

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

_____)
Secretary, United States Department of Housing)
and Urban Development, on behalf of)

Redacted)
)

Charging Party,)

v.)

James W. Ray, Jr., Jim Ray Homes, Inc. and)
Shelter Valley, LLC,)

Respondents.)
_____)

HUD ALJ No.
FHEO No. 02-16-4485-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On August 11, 2016, Complainant **Redacted** timely filed a complaint with the United States Department of Housing and Urban Development ("HUD") alleging that Respondents James W. Ray, Jim Ray Homes, Inc., and Shelter Valley, LLC (collectively, "Respondents") discriminated against her in violation of the Fair Housing Act ("the Act"), as amended. 42 U.S.C. §§ 3601-3619.

The Act authorizes the Secretary of HUD to issue 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), (2). The Secretary has delegated to the General Counsel, who has redelegated to the Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or her designee. 24 C.F.R. §§ 103.400, 103.405; 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Director of the Fair Housing Hub, Office of Fair Housing and Equal Opportunity for New England, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case, and has authorized the issuance of this Charge of Discrimination by the Regional Counsel. 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 findings contained in the attached Determination of Reasonable Cause, the Secretary charges the Respondents with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to make a dwelling unavailable because of a person's disability. 42 U.S.C. § 3604(f)(1)(A); 24 C.F.R. § 100.202(a).
2. It is unlawful to discriminate against a person in the terms, conditions, or privileges of rental of a dwelling because of a disability of a person residing in the dwelling. 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b).
3. For the purposes of 42 U.S.C. § 3604(f)(1) and (2), "discrimination" includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
4. The Act defines "handicap" as a physical or mental impairment that substantially limits one or more major life activities; a record of such impairment; or being regarded as having such an impairment. 42 U.S.C. §§ 3602(h)(1), (2) and (3); 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, and specific learning disabilities." 24 C.F.R. § 100.201(a)(2). HUD's regulations define "major life's activities" to include "functions such as caring for one's self . . . learning and working." 24 C.F.R. § 100.201(b).
5. It is unlawful to coerce, intimidate, threaten, interfere, or retaliate against any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Section 804 of the Act. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b), (c)(1-6).

B. PARTIES AND SUBJECT PROPERTY

6. The subject property is a manufactured home at **Redacted** Newfield, Tompkins County, New York. The property is located in a community of manufactured housing known as Shelter Valley.
7. The subject property is "dwelling" as defined by the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.
8. Respondent Shelter Valley, LLC, owns the Shelter Valley Mobile Home Park.

9. Respondent Jim Ray Homes, Inc., owns Shelter Valley, LLC.
10. Respondent James W. Ray is the owner of Respondent Jim Ray Homes, Inc. and the manager of Shelter Valley.
11. Complainant's son, **Redacted** is a disabled person under the Act by virtue of a mental or psychological condition that substantially limits his ability to regulate his mood and to learn, among other major life activities. 42 U.S.C. § 3602(h).
12. Complainant is an "aggrieved person" as defined by the Act. 42 U.S.C. § 3602(i).
13. At all times relevant to this action, Respondents James W. Ray, Jr., Jim Ray Homes, Inc., and Shelter Valley, LLC, owned the mobile home park in which the manufactured home occupied by Complainant and her son is located.

C. FACTUAL ALLEGATIONS

14. Complainant acquired a dog as an emotional support for her son in October 2012. The dog is a mixed breed that weighs over twenty (20) pounds.
15. On or about October 2015, Complainant met with Respondent James W. Ray, Jr., and requested permission to keep her son's emotional support dog at the subject property.
16. On October 19, 2015, Respondent Ray told Complainant that to receive permission to maintain the dog at the subject property, Complainant must obtain a letter from a veterinarian stating that the dog is an adult and weighs twenty (20) pounds or less.
17. On November 1, 2015, Complainant and her son moved into the subject property. There was no lease between Complainant and Respondents.
18. On March 7, 2016, Complainant received a rule violation notice from Respondents for having an unregistered pet in the subject property. The notice required Complainant to submit proof from a veterinarian that the dog was an adult and under twenty pounds.
19. On March 10, 2016, Respondents received a letter from Complainant informing them that Complainant had been working with the Tompkins County Office of Human Rights (OHR) and that the dog was necessary because of the medical condition of Complainant's son.
20. On March 21, 2016, Respondent James Ray stated to Complainant that she had previously been given a pet application and further stated to Complainant that she could keep her son's dog at the subject property only if it fit within Respondents' rules.

