

**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
[REDACTED],
legal guardian of
[REDACTED], an aggrieved person,

Charging Party,

v.

Hudson Harbour Condominium Association, Inc.,

Respondent.

18-AF-0252-FH-021
FHEO No. 02-14-0068-8

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

On September 28, 2018, the United States Department of Housing and Urban Development (“HUD” or “Charging Party” filed a Charge of Discrimination against Hudson Harbour Condominium Association, Inc., (“Respondent”). The Charge alleges that Respondent violated Sections 804 (f)(a) and 804 (f)(3) of the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.* (the “Act”), by discriminating against Complainants [REDACTED] and [REDACTED] based on disability. Specifically, the Charge alleges that Respondent discriminated against the Complainants by refusing to grant a reasonable accommodation request to allow them to use a prescribed assistance animal as intended. Although Respondent waived Hudson Harbour’s no pet policy, it refused to modify requirements that demanded the 75 lbs. animal be carried in a crate or carrier in common areas and that Complainants only use a service door instead of the main entrance when with the dog.

Hudson Harbour Condominium Association, Inc., is a hi-rise condominium building with 246 units, located at 1203 River Road, in Edgewater, New Jersey, hereinafter referred to as the “Subject Premises.” Respondent Hudson Harbour Condominium Association, Inc. is a privately held company that operates, and sets policies for, Hudson Harbour Condominium.

Respondent denies that it violated the Act as alleged in the Charge. However, in order to avoid the additional cost and expense and uncertainty of litigation, the parties agree to settle the claims in the underlying action by entering into this Initial Decision and Consent Order (“Consent Order”). The entry of this Consent Order shall not be deemed an admission or finding of any fault or liability on the part of Respondent.

II. GENERAL PROVISIONS

1. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed complaint. The parties acknowledge that they are entering into the agreement willfully, without any duress or intimidation, or in any way forced to become a party to it. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations under it.
2. The parties agree that the Charging Party shall file with the Office of Hearings and Appeals a Motion for Entry of an Initial Decision and Consent Order, along with this Consent Order, after this document is executed by all parties.
3. This Consent Order is binding upon Respondent, its members, principals, owners, employees, successors, agents, assignees and all others in active concern with them in the management of the Subject Premises. In the event the subject property is transferred or sold prior to full performance of all the provisions of this Consent Order, Respondent will remain liable for the financial compensation described in Section IV.
4. Pursuant to 24 C.F.R. § 180.680(a), the parties understand that this Consent Order is a public document.

III. MUTUAL RELEASE

5. In consideration of the execution of this Consent Order, the Charging Party and Complainant [REDACTED], for herself and on behalf of her Mother, [REDACTED], who is now deceased, their successors, assignees, agents, employees, and attorneys hereby forever waive, release, and covenant not to sue Respondent, its current and former Directors, heirs, executors, assignees, agents, employees, or attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of 18-AF-0252-FH-021/FHEO No. 02-14-0068-8, or which could have been filed in any action or suit arising from said subject matter, except where necessary to enforce this agreement. Nothing in this release will be construed to prevent HUD from investigating other complaints filed against Respondent or taking appropriate enforcement action thereon.
6. In consideration of the execution of this Consent Order, Respondent, its current and former Directors, successors, assignees, agents, employees, and attorneys hereby forever waive, release, and covenant not to sue HUD or Complainant [REDACTED], their heirs, executors, assignees, agents, employees, or attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of 18-

AF-0252-FH-021/FHEO No. 02-14-0068-8, or which could have been filed in any action or suit arising from said subject matter, except where necessary to enforce this agreement. Nothing contained in this release will be construed to prevent Respondent from bringing and maintaining a proceeding for an alleged violation or breach not arising out of the subject matter of the Charge, subject to the provisions of paragraph 9.

IV. RELIEF FOR COMPLAINANTS

7. Respondent will pay to Complainant by certified checks the sum of thirty thousand dollars (\$30,000.00) within thirty (30) days of the issuance of this Consent Order by the Administrative Law Judge as full settlement of claims for damages arising out of the allegations presented in the Charge.

- a. Within thirty (30) days of the issuance of this Consent Order, Respondent will make checks payable to "[REDACTED]" Respondent will send the checks via Lawyer's Service to counsel for the Charging Party at HUD's Regional Counsel for New York/New Jersey for delivery to Complainant: Iris Springer-Elkerson, Trial Attorney, Office of Regional Counsel, U.S. Department of Housing and Urban Development, 26 Federal Plaza, Room 3500, New York, New York 10278.
- b. Complainant acknowledges that she has not relied on any representations by HUD as to the tax consequences of this agreement or any payments made hereunder. Complainant will be responsible for all applicable taxes, if any, on the foregoing payments.

8. Respondent authorizes Complainant [REDACTED] to keep the mixed breed [REDACTED], in her unit for as long as Complainant resides at the Subject Premises. Respondent agrees that this term will survive the expiration of this Consent Order. Complainant understands and agrees that this permission and authorization extends only to Francesco, and that the Respondent's pet policies otherwise apply to her in all respects. The parties agree that nothing herein shall preclude the Complainant from seeking further reasonable accommodation in accordance with all applicable laws.

9. Respondent acknowledges that Complainant [REDACTED] is the legal tenant of record for the unit she presently occupies at the Subject Premises, [REDACTED], and that she is identified as the tenant on her lease.

