

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES Secretary, United States

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Department of Housing and Urban	:	
Development, on behalf of the	:	
Housing Equality Center of	:	
Pennsylvania	:	
	:	HUDALJ No.
Charging Party,	:	
	:	
v.	:	FHEO No. 03-19-2995-8
	:	
Post Presidential Property Owner,	:	
LLC and Post Commercial Real	:	
Estate,	:	
	:	
Respondents.	:	
	:	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On July 29, 2019, Complainant Housing Equality Center of Pennsylvania (Complainant or HECP) filed a complaint with the United States Department of Housing and Urban Development (HUD), alleging that Respondents Post Presidential Property Owner, LLC (Respondent PPPO or PPPO) committed discriminatory acts on the basis of disability. On April 20, 2020, Complainant filed an amended complaint to add Post Commercial Real Estate, LLC (Respondent PCRE or PCRE) as a Respondent. Complainant alleges that Respondents discriminated against Complainant testers and are responsible for violating the following provision of the Fair Housing Act (the Act): discriminatory refusal to rent; discriminatory terms, conditions, or privileges of rental, making discriminatory statements and failure to grant a reasonable accommodation. The Complainant alleges that the Respondents’ discriminatory acts were based on disability.¹

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and 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 and 103.405; 76 Fed. Reg. 42463, 42465 (July 18, 2011).

¹ Although the term “handicap” appears in the Fair Housing Act and its implementing regulations, the Charge and Determination of Reasonable Cause use the terms “disability” and “handicap” interchangeably.

The Regional Director of the Office of Fair Housing and Equal Opportunity for Region III, 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 occurred in this case and has authorized the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned amended complaint and the Determination of Reasonable Cause, Respondents are hereby charged with violating the Fair Housing Act (the Act) as follows:

A. Statutory and Regulatory Provisions

1. It is unlawful to make, print, or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates 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(c)(1).
2. It is unlawful to discriminate in the rental, or to otherwise make unavailable or deny, a dwelling to any renter because of disability. 42 U.S.C. § 3604(f)(1)(A); 24 C.F.R. § 100.202(a)(1).
3. It is unlawful to discriminate against a person in the terms, conditions, or privileges of a sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of disability. 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b)(1).
4. Discrimination under 42 U.S.C. § 3604(f)(1) and (f)(2) includes denying a person with a disability a reasonable accommodation when such accommodation may be necessary to afford such person equal opportunity to enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
5. A reasonable accommodation is a change in a rule, policy, practice or service when such accommodation may be necessary to afford a person with a disability the equal opportunity to enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
6. "Disability" is defined as a physical or mental impairment which substantially limits a person's 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.

B. Parties and Properties

7. Respondent PPPO owns Presidential City Apartments, at 3900 City Ave., Philadelphia, PA 19131 (“subject property”), an apartment complex with 1035 units. PPPO’s address is 1021 North Hancock St., Suite 1 in Philadelphia, Pennsylvania 19123.
8. Respondent PCRE manages the subject property. PCRE’s address is 1021 North Hancock St., Suite 1, in Philadelphia, Pennsylvania 19123.
9. Complainant HECP is a non-profit housing rights organization that promotes equality in housing and housing related services to all persons without regard to race, color, religion, national origin, disability, gender, and familial status. Complainant’s address is 550 Pinetown Road, Suite 460 in Fort Washington, Pennsylvania 19034. HECP provides educational, counseling, and referral services, and conducts testing throughout Southeastern Pennsylvania. At HUD’s request, Complainant conducted testing of the subject property.
10. Complainant is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i).

C. Factual Allegations

11. In or around July 2018, a tenant at the subject property reached out to HUD alleging that she had been denied a reasonable accommodation to have pet fees waived for an emotional support animal. The tenant received an email from Respondents’ counsel dated July 12, 2018, stating “a landlord is entitled to charge pet fees for an emotional support animal which is considered a pet unlike a service animal.” The email further stated that Respondents were entitled to charge pet fees for her emotional support animal. Based upon this evidence, HUD requested that Complainant test the subject property.
12. Complainant conducted a series of tests at the subject properties between August 20, 2018 and February 6, 2019. The tests focused on reasonable accommodations relating to designated accessible parking and emotional support animals for prospective tenants with disabilities.

Emotional Support Animals and Pet Fees

13. On September 9, 2018, Complainant’s Tester #059 called the subject property by telephone and spoke with a man who identified himself as Andre. Tester #059 stated she was looking for an apartment for her niece, who had an emotional support dog. Andre stated there was a \$250 (two hundred fifty dollar) deposit for any dog and a \$25 (twenty-five dollar) monthly pet fee.
14. On September 16, 2018, Tester #059 visited the subject property and received a tour from leasing specialist Dayanna Reeves. Tester #059 stated she was looking for an apartment for her niece. When Ms. Reeves asked if the niece had any pets, Tester #059 said that her niece had an emotional support dog. Ms. Reeves told the tester about the \$250 refundable deposit for the animal and the monthly pet fee of \$25.

