

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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The Secretary, United States Department	)	
of Housing and Urban Development,	)	
on behalf of Complainant Massachusetts	)	
Fair Housing Center,	)	
	)	
Charging Party,	)	
	)	HUD ALJ No. _____
v.	)	
	)	FHEO No. 01-18-8950-8
Bernashe Realty, Inc.,	)	
Pleasant Valley Estates, Inc.,	)	
Diane Bernashe-Lecca and James Lecca,	)	
	)	
Respondents.	)	

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**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On February 5, 2018, Massachusetts Fair Housing Center (“MFHC” or “Complainant”) filed a complaint with the United States Department of Housing and Urban Development (“HUD”). The Complainant alleges that Bernashe Realty, Inc. (“Bernashe Realty”), Pleasant Valley Estates, Inc. (“Pleasant Valley”), Diane Bernashe-Lecca (“Ms. Bernashe-Lecca”), and James Lecca (“Mr. Lecca”) (collectively, “Respondents”) committed discriminatory housing practices on the basis of disability<sup>1</sup> in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-19 (“Act”).

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination 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 that authority to the General Counsel, who has re-delegated the authority to the Regional Counsel. 24 C.F.R. §§ 103.400, 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Regional Director of HUD’s Office of Fair Housing and Equal Opportunity for Region I, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices have

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<sup>1</sup> This charge uses the term “disability” interchangeably with the term “handicap,” which appears in the Fair Housing Act.

occurred in this case and has authorized and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

## **II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE**

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause, HUD hereby charges Respondents with violating the Act as follows:

### **A. Legal Authority**

1. It is unlawful to discriminate in the rental of, or to otherwise make unavailable or deny, a dwelling to any renter because of the disability of that renter. 42 U.S.C. § 3604(f)(1)(A); 24 C.F.R. § 100.202(a)(1).
2. For the purposes of § 3604(f)(1), “discrimination” includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person equal opportunity to use and enjoy a dwelling. 42 U.S.C. 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
3. The Act defines disability as a physical or mental impairment which substantially limits one or more major life activities, a record of having such an impairment, or being regarded as having such an impairment. 42 U.S.C. § 3602(h); 24 C.F.R. § 100.201. HUD’s regulations define “physical or mental impairment” to include “[a]ny mental or psychological disorder, such as . . . emotional or mental illness.” 24 C.F.R. § 100.201.
4. It is unlawful to make statements or publish advertisements with respect to the rental of a dwelling that indicate any preference, limitation or discrimination based on disability, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.75(a).
5. Pursuant to the Act, an “aggrieved person” includes any person or organization who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(d), (i); 24 C.F.R. § 100.20.

### **B. Parties and Subject Property**

6. The Complainant is a nonprofit organization dedicated to promoting fair housing opportunities through educational outreach programs, legal services for victims of housing discrimination, advocacy for distressed homeowners, and housing discrimination testing.
7. The Complainant is an aggrieved person as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

8. Respondent Bernashe Realty is a domestic profit corporation registered with the Commonwealth of Massachusetts with its principal office located at 24 West State Street in Granby, Massachusetts. Ms. Bernashe-Lecca serves as President, Treasurer, Secretary, and Director of Bernashe Realty, Inc.
9. Respondent Pleasant Valley is a domestic profit corporation registered with the Commonwealth of Massachusetts with its principal office located at 24 West State Street in Granby, Massachusetts. Mr. Lecca serves as President, Treasurer, and Director and Ms. Bernashe-Lecca serves as Secretary and Director of Pleasant Valley.
10. Respondent Pleasant Valley owns the property located at 24 West State Street in Granby, Massachusetts, a 31-unit residential apartment complex (“Stony Brook Lodge” or “subject property”). Pleasant Valley also owns the property located at 59 Pleasant Street in Granby, Massachusetts, a 15-unit residential apartment complex (“Pleasant Valley Estates”).
11. The subject property is a dwelling as defined by the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.
12. Bernashe Realty acts as an agent of Pleasant Valley, managing rental apartments at the subject property. Bernashe Realty’s company name appears on a sign at the subject property, in advertisements for apartments at the subject property, in communications with prospective tenants, and on applications to rent apartments at the subject property.
13. Ms. Bernashe-Lecca and Mr. Lecca acted as agents of Bernashe Realty and Pleasant Valley at all times when dealing with the Complainant’s testers.

**C. Factual Allegations**

14. On or about April 8, 2017, Respondents posted an advertisement for a unit at the subject property on craigslist.org. The advertisement stated “One cat considered, no dogs please” and was signed by Bernashe Realty.
15. On or about April 13, 2017, the Complainant assigned two trained fair housing testers to inquire about renting apartments at the subject property. The first tester (“Tester 1”) was assigned to disclose that she had an assistance dog that helped her with a disability and to request a reasonable accommodation to allow her to live with the dog. The household profile assigned to the second tester (“Tester 2”) did not mention any pets.
16. On April 18, 2017, Tester 1 called 413-467-2256 and spoke with Mr. Lecca, who identified himself as “Jim.” They spoke about utilities and Mr. Lecca confirmed that the unit would be available on May 1. Mr. Lecca asked Tester 1 if she had any pets, to which she responded that she had an assistance dog for her disability and asked whether that would be permitted. Mr. Lecca did not answer the question, but directed her to

