

**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 NAME REDACTED , and his son,)	
NAME REDACTED)	
)	
Charging Party,)	
)	OHA No. _____
v.)	
)	FHEO No. 07-20-5367-8
Fox Run Apartments, LLC,)	
Peterson Properties, Inc.,)	
Marilyn Light,)	
Christy Donnici,)	
and Deborah Alexander,)	
)	
Respondents.)	
_____)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On August 6, 2020, Complainant **NAME REDACTED** filed a timely complaint with the U.S. Department of Housing and Urban Development ("HUD" or the "Department") alleging he and his son, a minor at the time, were injured by the discriminatory acts of Respondents Peterson Properties, Inc., Christy Donnici, and Deborah Alexander. The complaint was amended on July 25, 2022, to add Regional Manager Marilyn Light and Fox Run Apartments, LLC as Respondents, among other matters. Complainant alleges Respondents discriminated against him and his aggrieved son based on disability¹, in violation of Subsections 3604(f)(1), 3604(f)(2) and 3604(f)(3)(B) of the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* (the "Act") (2022).

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 (2022)), who has redelegated the authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

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

By Determination of Reasonable Cause dated August 25, 2022, 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 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 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).
2. 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).
3. 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).
4. 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).
5. 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

6. The subject property, Fox Run Apartments, is an apartment and townhome complex consisting of 515 units located in Shawnee, Kansas. Complainant was to occupy a one-bedroom, one-bathroom apartment, located at **ADDRESS REDACTED**, Shawnee, Kansas 66214.
7. The subject property is a dwelling as defined by the Act. 42 U.S.C. § 3602(b).
8. Complainant, **NAME REDACTED**, has mental health related impairments that substantially limit his major life activities, and upon the written advice of a physician, has

a dog that provides emotional support to ameliorate the effects of his disability.
Complainant has a disability as defined by the Act. 42 U.S.C. § 3602(h)(1).

9. Complainant is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i)(1).
10. Respondent Fox Run Apartments, LLC, owns the subject property.
11. Respondent Peterson Properties, Inc. is the property management company for the subject property.
12. Respondent Christy Donnici is employed by Peterson Properties, Inc. to manage the subject property.
13. Respondent Deborah Alexander is employed by Peterson Properties, Inc. as the leasing agent for the subject property.
14. Respondent Marilyn Light is employed by Peterson Properties, Inc. as a Regional Manager and was the decision maker for reasonable accommodation requests at the subject property.

C. Factual Allegations

15. On June 1, 2020, Complainant toured a one-bedroom, one-bathroom apartment at the subject property.
16. On June 2, 2020, Complainant submitted a rental application that reflected his intent to occupy the unit with his son, who was 16 at the time, and his emotional support animal (ESA), a year and a half old Doberman that weighed 70 plus pounds.
17. Complainant wrote on the application he had a “VA-ESA Letter” (“letter”) and submitted the letter with the application.
18. The letter, dated May 2, 2019, and typed on Department of Veterans Affairs (VA) letterhead, was signed by Dr. **NAME REDACTED**, a psychiatrist at the Colmery-O’Neil VA Medical Center in Eastern Kansas.
19. Dr. **NAME REDACTED**’s letter states she is “familiar with [Complainant’s] history and with the functional limitations imposed by his emotional/mental health-related disorder(s)” and that Complainant met the definition of disability under the Act.
20. The letter prescribes a dog of Complainant’s choosing to help mitigate symptoms of his emotional impairments and states “the presence of the dog...is necessary for his emotional/mental health.”
21. Respondents’ Pet Policy prohibits tenants from having pets that weigh more than 25 pounds.

22. Complainant's doctor's letter reliably established his disability-related need for a reasonable accommodation to Respondents' Pet Policy.
23. Complainant made several inquiries regarding the status of his application between June 3, 2020, and June 15, 2020.
24. On June 16, 2020, Respondent Donnici informed Complainant his application was conditionally approved with a move-in date for June 29, 2020, and requested the additional third-party verification form for the first time.
25. Respondents' "Reasonable Accommodation – Third Party Verification Form" ("verification form") asks medical providers three questions:
 - a. Is the person disabled as defined by the Fair Housing Act;
 - b. Based on the specific disability, does this person require the requested accommodation or modification exactly as stated above in order to have equal enjoyment of the premises as would a non-disabled resident; and
 - c. If asked, would you testify to this in a legal or administrative proceeding?
26. Respondents' verification form was unnecessary.
27. Complainant signed and returned the verification form as required by Respondents on June 17, 2020.
28. Respondents faxed copies of the verification form to Dr. **NAME REDACTED**'s office on June 19 and June 22, 2020, but did not receive a response.
29. On June 23, 2020, Respondent Alexander notified Complainant that if Respondents did not receive the completed verification form by close of business on June 26, 2020, his reasonable accommodation request would be denied.
30. On June 23, 2020, Complainant contacted Dr. **NAME REDACTED**'s nurse to inquire about the verification form and learned that Dr. **NAME REDACTED** would be on vacation until June 29, 2020, and the nurse could not complete the form in the doctor's absence.
31. Complainant emailed Respondent Donnici on June 23, 2020, that his provider was on vacation and asked whether his June 29, 2020, move-in date would be delayed or denied due to the unforeseeable circumstance.
32. After sending the email, Complainant and Respondent Alexander had several phone calls during which Respondent Alexander told Complainant she did not care if his doctor was on vacation, they had to have the signed verification form back by June 26, 2020, or they would deny him.

33. Complainant, who had to turn in the keys for his current housing by June 30, 2020, immediately began looking for another apartment given Dr. **NAME REDACTED** was away until June 29, 2020, and it was impossible for her to submit the verification form by June 26, 2020.
34. Respondents faxed the verification form to Dr. **NAME REDACTED**'s office again on June 24, 2020.
35. On June 24, 2020, Complainant emailed Respondent Donnici. He reiterated that his medical provider was on vacation until June 29, 2020.
36. Respondents denied Complainant's request for a reasonable accommodation and would not allow him to move in with his animal on his scheduled move-in date because his medical provider did not complete the verification form by June 26, 2020.
37. Respondent Marilyn Light, Regional Manager, was the management official who determined Dr. **NAME REDACTED**'s letter prescribing Complainant's dog was insufficient and ultimately denied his request for reasonable accommodation.
38. Respondents thereafter cancelled Complainant's lease on June 26, 2020, stating his animal exceeded occupancy limits, and the request to be classified as an assistance animal was not met.
39. Respondents' June 26, 2020, handwritten note documented the reason for denying Complainant's reasonable accommodation request as "no reply by 3rd party after multiple requests to respond" and noted Complainant did not want to move in without his dog.
40. Respondents refunded Complainant \$200, covering his deposit and an administrative fee on July 2, 2020, but did not refund a \$50 application fee.
41. After the Respondents refused to approve his assistance animal, Complainant was distraught and had to promptly secure alternative housing that required a larger deposit and higher rent than the subject property.
42. As a result of Respondents' discriminatory conduct, Complainant and his aggrieved son suffered actual damages, including emotional distress, inconvenience, lost housing opportunity, and out-of-pocket costs.

D. Legal Allegations

43. 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).

44. 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 requiring unnecessary third-party verification and 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).

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(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 and his aggrieved son 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 25th day of August 2022.

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