

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 Robert Dublirer,)
)
	Charging Party,)
Robert Dublirer)
	Intervenor)
v.)
)
2000 Linwood Avenue Owners, Inc., and)
Rita Neary,)
)
	Respondents.)
_____)

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OFFICE OF ADMINISTRATIVE LAW JUDGES

HUDALJ 06-03-FH

FHEO No. 02-04-0188-8

INITIAL DECISION AND CONSENT ORDER

I. FINDINGS IN THE CHARGE

The Secretary of the U.S. Department of Housing and Urban Development, commenced this action by issuing a Charge of Discrimination on September 20, 2006, on behalf of Robert Dublirer, pursuant to Section 810 (g)(1) and (2) of the Fair Housing Act ("the Act") as amended, 42 U.S.C. §§3601 -3619.

Complainant, Robert Dublirer, is a physically disabled person with mobility impairment. Complainant is required to use forearm crutches to assist him with his disability. The Complainant has a New Jersey Division of Motor Vehicles Handicapped Identification Card, Disabled Person ID and a New York City Special Parking ID. Respondent 2000 Linwood Avenue Owners Inc. is a cooperative corporation owned by resident shareholders, and the owner of Mediterranean Towers South ("Med. South"), a private apartment complex located at 2000 Linwood Avenue, Fort Lee, New Jersey. This cooperative corporation is self-managed. The apartment building was constructed as rental property in 1967, and converted to cooperative apartments on August 9, 1983. Designated handicap parking spaces were not required in 1967 and were not installed by the original developer. Respondent Rita Neary, is employed by the cooperative. She is the Property Manager of the subject property. One of Ms. Neary's responsibilities as Property Manager is to assign parking spaces.

Med. South consists of 449 apartments owned and operated by resident shareholders and 34 apartments owned by the Cooperative Conversion Sponsor, who also rents these units. Although parking spaces are not dedicated to individual units, each coop unit is assigned one parking space for each apartment owner who is a licensed driver and has a car. Complainant Dublirer and his wife purchased a unit at the subject property on July 2, 2002. At all relevant times to this charge, the Complainant resided at the subject property and presently still resides there.

The majority of the parking spaces at the subject property are located in a garage adjacent to the building. This garage is connected to the apartment building by stairs that lead to the main lobby. There are 273 spaces on the upper level and 283 on the lower level, of which 38 spaces are reserved for valet service. Additionally, there are 71 outdoor spaces surrounding the building.

The Complainant and his wife had two cars and two licensed drivers. They were originally assigned an indoor parking space on the lower deck, #Q54. Space #Q54 was located a good distance from the rear entrance of the building. The Complainant paid approximately \$40 a month for this space. Based on the location of space #Q54, the Complainant had to climb several steps and in addition, walk through a hallway to reach the lobby of the building.

During the month of July 2002, the Complainant verbally requested a reasonable accommodation for a space on the upper level garage near the door to the lobby. He spoke to Respondent Neary, as well as her secretary, Lisa Alfano. The Complainant was reminded that there were no handicap spaces and also informed that he was on the waiting list. On July 15, 2002, the Respondent Property Manager, Rita Neary, assigned the Complainant a second space, #29. This was an outdoor space. The Complainant paid approximately \$30 for this space in addition to paying for space #Q54 as previously discussed.

The Complainant made independent efforts to try and find a closer parking space. The Complainant was able to make arrangements with two separate unit owners to sublet and use their parking spaces, #E27 and #E48. Although further away than his assigned outdoor space #29 and #Q54, from December 2002-March 2003, the Complainant sublet space #E27. Space #E27 is indoors, in the upper garage, and would require him to manage less steps to get into the lobby as opposed to the amount of steps that he had to manage from #Q54 in the lower garage. From March 2003-May 2003, the Complainant sublet space #E48. Space #E48 is still a great distance from the lobby entrance.

