

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

The Secretary, United States Department of
Housing and Urban Development,

Charging Party,

on behalf of
OLGA AYALA HERNANDEZ

v.

HAL DEVELOPMENT CORPORATION,

Respondent.

HUDALJ 10-F-48-FH-6
FHEO No. 02-09-0243-8

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INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

On December 18, 2008, Olga Ayala Hernández ("Complainant") filed a verified complaint with the United States Department of Housing and Urban Development ("HUD"). Complainant, who is handicapped, alleged that Respondent HAL Development Corporation had refused to grant her a reasonable accommodation in violation of the Fair Housing Act ("Act"). In particular, Complainant alleged that Respondent had denied her exclusive use of a handicapped accessible parking space located close to her residence.

After conducting an investigation of the complaint, HUD commenced this action on February 19, 2010 by issuing a Charge of Discrimination (Charge) on behalf of Complainant, pursuant to Section 810 (g) (1) and (2) of the Act. On April 26, 2010, Respondent answered the Charge, denying the allegations and asserting defenses to the Charge.

The parties agree to settle and resolve the pending Charge without the necessity of a hearing before an Administrative Law Judge and Complainant agrees that the provision in Section IV, entitled Relief for Complainants will constitute Complainant's entire relief. Therefore, without a hearing or adjudication on the merits, the parties, as indicated by the signatures at the end of this document, have consented to the entry of this Consent Order.

This Order does not constitute a decision or finding that Respondent, its agents, employees, successors or assigns have engaged in any discriminatory housing practices, and by signing this

document, Respondent does not admit any violation of the Fair Housing Act or any other applicable state or local fair housing law.

II. ADMINISTRATION

The Order is entered into pursuant to section 812 (g) (3) of the Act and the regulations codified at 24 CFR § 180.450, and shall become final upon expiration of thirty days or affirmance by the Secretary within that time. *See* 42 U.S.C. § 3612 (h); 24 C.F.R. §§ 180.450, 180.670(b) (3), 180.675, 180.680(b) (2).

The signatures of the parties to the Order constitute a waiver of any right to withdraw their consent during the thirty day Secretarial review period and a waiver of any right to challenge the validity of this Order at any time.

The Order shall remain in effect for a period of two years following the date it becomes final, pursuant to 42 U.S.C. § 3612 (h) and 24 CFR § 180.680. The United States Court of Appeals has jurisdiction to enforce this Order, if necessary. *See* 42 U.S.C. § 3612 (j) and (m).

III. WAIVER AND RELEASE

In consideration for the execution of this Initial Decision and Consent Order, the parties hereby release all causes of action, demands and claims, including attorney fees, presently known or unknown, arising out of the subject matter of FHEO complaint No. 02-09-0243-8.

IV. RELIEF FOR COMPLAINANT

CM
It is ORDERED that, no later than twenty days after this Order becomes final, Respondent shall effectuate the transfer of title to the parking spaces, marked F-301 on the parking lot diagram attached here as Appendix A, to Complainant and the transfer of Complainant's parking spaces, marked E-201 on the parking lot diagram attached here as Appendix A, to Respondent. Any cost, expense or fees required to accomplish the aforementioned transfers shall be borne entirely by Respondent.

Upon this Tribunal's "SO Ordering" this Consent Order, and pending Respondent's transfer of title to parking spaces marked F-301 to Complainant, Respondent shall permit Complainant to use those spaces without penalty or charge.

V. RELIEF IN THE PUBLIC INTEREST

It is FURTHER ORDERED that Respondent, its agents, employees, successors and assigns, and all other persons in active concert or participation with them, in the management or operation of their business enterprise shall not a) refuse 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; b) discriminate in the provisions of services, or facilities against persons with disabilities or any other protected class pursuant to the

provisions of the Act; and c) retaliate, coerce, intimidate or interfere with any individual because of their exercise or enjoyment of any right granted or protected by the Fair Housing Act.

VI. CIVIL PENALTY

In consideration of the provisions made in the public interest, HUD shall waive civil penalties against Respondent subject to its compliance with this Order.

VII. REMEDIES FOR BREACH

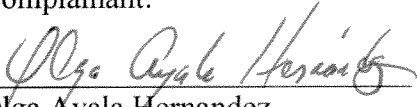
HUD shall determine compliance with the terms of this Order. Upon a breach of any provision the United States reserves its right for the enforcement of the final decision in accordance with 42 U.S.C. §3612(j). In the event the breach involves the provisions made in the public interest, HUD may seek civil penalties be imposed in the maximum amount allowed by law.

VIII. AGREEMENT OF THE PARTIES

Complainant Olga Ayala Hernández has been represented by the Office of Regional Counsel, New York/New Jersey Office for the Secretary of the United States Department of Housing and Urban Development and had the benefit of Counsel. HAL Development Corporation has had the benefit of private Counsel. All parties have read this Consent Order and willingly sign it with a full understanding of the rights it confers and responsibilities it imposes on them.

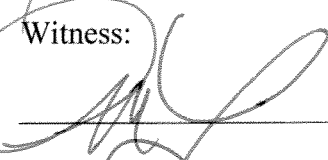
Approved:

Complainant:

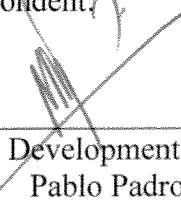

Olga Ayala Hernandez

06-02-2010
Date

Witness:



Respondent:

06-02-2010
Date

HAL Development Corporation
By:  Pablo Padro, Director


5/28/10
Date

Attorney for the Respondent:


Carlos H. Nofrecci
977. # 9263

05/28/10
Date

Regional Counsel:


John J. Cahill

Regional Counsel

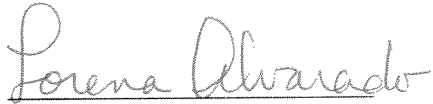
New York/New Jersey Office

U.S. Department of Housing
and Urban Development

26 Federal Plaza, New York, NY 10278

6/7/10
Date

HUD Trial Attorney:


Lorena Alvarado

6/7/10
Date

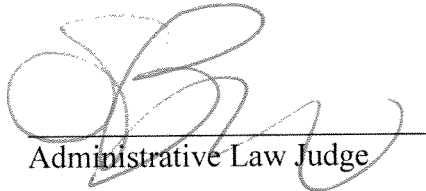
SO ORDERED THIS

10th

DAY OF

June

2010


Administrative Law Judge

