

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

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The Secretary, United States Department)
of Housing and Urban Development,)
on behalf of Complainant Redacted)
)
Charging Party,)
)
v.)
)
Jo Roderick and)
Roderick Apartments, LLC,)
)
Respondents.)
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HUD ALJ No. _____

FHEO No. 01-18-0537-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On September 7, 2018, **Redacted** (“Complainant”) filed a complaint with the United States Department of Housing and Urban Development (“HUD”). The Complainant alleges that Jo Roderick (“Respondent Roderick”) and Roderick Apartments, LLC (“Respondent LLC”), (collectively, “Respondents”) committed discriminatory housing practices on the basis of disability¹ in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-19 (“Act”).

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons 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, who has re-delegated the authority to the Regional Counsel. 24 C.F.R. §§ 103.400, 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Regional Director of HUD’s Office of Fair Housing and Equal Opportunity for Region I, 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 and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

¹ This charge uses the term “disability” interchangeably with the term “handicap,” which appears in the Fair Housing Act.

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, HUD hereby charges Respondents with violating the Act as follows:

A. Legal Authority

1. It is unlawful to discriminate in the rental of, or to otherwise make unavailable or deny, a dwelling to any renter because of the disability of that renter. 42 U.S.C. § 3604(f)(1)(A); 24 C.F.R. § 100.202(a)(1).
2. For the purposes of § 3604(f)(1), "discrimination" includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person equal opportunity to use and enjoy a dwelling. 42 U.S.C. 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
3. The Act defines disability as a physical or mental impairment which substantially limits one or more 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. HUD's regulations define "physical or mental impairment" to include "[a]ny mental or psychological disorder, such as . . . emotional or mental illness." 24 C.F.R. § 100.201.

B. Parties and Subject Property

4. Complainant [REDACTED] is a veteran and person with a disability as defined by 42 U.S.C. § 3602(h). He has mental impairments that substantially limit his ability to sleep and socialize. Complainant requires his assistance dog [REDACTED] to ameliorate the effects of his disability. The Complainant is an aggrieved person as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
5. Respondent LLC is a domestic limited liability corporation registered with the State of Maine.
6. Respondent Jo Roderick is an agent of Respondent LLC and helps coordinate Respondent LLC's rentals, including by answering phone inquiries, showing apartments, taking applications, and deciding which applications to accept. Respondent Roderick also creates Respondent LLC's policies regarding assistance animals.
7. Respondent LLC owns the property located at [REDACTED] in Clinton, Maine, a residential apartment unit ("subject property").
8. The subject property is a dwelling as defined by the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

C. Factual Allegations

9. Complainant has lived with his assistance dog since 2015.
10. In late February 2018, Respondents posted an advertisement for the subject property on craigslist.org.
11. In late February 2018, Complainant and his social worker called the phone number listed in the advertisement and spoke with Respondent Roderick regarding the rental unit and Complainant's veteran status and finances.
12. On or about the last week of February 2018, Complainant called Respondent Roderick a second time to discuss renting the subject property. During this conversation, Complainant informed Respondent Roderick that he had a disability related need to live at the subject property with his assistance dog, to which Respondent Roderick responded "absolutely not" and that she regretted allowing a prior tenant to live with his assistance dog because other tenants then wanted to get pet dogs.
13. On July 26, 2018, Pine Tree Legal Assistance ("PTLA"), a not for profit organization that provides free civil legal assistance to low income Maine residents, conducted a telephone test in which an individual claiming to require a service dog called Respondent Roderick in response to a rental advertisement posted by Respondents.
14. When PTLA's tester informed Respondent Roderick that she was interested in renting an apartment but that she needed to live with an assistance dog, Respondent Roderick told the PTLA tester that keeping even an assistance dog in the unit would be grounds for eviction.
15. The conversation between PTLA's tester and Respondent Roderick, an audio recording of which exists, strongly corroborates that Respondent Roderick also told Complainant that he could not keep his assistance dog at the subject property.
16. As a result of Respondents' discriminatory policies and actions, the subject property was made unavailable to Complainant, and Complainant has suffered actual damages, including, but not limited to, out-of-pocket expenses and emotional distress.

D. Fair Housing Act Violations

17. As described above, Respondents violated Section 3604(f)(1)(A) of the Act by discriminating against Complainant based on disability by refusing to grant his reasonable accommodation request and refusing to negotiate for the rental of a dwelling, making housing unavailable to him. 42 U.S.C. §§ 3604(f)(1)(A), 3604(f)(3)(B); 24 C.F.R. § 100.202(a); 24 C.F.R. § 100.204(a).

18. Respondents' also violated the Act by enforcing a policy prohibiting assistance animals at the subject property as a reasonable accommodation. 42 U.S.C. §§ 3604(f)(1)(A), 3604(f)(3)(B); 24 C.F.R. § 100.202(a); 24 C.F.R. § 100.204(a).

III. CONCLUSION

WHEREFORE, the Secretary of HUD, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(f) and prays that an order be issued that:

- A. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Act, as amended, 42 U.S.C. Sections 3601-3619;
- B. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, from discriminating on the basis of disability against any person in any aspect of the purchase or rental of a dwelling, and from further violations of 42 U.S.C. §§ 3604(f);
- C. Directs Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them, to amend their reasonable accommodation policy to allow for assistance animals in accordance with the Act;
- D. Awards such monetary damages as will fully compensate the Complainant for any and all injuries caused by Respondents' violations of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. §§ 180.670(b)(3)(i);
- E. Awards 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; and
- F. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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Date: _____