V. ACTIONS IN THE PUBLIC INTEREST

10. Injunction from Discrimination.

Respondent, its agents, employees, successors, or assignees, and all other persons in active concert or participation with any of them, are hereby enjoined from:

- a. Discriminating against any person in the terms, conditions, or privileges of sale or rental

of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability, as prohibited by the Act, 42 U.S.C. § 3604(f)(2);

- b. Refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling, as prohibited by the Act, 42 U.S.C. § 3604(f)(1), (f)(2), and (f)(3)(B).
- c. Retaliating against Complainants or any other person who participated in the investigation of this complaint, as prohibited by the Act, 42 U.S.C. § 3617.

11. Mandatory Education and Training.

- a. Within ninety days (90) days of the issuance of this Consent Order, Respondent and all all employees who have contact with the residents including, but not limited to doormen, Superintendents and management staff of Respondent Hudson Harbour Condominium Association, Inc., The Board President and two additional Board Members, and individuals acting under their direction who receive, process, review or make determinations with regard to any reasonable accommodation request (“Covered Employee”) shall attend training pertaining to their obligations under the Fair Housing Act and applicable state and local housing non-discrimination laws. All costs of the training shall be borne by HUD. Respondents must sign in on their designated day and remain for the duration of the training.
- b. During the term of this Consent Order, each new Covered Employee must receive fair housing training within thirty (30) days of the completion of their probationary employment period. Respondent shall notify HUD regarding new employees and request training. HUD will provide training at no cost, however, Respondent’s new employees will be required to attend training at the HUD Office located at 26 Federal Plaza, New York, NY 10278, unless otherwise agreed upon by HUD. Respondent will incur cost of their employees for any travel required to attend said training. Respondent must maintain records of evidence of the completion of fair housing training throughout the term of this Consent Order.

12. Adoption and Implementation of Reasonable Accommodation Policy.

- a. Within sixty (60) days of the issuance of this Consent Order, Respondent agrees to begin the process of drafting and adopting a “Reasonable Accommodation Policy” that complies with the Fair Housing Act and is approved by HUD. Respondent agrees that within four (4) months of the date of this agreement it will implement such policy.
- b. Upon obtaining HUD approval, Respondent agrees to implement the Reasonable Accommodation Policy immediately.

VI. COMPLIANCE

13. During the term of this Consent Order, HUD may review compliance with this Consent Order, subject to and in accordance with HUD regulations.
14. The parties shall endeavor, in good faith, to resolve informally any differences regarding interpretation of and compliance with this Consent Order.
15. Upon breach of any provision of this Consent Order, HUD may refer this matter to the Department of Justice to petition the United States Court of Appeals for the Third Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. § 3612(j).

VII. ADMINISTRATION

16. This Consent Order shall remain in effect for a period of one (1) year from its effective date or until compliance with all the terms and specific time periods set forth in Section IV, whichever is later.
17. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. The effective date of the Consent Order shall be the date it becomes final, *i.e.*, upon the expiration of thirty (30) days from the date of its issuance, or earlier affirmance by the Secretary. 42 U.S.C. § 3612(h); 24 C.F.R. § 180.670(b)(2).
18. All required notification and documentation of compliance must be submitted to HUD as follows, unless otherwise indicated:

Jay Golden
Director, Region II
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3532
New York, NY 10278

Sean Kelly
Associate Regional Counsel for Program Enforcement and Litigation
Office of Regional Counsel, Region II
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

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

19. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other complaints involving Respondent made pursuant to the Act, or any other complaints within HUD's jurisdiction.

20. The parties agree that if any party to this agreement needs an extension of time in order to satisfy a deadline provided herein, such extension must be obtained in writing from counsel for the Charging Party.

21. The signatures of the parties constitute a waiver of any right to apply for attorney's fees or costs pursuant to 24 C.F.R. § 180.705. Each party is responsible for its own attorney's fees and costs.

22. The parties and counsel agree that in the interest of a prompt conclusion of this matter, the execution of this Consent Order may be accomplished by the parties' signatures on separate pages of this Consent Order, with the individual signature pages to be attached to the body of the Consent Order to constitute one document to be filed with the Office of Administrative Judges. Signatures of the parties to this Consent Order may be executed by way of facsimile or electronic transmission.

23. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30)-day Secretarial review period, and a waiver of any right to challenge the validity of the Consent Order at any time.

VIII. AGREEMENT OF THE PARTIES

RESPONDENT:

_____ Date _____
Hudson Harbour Condominium Association, Inc

COUNSEL FOR RESPONDENT:

_____ Date _____
Edward Turro, Esq.

VIII. AGREEMENT OF THE PARTIES

COMPLAINANT:

Date

VIII. AGREEMENT OF THE PARTIES

COUNSEL FOR THE CHARGING PARTY, UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:

Ventura Simmons
Regional Counsel, Region II
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

Date

Sean Kelly
Associate Regional Counsel for
Program Enforcement and Litigation
Office of Regional Counsel, Region II
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

Date

Iris Springer-Elkerson
Trial Attorney
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

Date

IX. ORDER OF THE COURT

The hearing in this matter was originally scheduled for May 7, 2019. On March 26, 2019, the Court stayed the proceedings to accommodate drafting a settlement agreement.

On, 2019, the parties filed a motion for entry of this Initial Decision and Consent Order, incorporating the terms of their agreement. The Court, having read the agreement, finds that it appears to be in the public interest. All parties have given their consent as reflected by their signature to the agreement incorporated in the foregoing Initial Decision and Consent Order, which is hereby accepted and issued.

So **ORDERED** this ____ day of _____, 2019.

Alexander Fernandez
Acting Chief Administrative Law Judge