21. On March 21, 2016, Complainant informed Respondent Ray that OHR would be sending Respondents a letter supporting her request for a reasonable accommodation.
22. On April 26, 2016, Complainant's OHR representative, **Redacted** wrote a letter to Respondent Ray that included a letter from the pediatrician of Complainant's son. The letter requested a reasonable accommodation for Complainant's son based on his disability and cited the Fair Housing Act. The letter also emphasized that assistance animals are not subject to weight limitations or breed restrictions.
23. The April 26, 2016 letter requested that Respondent Ray contact **Redacted** of OHR as soon as possible to discuss Complainant's reasonable accommodation request.
24. As documented by U.S. Post Office certified mail slips, delivery of the April 26, 2019 OHR letter was attempted on April 30, 2016, May 5, 2016, and May 15, 2016. The letter was returned to Mr. Rusk of OHR as undeliverable on May 20, 2016.
25. On May 6, 2016, Complainant submitted a completed pet application to Respondents, including proof of the dog's vaccinations and a town dog license. The application stated that the reason for having the dog was "therapy for my son."
26. On May 19, 2016, Complainant received a thirty-day notice to quit from Respondents. The notice asserted that Complainant's tenancy term had ended.
27. Sometime shortly after May 20, 2016, Complainant herself personally hand-delivered the April 26, 2019 OHR letter by placing it into Respondents' office mailbox at Shelter Valley.
28. Respondents received and reviewed the April 26, 2019 OHR letter by no later than May 26, 2016.
29. At no time after Respondents' receipt and review of the April 26, 2019 letter did Respondents request additional information from Complainant, nor did Respondents engage in further discussions with Complainant concerning her reasonable accommodation request.
30. On July 14, 2016, Respondent Shelter Valley, LLC, filed with the Newfield Town Court for the County of Tompkins, State of New York, a petition to evict Complainant and her son.
31. On July 28, 2016, Respondent's petition to evict Complainant and her son was dismissed inasmuch as Respondents had continued to accept rent from the Complainant after the date specified in the eviction notice.
32. On July 28, 2016, Respondents served Complainant with a new thirty-day notice to quit.

33. Complainant filed her Title VIII complaint with HUD on August 11, 2016.
34. On August 31, 2016, Complainant vacated the property as the result of Respondents' July 28, 2016 notice to quit and Respondents' continuing efforts to evict Complainant and her son.
35. In response to a request for information from a HUD investigator seeking details of Respondents' policies on "service, assistance and/or emotional support" animals, Respondents submitted a September 22, 2016 response that cited their "pet rule," which required that all animals permitted on the premises "must weigh less than twenty (20) pounds."
36. Respondents' September 22, 2016 response also stated, concerning Complainant's son's emotional support animal, that "the dog did not meet the requirements to [sic] the park rule."
37. Respondents' own notes of an October 19, 2015 conversation with Complainant establish that Complainant was told she could not keep an emotional support animal on the property until she first obtained a letter from a veterinarian stating that the dog was an adult animal and weighed twenty pounds or less.
38. On November 1, 2016, in a sworn answer to the Complaint, Respondents stated that they had received, on May 26, 2016, a letter from the pediatrician for Complainant's son along with OHR's request for a reasonable accommodation.
39. Respondents did not contact Complainant to inform her that the letter from her son's pediatrician was, in their view, insufficient.

D. FAIR HOUSING ACT VIOLATIONS

40. By denying Complainant's reasonable accommodation request for an emotional support animal at the subject property, Respondents made housing unavailable to Complainant due to her son's disability in violation of Section 804(f)(1) of the Act. 42 U.S.C. §§ 3604(f)(1)(A); 24 C.F.R. § 100.202(a)(1).
41. By refusing Complainant's reasonable accommodation request for an emotional support animal, Respondents subjected Complainant and her son to discriminatory terms, conditions, and privileges due to her son's disability in violation of 42 U.S.C. §§ 3604(f)(2), 3604(f)(3)(B); 24 C.F.R. §§ 100.202(b)(1); 100.204(a).
42. By seeking to evict Complainant and her son, Respondents violated Section 818 of the Act by interfering with, coercing, intimidating, and retaliating against Complainant as the result of her submitting a reasonable accommodation request and filing a Title VIII complaint on August 11, 2016 with HUD. 42 U.S.C. § 3617; 24 C.F.R. §§ 100.400(b), (c)(1-5).

43. As a result of the Respondents' actions, Complainant and her son have suffered damages including but not limited to emotional distress, inconvenience, and loss of housing opportunity.

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel, Region I, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents James W. Ray, Jr.; Jim Ray Homes, Inc.; and Shelter Valley, LLC with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f)(1), § 3604(f)(2), § 3604(f)(3)(B), and § 3617, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of the Respondents as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. Sections 3601-3619;
2. Enjoins the Respondents from further violations of the Act;
3. Awards such damages as will fully compensate Complainant and aggrieved parties for their economic loss, loss of housing opportunity, inconvenience, and emotional distress caused by the discriminatory conduct of the Respondents;
4. Awards a civil penalty against each Respondent for each violation of the Act pursuant to 42 U.S.C. Section 3612(g)(3);
5. Awards any such additional relief as may be appropriate under 42 U.S.C. Section 3612(g)(3).

Respectfully submitted,

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