By a letter to the Board dated April 27, 2003, Complainant's wife requested a closer parking space to accommodate the Complainant's disability. On May 6, 2003, the Complainant alleges he presented a written request directly to the Board. On February 9, 2004, Complainant was assigned to outdoor space #37. By letter dated March 29, 2004,

the Complainant relinquished indoor space #Q54. In May of 2004, the Complainant was offered space #14. Complainant began using space #14 on May 7, 2004 and is presently still using it. However this space is also outdoors and still exposes the Complainant to the weather elements during the winter.

On or about January 7, 2004, Robert Dublirer ("Complainant") filed a verified complaint with the Department of Housing and Urban Development ("HUD"), alleging that 2000 Linwood Avenue Owners, Inc., and Property Manager, Rita Neary ("Respondents"), discriminated against him on the basis of his disability.

The Secretary issued a Charge on September 20, 2006, which alleged that the Respondents violated the Act by discriminating in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of a disability 42 U.S.C. § 804 (B). The Charge also alleged that the Respondents violated the Act by refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations were necessary to afford Complainant an equal opportunity to use and enjoy his dwelling, 42 U.S.C. 3604 (f)(2) and (3)(B).

Respondents allege they have provided accommodations to the Complainant, have denied any and all allegations of the Complainant's, and deny that they have engaged in any discriminatory actions or practices in violation of the Act.

The parties have agreed to resolve the above -captioned case without the need for a hearing before an Administrative Law Judge. Therefore, without a hearing or adjudication, the parties have consented, as indicated by the signatures of the parties and counsel at the end of this document, to the entry of this order.

This Order does not constitute a decision or finding that the Respondents, their agents, employees, successors or assigns have engaged in any discriminatory housing practices, and by signing this document, Respondents do not admit any violation of the Fair Housing Act or any other applicable State or Local Fair Housing Law. By signing this agreement and paying the sum as designated in #(2) of Section III, entitled Settlement Provisions, the Respondents make no admissions to any wrong doing.

II. STANDARDS AND POLICIES

It is Ordered that:

Respondents, their agents, employees, successors and assigns, and all other persons in active concert or participation with them, in the management or operation of their business enterprise shall not:

- (1) Retaliate, coerce, intimidate or interfere with any individual because of their exercise or enjoyment of any right granted or protected by the Fair Housing Act.
- (2) Discriminate in the provisions of services, or facilities against persons with disabilities or any other protected class pursuant to the provisions of the Act.
- (3) 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.

III. SETTLEMENT PROVISIONS

It is FURTHER ORDERED that:

Subject to delivery by Complainant of the Release as provided for below, Respondents shall:

- (1) Grant Complainant parking space #L5 three (3) business days from the date of execution of the Order by the Administrative Law Judge.
- (2) Pay Complainant the sum of \$10,000 dollars by certified check in settlement of all claims raised by Complainant. Respondents shall provide said certified check within five (5) business days from the date of execution of the Order by the Administrative Law Judge, payable to Robert Dublirer, and mailed to Iris Springer-Elkerson, U.S. Department of Housing and Urban Development, 26 Federal Plaza, Room 3500, New York, New York 10278.
- (3) Obtain and complete Fair Housing Training for Rita Neary within 120 days from the date of execution of the Order by the Administrative Law Judge.
- (4) Create, implement and provide HUD with a reasonable accommodation policy for 2000 Linwood Avenue (Med South) within 30 business days from the date of entry of this Order by HUD.

Complainant shall:

- (1) Provide the attached Release labeled Exhibit "A" fully executed by himself and his wife, Mrs. Dublirer.

In consideration of and as a condition of Respondents' performance of obligation set forth above, the Secretary agrees to waive any Civil Penalty.

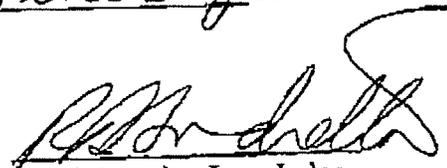
IV. ADMINISTRATION

This Order is entered into pursuant to section 812 (g)(3) of the Fair Housing Act and the regulations codified at 24 CFR § 180.450, and shall become final upon expiration of thirty days or affirmance by the Secretary within that time.

