

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

Mary-Danielle Truax, and she,
on behalf of Jessica Truax,

v.

Paulsen Development of Albany, LLC,

Respondent.

HUDALJ 10-M-146-FH/17

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

On August 26, 2009, Mary-Danielle Truax filed a verified complaint with the United States Department of Housing and Urban Development (HUD), on behalf of herself and her minor child, Jessica Truax alleging that Respondent, her landlord, refused to grant her a reasonable accommodation, in violation of the Fair Housing Act, as amended in 1988, 42 U.S.C. §§ 3601 *et seq.* (Act). Ms. Truax alleged that Respondent unlawfully denied her request to permit Jessica to have a medically prescribed service animal as a reasonable accommodation and then, months later, after relenting, refused to permit the service animal to accompany Jessica to her apartment complex's pool area.

After conducting an investigation of the complaints, HUD commenced this action on June 17, 2010 by issuing a Charge of Discrimination (Charge) on behalf of Complainant, pursuant to Section 810 (g) (1) and (2) of the Act. The parties have requested two extensions to answer the Charge, which were granted by this tribunal, in order to facilitate settlement discussions.

The parties agree to settle and resolve the pending Charge without the necessity of a hearing before an Administrative Law Judge or adjudication on the merits, and without Respondent admitting fault or liability. Complainant agreed that the provisions in Section IV, entitled Relief for Complainant will constitute Complainant's entire relief. Therefore, as indicated by the

signatures at the end of this document, the parties have consented to the entry of this Consent Order (Order).

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. 02-09-0997-8.

IV. RELIEF FOR COMPLAINANTS

It is ORDERED that Respondent shall

- (1) Compensate Complainant in the following manner:
 - A. Pay the sum of \$2,600.00 in a certified check payable to Mary-Danielle Truax within 10 calendar days from the date of entry of this Order, delivered by registered mail to Complainant's address, as proof of payment.
 - B. Relieve Complainant of her monthly rent obligation for the period of 5 months, commencing October 2010 for a total of \$4,675.00 (\$935.00 x 5).
- (2) Allow Complainant to maintain a service animal for her daughter Jessica without limitations or restrictions to any services, facilities, or amenities available to tenants at Rose Garden Court, Latham, New York.

V. RELIEF IN THE PUBLIC INTEREST

It is FURTHER ORDERED that:

- (1) Prohibition Against Discrimination

Respondent, Paulsen Development of Albany, LLC, its agents, employees, successors and assigns, and all other persons in active concert or participation with them, in the management or operation of Respondent shall not:

- A. refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with disabilities equal opportunity to use and enjoy her 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 her exercise or enjoyment of any right granted or protected by the Fair Housing Act.

(2) Fair Housing Training

Within 90 days of the effective date of this Order, Richard Paulsen, Respondent's property manager, and Carol Robertson, Respondent's on-site manager, shall attend fair housing training conducted by HUD without cost to Respondent. Respondent shall promptly contact Jay Golden, FHEO Regional Director, Region II, U.S. Department of Housing and Urban Development, 26 Federal Plaza, Room 3532, New York, New York 10278, to arrange for training.

The training shall include but not be limited to Title VIII of the Civil Rights Act of 1968, and the Fair Housing Amendments Act of 1988, with an emphasis on general prohibitions against discrimination based on disability, including but not limited to the requirement of providing reasonable accommodations.

Within ten days of completion of the training, Respondent shall submit a certification of compliance with this provision, to Lorena Alvarado, HUD Attorney Advisor, Room 3237, U.S. Department of housing and Urban Development, 26 Federal Plaza, New York, NY, 10278.

VI. CIVIL PENALTY

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

This Order does not constitute a decision or finding that Respondent, or its agents, employees, successors or assigns has 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.

VII. REMEDIES FOR BREACH

HUD shall determine compliance with the terms of this Order. Upon a breach of any provision the United States reserves it 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

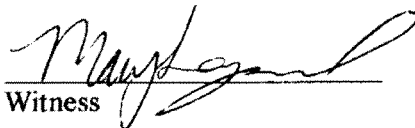
Complainant Mary-Danielle Truax has consulted with the Office of Regional Counsel, New York/New Jersey Office for the Secretary of the United States Department of Housing and Urban Development prior to signing this Consent Order. Respondents have had the benefit of private Counsel. All parties have read this Consent Order and willingly sign it below with a full understanding of the rights it confers and responsibilities it imposes on them.

Approved:

Complainant:

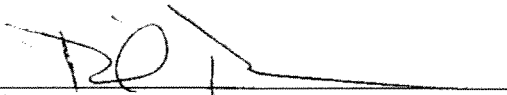

Mary-Danielle Truax

9-13-2010
Date


Witness

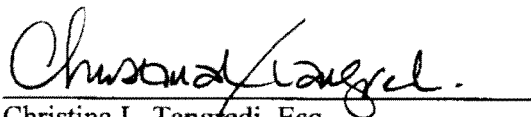
9-13-2010
Date

Respondent:


Richard Paulsen for
Paulsen Development of Albany, LLC

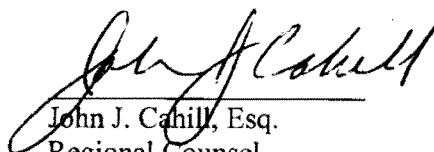
9/07/2010
Date

For the Respondent:


Christina L. Tangredi, Esq.


Sept. 7 2010
Date

Regional Counsel:


John J. Cahill, Esq.
Regional Counsel
New York/New Jersey Office
U.S. Department of Housing
and Urban Development
26 Federal Plaza, New York, NY 10278

9/17/10
Date

HUD Trial Attorney:


Lorena Alvarado, Esq.

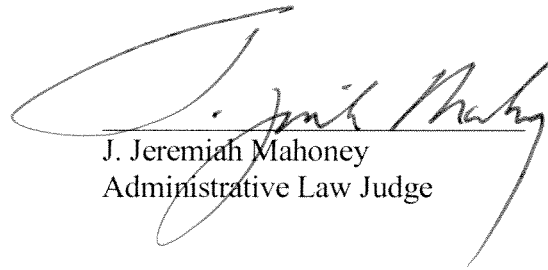
9/17/10
Date

IX. ORDER OF THE COURT

The hearing in this matter was previously scheduled for October 13, 2010, to accommodate the parties' requested a stay for the purpose of settlement discussions. The stay was incorporated in the Court's Notice of Hearing and Order, dated July 27, 2010. The parties have since finalized an agreement, which is incorporated in the foregoing Initial Decision and Consent Order. The Initial Decision and Consent Order, bearing the signatures of the parties, were received by the Court on September 20, 2010.

The terms of the parties' agreement appear to be in the public interest and it is accepted as resolving all issues in the Charge of Discrimination. Accordingly, the above Initial Decision and Consent Order are hereby approved.

So **ORDERED**, this 21st day of September, 2010.



J. Jeremiah Mahoney
Administrative Law Judge