

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS**

The Secretary, United States Department of)	
Housing and Urban Development, on behalf of)	
Complainant ██████████,)	
)	
Charging Party,)	
)	OHA No. _____
v.)	
)	FHEO No. 07-19-2663-8
Dahms Investments, L.L.C.)	
and Jules Vyrostek,)	
)	
Respondents.)	
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CHARGE OF DISCRIMINATION

I. JURISDICTION

On August 26, 2019, Complainant ██████████ filed a timely complaint with the U.S. Department of Housing and Urban Development ("HUD" or the "Department") alleging she was injured by the discriminatory acts of Dahms Investments, L.L.C. The complaint was amended on February 5, 2020 and October 22, 2020 to clarify the allegations and add Property Manager Jules Vyrostek as a Respondent, among other matters. Complainant alleges Respondents discriminated against her based on disability¹, in violation of Subsections 3604(c), 3604(f)(1), (f)(2) and 3604(f)(3)(B) of the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* (the "Act")(2020).

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination ("Charge") 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) and (2). The Secretary has delegated that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405 (2020)), who has redelegated the authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

By Determination of Reasonable Cause dated January 21, 2021, the Fair Housing and Equal Opportunity ("FHEO") Director for Region VII, on behalf of the Assistant Secretary for FHEO, has determined reasonable cause exists to believe that a discriminatory housing

¹ The Fair Housing Act uses the term handicap. This Charge will use the word disability, which has the same legal meaning.

practice has occurred based on disability 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, Respondents are hereby charged with violating the Act as follows:

A. Legal Authority

1. It is unlawful to make any statement 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. §§ 100.50(b)(4) and 100.75.
2. It is unlawful to make unavailable or deny a dwelling to any buyer or renter because of a disability of that buyer or renter. 42 U.S.C. § 3604(f)(1); 24 C.F.R. §§ 100.202(a)(1) and 100.50(b)(3).
3. It is unlawful to discriminate 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 a disability of that person. 42 U.S.C. § 3604(f)(2); 24 C.F.R. §§ 100.202(b)(1) and 100.50(b)(2).
4. Discrimination under subsections 804(f)(1) and (f)(2) of the Act includes a refusal 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. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
5. Pursuant to the Act, "aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i)(1); 24 C.F.R. § 100.20(a).
6. Pursuant to the Act, "disability" means, with respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities. 42 U.S.C. § 3602(h)(1); 24 C.F.R. § 100.201.

B. Parties and Subject Property

7. The subject property is a duplex located at [REDACTED], Hamilton, MO 64644. The subject property is a dwelling as defined by the Act. 42 U.S.C. § 3602(b).
8. On August 5, 2019, Complainant, [REDACTED], began the application process to rent the subject property at the leasing office on 303 South Davis Street, Hamilton, MO 64644.

9. Complainant has mental health related impairments that substantially limit her major life activities, and upon the written advice of a physician, has a dog that provides emotional support to ameliorate the effects of her disability. Complainant has a disability as defined by the Act. 42 U.S.C. § 3602(h)(1).
10. Complainant is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i)(1).
11. Respondent Dahms Investments, L.L.C., owns the subject property and two other duplexes for a total of six rental units.
12. Respondent Jules Vyrostek is employed by Respondent Dahms Investments, L.L.C. to manage the subject property.

C. Factual Allegations

13. On August 5, 2019, Complainant went to Respondent's rental office located at 303 South Davis Street, Hamilton, Missouri 64644, and spoke to Respondent Vyrostek about her interest in renting the subject property.
14. While Complainant filled out a rental application, Respondent Vyrostek shared the costs of renting the subject property. The parties discussed that the total rent and deposits, not including a pet deposit, amounted to \$1,650.
15. Respondents require an additional deposit ranging from \$250 to \$400 from tenants who own pets, depending upon the size of the rental property.
16. When Complainant reached the part of the application that inquired about pets, she informed Respondent Vyrostek she had an assistance animal. Respondent Vyrostek replied that Complainant would have to pay a \$400 deposit for her animal.
17. Complainant advised Respondent Vyrostek she could not require a deposit for an assistance animal and offered to provide a letter from her physician recommending the assistance animal.
18. Respondent Vyrostek remained firm on the pet deposit fee, instructing Complainant that a physician's letter did not matter.
19. Complainant stopped filling out the rental application and returned it to Respondent. The pet inquiry is the last question Complainant answered on the application.
20. Complainant contacted Respondents later that day by phone and told Respondent Vyrostek that "[a]ccording to the Fair Housing Act, no fees can be charged for an emotional support animal."
21. Respondent Vyrostek told Complainant that she had looked up the rule related to assistance animals and, "[i]t only applies to blind and deaf people or people with another disability." Complainant replied that Respondents didn't know whether she had "another disability." When Respondent Vyrostek responded that Complainant did not look like she

had a disability and asked what the disability was, Complainant informed her that by law, Respondents could not ask that question. Whereupon, Respondent Vyrostek said “I’m sorry then we can’t help you.”

22. Complainant’s letter from a psychiatrist dated September 21, 2016 stated caring for an animal was a therapeutic experience for Complainant, and that “[Complainant] was advised that it can be beneficial to have a pet.”
23. During the fair housing investigation, Complainant provided an updated letter from the psychiatrist dated October 9, 2019, which reads, "This letter is to recommend allowing [REDACTED] to have her pet "dog" for her emotional support. She is currently under my care for severe anxiety.”
24. Complainant stated that during the period she sought housing, she felt overwhelmed because she could not find quality housing in Hamilton where she was permitted to have her assistance animal, and her work commute and commute to visit her mother were longer. Complainant suffered from headaches and a loss of appetite as a result of her inability to find housing.

D. Legal Allegations

25. As described above, Respondents violated Subsection 804(c) of the Act by unlawfully making statements with respect to the rental of the subject property that indicated a preference, limitation, and 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. §§ 100.50(b)(4) and 100.75.
26. As described above, Respondents violated Subsections 804(f)(1) and 804(f)(3)(B) of the Act by making housing unavailable to Complainant by denying Complainant’s reasonable accommodation request, when such an accommodation was necessary to afford Complainant an equal opportunity to use and enjoy the dwelling. 42 U.S.C. §§ 3604(f)(1) and (f)(3)(B); 24 C.F.R. §§ 100.202(a)(1); 100.204(a); and 100.50(b)(3).
27. As described above, Respondents violated Subsections 804(f)(2) and 804(f)(3)(B) of the Act by discriminating against Complainant in the terms, conditions, or privileges of rental of the subject property by denying Complainant’s reasonable accommodation request, when such an accommodation was necessary to afford Complainant an equal opportunity to use and enjoy the dwelling. 42 U.S.C. §§ 3604(f)(2) and (f)(3)(B); 24 C.F.R. §§ 100.202(b)(1), 100.204(a); and 100.50(b)(2).
28. As a result of Respondents’ discriminatory conduct, Complainant suffered actual damages, including emotional distress, inconvenience, and out-of-pocket costs.

III. CONCLUSION

WHEREFORE, the Secretary of HUD, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(c), (f)(1), (f)(2) and (f)(3)(B), and requests an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Act, as amended, 42 U.S.C. § 3601, *et seq.*;
2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, from discriminating against any person because of disability in any aspect of the sale, rental, use, or enjoyment of a dwelling;
3. Awards such monetary damages as will fully compensate Complainant for the damages caused by Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3);
4. Assesses a civil penalty against each Respondent for each violation of the Act that Respondents have committed, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 21st day of January 2021.

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