEO) or his or her designee.

3. The Director of the Office of FHEO for Region IX, on behalf of the Assistant Secretary, has authorized this Charge because he has determined after investigation that reasonable cause exists to believe Respondents engaged in a discriminatory housing practice. 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 refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B).

PARTIES

5. Complainant is disabled and suffers from foot and ankle problems, which are painful and limit Complainant's ability to walk. Complainant is unable to ambulate for more than 100 feet or walk for any length of time due to pain. Complainant resides at 5505 Orchard Lane, Las Vegas, Nevada 89110.

6. Respondent Arbors Owners' Association, Inc. is a 159-unit common-interest community located in Las Vegas, Nevada. The common-interest community (Subject Community) is managed by Respondent First Columbia Community Management, Inc.

FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

7. Complainant purchased a condominium unit at Subject Community in September 2006.

8. At the time the HUD Complaint was filed, Complainant lived in a unit at Subject Community.

9. On May 5, 2007, Complainant's unit, including the garage, was damaged due to flooding from the pipes of a neighboring unit.

10. On May 5, 2007, Complainant notified Respondents of the damage to Complainant's unit and requested a reserved parking space for Complainant's exclusive use as an accommodation to Complainant's physical disability.

11. On May 22, 2007, Respondents included Complainant's request for a "handicapped space" on the agenda of the Arbors Owners' Association Board meeting.

12. Respondents scheduled an appointment to come to Complainant's unit in order to assess the damage to Complainant's unit. Respondents did not appear.

13. In mid-July, Complainant contacted the State of Nevada Legislative Counsel Bureau for assistance with Complainant's reasonable accommodation request. Barbara Dimmitt (Dimmitt), State of Nevada Legislative Counsel Bureau Senior Research Analyst, contacted Respondents via telephone in mid-July to request, on behalf of Complainant, a reasonable accommodation to temporarily reserve a parking space near Complainant's unit for Complainant's exclusive use.

14. In a July 23, 2007 letter to Respondents, Dimmitt stated that Complainant "has a painful disability that interferes significantly with his ability to walk, lift objects, and perform other daily tasks." Dimmitt further wrote that Complainant's unit sustained water damage and that the "spaces near his unit are often filled, requiring him to park a considerable distance away – sometimes at the far end of the community." Dimmitt requested that Respondents provide Complainant with a designated parking space "as near as practicable to his unit until his garage has been repaired and is in a condition to be used again for parking."

15. Respondents contacted Dimmitt via telephone. Respondents proposed four conditions for approval of the reasonable accommodation request: 1) applicant must document his disability; 2) applicant must document the reason why his garage is unsuitable for parking; 3) permission for a reserved parking place shall be effective for 90 days – the applicant must submit a new request for reasonable accommodation if repairs to his garage have not been completed by that time; and 4) applicant must pay the cost of designating the parking space for his use by means of signage or painting.

16. On August 9, 2007, Dimmitt, on behalf of Complainant, wrote to Respondent and agreed to meet three of the four conditions for reasonable accommodation approval. Complainant rejected the condition that Complainant would pay the cost of designating the parking space "on the basis that the costs of designating a reserved parking space for him by means of signage or painting are not 'unreasonable' for the Association to bear."

17. Respondents failed to provide Complainant with a parking space as a reasonable accommodation to his handicap.

18. As a result of Respondents' discriminatory conduct, Complainant's disabling conditions have been exacerbated and Complainant has suffered damages, including, but not limited to, economic loss, physical and emotional distress, substantial inconvenience, embarrassment and humiliation.

FAIR HOUSING ACT VIOLATION

19. 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 an equal opportunity to use and enjoy Complainant's dwelling. 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)(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. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of handicap status against any person in any aspect of the sale, rental, use, or enjoyment of a dwelling 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 Complainant for Complainant's economic losses, including but not limited to, all out-of-pocket and medical expenses and emotional and physical distress, embarrassment, humiliation, substantial inconvenience, and any and all other damages caused by Respondents' discriminatory conduct;

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

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

Respectfully submitted,

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Date: 6-23-08