15. On September 20, 2018, Tester #059 called Ms. Reeves at the number she provided during the tour. The tester asked Ms. Reeves if the security deposit and monthly fee could be waived because her niece's dog was prescribed by a medical professional for emotional support. Ms. Reeves stated management would not waive the deposit or monthly fee. Ms. Reeves further stated that there is a difference between an emotional support dog and a service dog, because a service dog has papers to prove its training. The tester reiterated that the dog was prescribed by a medical professional. Ms. Reeves replied that the issue had arisen before and that management was firm on that policy.
16. On February 1, 2019, Complainant Tester #131 called the subject property and spoke with a woman who identified herself as Laure. Tester #131 stated she was helping her nephew find an apartment, and that he had an emotional support dog. Laure stated there are no restrictions on pets, but emotional support animals would not be exempt from the pet fees, only service animals would be. Laure stated there was a \$250 non-refundable deposit and pet rent of \$50 per month thereafter.
17. During the time period that the testing was conducted, Respondents' leasing director, Crystal Ayers confirmed that Respondents had a policy that it would not waive pet deposits and monthly pet fees for tenants with emotional support animals. Ms. Ayers further stated Respondents applied this policy to all the properties it owned and managed.
18. The Department found that Respondents denied reasonable accommodation requests of testers representing prospective tenants with a disability-related need for an emotional support animal.

Designated Accessible Parking

19. The subject property has approximately 1,050 parking spaces, including outdoor and indoor garage parking. Accessible parking spaces for persons with disabilities are designated around the entrances.
20. On August 20, 2018, Ms. Reeves gave a tour of the subject property to Tester #053. Tester #053 told Ms. Reeves that he was seeking an apartment for his brother with a mobility impairment; tester asked if his brother could have a designated parking space with his unit number on it. Ms. Reeves said she would have to check with management. On August 21, 2018, Tester #053 emailed Ms. Reeves to inquire about obtaining a designated accessible parking space for his brother. Ms. Reeves responded, "[U]nfortunately the property cannot offer assigned handicapped spots. There are enough outside by the entrance of each tower."
21. Respondents confirm they do not assign accessible parking spaces to specific tenants regardless of their disability-related need for one.
22. The Department found that Respondents denied the reasonable accommodation request of a tester representing a prospective tenant with a disability-related need for designated accessible parking space.

Complainant's Injury

23. As a result of Respondents' discriminatory actions, Complainant's mission was frustrated, and its resources were diverted to counteract the disability discrimination experienced by its testers. Complainant suffered injury when it expended significant resources to test and engage in educational campaigns because of and in response to Respondents' discriminatory conduct. The resources expended for these activities were diverted from Complainant's other fair housing programs.

D. Fair Housing Act Violations

24. By denying Testers' reasonable accommodation requests for designated parking and the waiver of pet fees for emotional support animals for prospective tenants with a disability, Respondents made rental housing unavailable based on disability in violation of the Act. 42 U.S.C. § 3604(f)(1)(A); 24 C.F.R. § 100.202(a)(1).
25. By denying Testers' reasonable accommodation requests for designated parking and the waiver of pet fees for emotional support animals for prospective tenants with a disability, Respondents discriminated in the terms, conditions, or privileges of rental because of disability in violation of the Act. 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b)(1).
26. By denying Testers' requests for designated parking and/or waiver of pet fees for emotional support animals, as reasonable accommodations for prospective tenants with a disability, Respondents discriminated on the basis of disability in violation of 42 U.S.C. §§ 3604(f)(1), 3604(f)(2) and 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
27. By telling Testers that a prospective tenant with a disability may not obtain a designated parking space or a waiver of pet fees for an emotional support animal, Respondents discriminated by making statements indicating a preference against persons with disabilities in violation of the Act. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of Regional Counsel for the Philadelphia Regional Office, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604 (c), (f)(1)(A), (f)(2)(A) and (f)(3)(B) and requests that an order be issued that:

1. Declares that Respondents' discriminatory housing practices, as set forth above, violate Sections 3604 (c), (f)(1)(A), (f)(2)(A) and (f)(3)(B) of the Fair Housing Act, 42 U.S.C. §§ 3604 (c), (f)(2)(a) and (f)(3)(B).
2. Enjoins Respondents and all other persons in active concert or participation with Respondents from discriminating against any person based on disability in any aspect of the sale or rental of a dwelling;

3. Awards such damages as will fully compensate Complainant;
4. Assesses 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;
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this ____ day of _____, 2020.

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