The signatures of the parties to the Consent Order constitute a waiver of any right to withdraw their consent during the thirty day Secretarial review period and a waiver of any right to challenge the validity of this Consent Order at any time. The signatures of the parties to this Consent Order further constitute a waiver of any right to apply for attorney's fees or costs pursuant to 42 U.S.C. § 3612 (p) and 24 CFR § 180.705. The parties agree that this Consent Order may be signed by the parties in counterparts.

This Order shall remain in effect for a period of two (2) years following the date this Order becomes final, pursuant to 42 U.S.C. § 3612 (h) and 24 CFR § 180.680. The United States Court of Appeals has jurisdiction to enforce this Order, if necessary. See 42 U.S.C. § 3612 (j)(m).

SIGNED THIS 14th DAY OF February 2007


Administrative Law Judge

Robert A. Andretta

Complainant Robert Dublirer has been represented by the Office of Regional Counsel, New York/New Jersey Office for the Secretary of the United States Department of Housing and Urban Development and had the benefit of Counsel. Respondents, 2000 Linwood Avenue Owners and Rita Neary, have had the benefit of private Counsel. All parties have read this Consent Order and willingly sign it with a full understanding of the rights it confers and responsibilities it imposes on them.

Approved:

Complainant:

Robert Dublirer
Robert Dublirer

1/31/07
Date

Carla Cole
Witness

Regional Counsel:

John J. Cahill
John J. Cahill

2/6/07
Date

Regional Counsel
New York/New Jersey Office
U.S. Department of Housing
and Urban Development
26 Federal Plaza, New York, NY 10278

HUD Trial Attorney:

Iris Springer
Iris Springer-Elkerson

2/6/07
Date

Respondents:

2000 Linwood Avenue Owners, Inc.

By: *Judith Rosenthal*
Judith Rosenthal, Vice President

1-25-07
Date

Rita Neary
Rita Neary

1/25/07
Date

For the Respondents:

Schepisi & McLaughlin, P.A.

By: *[Signature]*
John Schepisi

1-25-07
Date

EXHIBIT "A"**RELEASE**

This Release, dated January 31, 2007, is given

BY the Releasor(s), Robert Dublirer and Barbara Dublirer, referred to as "I",

TO 2000 Linwood Avenue Owners, Inc., its Directors, Officers, Agents, Attorneys and Employees including but not limited to Rita A. Neary referred to as "You".

If more than one person signs this Release, "I" shall mean each person who signs this Release.

1. **Release.** I release and give up any and all claims relating to any alleged discrimination under any and all Federal and State Laws that I may have against You. I specifically release the following claims:

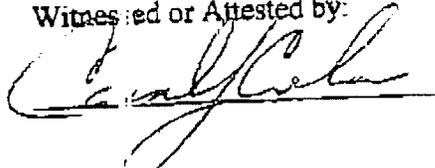
Any and all claims asserted or which could have been asserted and any and all claims relating to or arising from the action known as The Secretary, United States Department of Housing and Urban Development, on behalf of Robert Dublirer v. 2000 Linwood Avenue Owners, Inc. and Rita Neary bearing FHEO No. 02-04-0188-8 pending in the United States of America, Department of Housing and Urban Development, Office of Administrative Law Judges and for any other damages, including personal injuries. I also agree that I am responsible for any and all attorney's fees incurred by me relating to the aforementioned action as well as any fees incurred by me relating to the allegations. Further, by executing this Release I hereby agree to waive my right to make application to have You pay any attorney's fees or to seek reimbursement for payment of attorney's fees under any federal and state law.

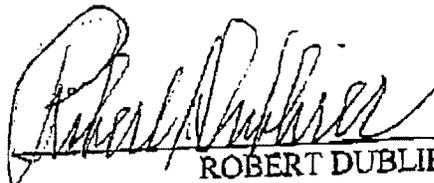
2. **Payment.** I have been paid a total of Ten thousand dollars (\$10,000.00) for making this Release and received the consideration set forth in the Consent Order executed by the parties. I agree that I will not seek anything further, including any other payment from you.
3. **Who is Bound.** I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

Exhibit "A" Release Continued

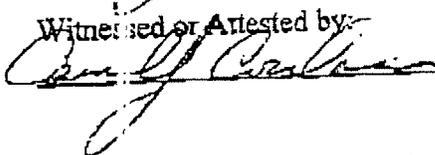
4. **Signatures.** I understand and agree to the terms of this Release. If this Release is made by a corporation its proper corporate officers sign and its corporate seal is affixed.