- email the email address listed in the craigslist advertisement and stated that he would let her know about the next showings.
17. On April 21 and 24, 2017, Tester 1 sent emails to [dianelec@comcast.net](mailto:dianelec@comcast.net) in which she stated a desire to view available units at the subject property and identified herself as a person who needed to live with an assistance dog because of a disability. Tester 1 received no reply and was not offered a showing of any of Respondents' properties.
  18. On April 20, 2017, Complainant's Tester 2 called 413-467-2256 and spoke with Mr. Lecca, who identified himself as "Jimmy." After they discussed move-in costs and utilities, Mr. Lecca asked Tester 2 when she was available to view the unit, and he offered to show it to her the next day or the following week. Mr. Lecca also offered to show Tester 2 a loft unit available at Pleasant Valley Estates. When Tester 2 said that she needed to check her schedule, Mr. Lecca requested that she send an email when she was ready to schedule a viewing.
  19. On April 21, 2017, Tester 2 emailed [dianelec@comcast.net](mailto:dianelec@comcast.net) asking what times were available to view the units at the subject property and Pleasant Valley Estates. Mr. Lecca replied the same day with an offer to show the loft at Pleasant Valley Estates on April 24, 2017. Tester 2 replied asking to view the apartment at the subject property, and Mr. Lecca replied again, offering to show her Unit 14 at the subject property immediately after she viewed the loft on April 24.
  20. On or about January 9, 2018, Respondents posted an advertisement for a unit at the subject property on [craigslist.org](http://craigslist.org). The advertisement stated "[n]o service animals-owner allergic to pet hair and dander." The advertisement provided [dianelec@comcast.net](mailto:dianelec@comcast.net) as the contact for prospective renters, and the advertisement was signed by Bernashe Realty.
  21. On or about January 12, 2018, Complainant assigned two additional trained fair housing testers to inquire about renting apartments at the subject property. The third tester ("Tester 3") was assigned to disclose that he had an assistance dog that helped him with a disability and to request a reasonable accommodation to allow him to live with the dog. The household profile assigned to the fourth tester ("Tester 4") did not mention any pets.
  22. On January 13, 2018, Tester 3 sent an email to [dianelec@comcast.net](mailto:dianelec@comcast.net) stating an interest in renting at the subject property and asking when showings would be held. The same day, Mr. Lecca replied with an offer to show him Unit 20 on January 15. On January 14, Tester 3 replied that this time worked, asked when the unit was available, and identified himself as a person who needed to live with a service dog because of a disability and asked if that would be okay. On January 16, Tester 3 again emailed [dianelec@comcast.net](mailto:dianelec@comcast.net), asking if his previous email was received, stating his continued interest in viewing units at the subject property, and requesting a showing. On January 17, Tester 3 emailed again, asking to view units at the subject property.

23. On January 17, 2018, Ms. Bernashe-Lecca replied by email, stating, “I am highly allergic to dogs and therefore I cannot accept dogs at my properties. I think I have that in my ad.” Ms. Bernashe-Lecca sent a second reply email on January 18, stating: “Hello Chris, I am highly allergic to dogs and therefore I cannot take any dogs in my apartments. I am sure you will find one soon.”
24. On January 16, 2018, Tester 4 sent an email to [dianelec@comcast.net](mailto:dianelec@comcast.net). Tester 4 expressed interest in renting at the subject property and requested a showing later that week. Mr. Lecca replied the next morning, offering to schedule a showing two days later. Tester 4 sent several additional emails regarding the appointment time and received replies from both Ms. Bernashe-Lecca and Mr. Lecca identifying times for a showing. Tester 4 agreed to meet for a showing on January 19, 2018. On January 19, Tester 4 visited the subject property and was shown Unit 20 by Respondent’s employee Kevin Maroney, who identified himself as “Kevin.” Mr. Maroney told Tester 4 that the unit was ready to move in and provided her with an application to rent.
25. As a result of Respondents’ discriminatory policies and actions, the mission of Complainant MFHC was frustrated. Complainant expended time and diverted its resources investigating, testing, and responding to the discrimination. The resources expended on this matter were diverted from other activities.

#### **D. Fair Housing Act Violations**

26. As described above, Respondents violated Section 3604(f)(1)(A) of the Act by discriminating against Testers 1 and 3 based on disability by refusing to grant their reasonable accommodation requests and refusing to negotiate for the rental of a dwelling, making housing unavailable to them. 42 U.S.C. §§ 3604(f)(1)(A), 3604(f)(3)(B); 24 C.F.R. § 100.202(a); 24 C.F.R. § 100.204(a).
27. As described above, Respondents violated Section 3604(c) of the Act by posting a discriminatory statement in their craigslist advertisement which prohibited any tenants with “service animals.” 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75.

### **III. CONCLUSION**

WHEREFORE, the Secretary of HUD, through the Office of the Regional Counsel for New England, 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) and 3604(c) and prays that an order be issued that:

- A. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Act, as amended, 42 U.S.C. Sections 3601-3619;

- B. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, from discriminating on the basis of disability against any person in any aspect of the purchase or rental of a dwelling, and from further violations of 42 U.S.C. §§ 3604(f) and 3604(c);
- C. Awards such monetary damages as will fully compensate the Complainant for any and all injuries caused by Respondents' violations of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. §§ 180.670(b)(3)(i);
- D. Awards a civil penalty against each Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
- E. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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Date: \_\_\_\_\_