Witnessed or Attested by:



 (Seal)
ROBERT DUBLIRER

Witnessed or Attested by:



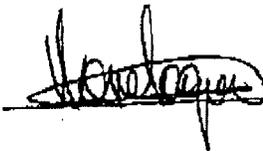
 (Seal)
BARBARA DUBLIRER

STATE OF NEW JERSEY)
COUNTY OF Bergen) SS.:

I CERTIFY that on Jan 31, 2007 Robert Dublirer personally came before me and stated to my satisfaction that:

- (a) this person was the subscribing witness to the signing of the attached instrument; and
- (b) the subscribing witness signed this proof under oath to these facts.

ROSE LAGANA
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 4/18/2010



Signed and sworn to before me
this _____ day of _____, 2007

STATE OF NEW JERSEY)
COUNTY OF Bergen) SS.:

I CERTIFY that on Jan 31, 2007 Barbara Dublirer personally came before me and stated to my satisfaction that:

- (a) this person was the subscribing witness to the signing of the attached instrument; and
- (b) the subscribing witness signed this proof under oath to attest to the truth of these facts.



Signed and sworn to before me
this 31 day of JAN, 2007

ROSE LAGANA
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 4/18/2010

EXHIBIT "B"
Certification of Training Completed by Respondent Rita Neary

I, _____, hereby certify that I attended the training session on Fair Housing Law given by _____, on _____ 2007, pursuant to Section III in the foregoing Consent Order, HUD ALJ No. 06-051-FH and FHEO Case No. 02-04-0188-3.

Print Name

Signature

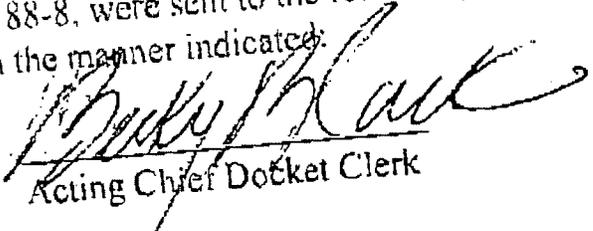
Title/Position

Date

Please Note: This certification with an original signature must be forwarded to Iris Springer-Elkerson at The Department Of Housing and Urban Development, 26 Federal Plaza Room 3500, New York, NY 10078, Upon completion of the Training.

CERTIFICATE OF SERVICE

I hereby certify that copies of this INITIAL DECISION AND CONSENT ORDER issued by ROBERT A. ANDRETTA, Administrative Law Judge, in HUDALJ 06-051-FH, FHEO Case: 02-04-0188-8, were sent to the following parties on this 15th day of February, 2007, in the manner indicated.


Acting Chief Docket Clerk

REGULAR MAIL:

Robert Dublirer
2000 Linwood Avenue, Apt. 15-S
Fort Lee, NJ 07024-3010

2000 Linwood Avenue Owners, Inc.
2000 Linwood Avenue
Fort Lee, NJ 07024

Rita Neary
2000 Linwood Avenue Owners, Inc.
2000 Linwood Avenue
Fort Lee, NJ 07024

John A. Schepisi, Esq.
Schepisi & McLaughlin, P.A.
P.O. Box 1313
Englewood Cliffs, NJ 07632-1313

Iris Springer-Elkerson, Esq.
Office of Regional Counsel
U.S. Department of Housing and
Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

02/20/2007

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HUD OFF HEARINGS & APPEALS → 912122645006

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INTEROFFICE MESSENGER:

Kim Kendrick, Assistant Secretary
for Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 7th Street, S.W., Room 5100
Washington, D.C. 20410

Linda Cruciani, Assistant General Counsel for Fair Housing Enforcement
U.S. Department of Housing and Urban Development
451 7th Street, S.W., Room 10270
Washington, D.C. 20410