

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

Secretary, United States Department of)	
Housing and Urban Development, on behalf of)	
Dora Torres and Francisco Aguillon)	ALJ No. 16-JM-0159-FH-024
)	
Charging Party,)	FHEO No. 04-14-0799-8
)	
v.)	
)	
Peachtree Court Homeowners Association, Inc.,)	
Peachtree Court Board of Directors, and)	
Peachtree Court Architectural Advisory Committee)	
)	
Respondent.)	
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INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

On September 30, 2016, the Charging Party filed a Charge of Discrimination (“Charge”) alleging Respondents Peachtree Court Homeowners Association, Inc., Peachtree Court Board of Directors, and Peachtree Court Architectural Advisory Committee (collectively “Respondents”) discriminated against Complainants Dora Torres and Francisco Aguillon (collectively “Complainants”) and their two (2) minor children on the basis of familial status in violation of the Fair Housing Act (the “Act”), 42 U.S.C. §§ 3601-3619. Specifically, the Charge alleges that the Respondents discriminated against Complainants in the denial of Complainants’ request to install a play structure at 1775 Vinery Avenue in Cumming, Georgia (the “Subject Property”) and unlawfully prohibited the installation of all play structures at the Peachtree Court community.

Respondents deny they violated the Act as alleged in the Charge, but agree to settle the claims in the underlying action by entering into this Initial Decision and Consent Order (“Consent Order”). The entry of this Consent Order shall not be deemed as an admission of fault or liability by Respondents.

II. GENERAL PROVISIONS

1. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed complaint. No party has been coerced, intimidated, threatened, or in any way forced to become a party to it. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations hereunder.

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2. The parties agree that the Charging Party shall file with the Office of Administrative Law Judges a Joint Motion for Entry of an Initial Decision and Consent Order, along with this Consent Order, after this Consent Order is executed by all parties.
3. This Consent Order is binding upon Respondents, their members, principals, owners, employees, successors, agents, assigns and all others in active concert with them in the operation and management of Peachtree Court community.
4. In consideration of the execution of this Consent Order, Complainants Dora Torres and Francisco Aguillon hereby forever waive, release, and covenant not to sue the U.S. Department of Housing and Urban Development ("HUD") or Respondents, their heirs, executors, successors, assigns, agents, employees, or attorneys, with regard to any and all claims, damages, and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD ALJ No. 16-JM-0159-FH-024, or which could have been filed in any action or suit arising from said subject matter.
5. In consideration of the execution of this Consent Order, Respondents hereby forever waive, release, and covenant not to sue HUD or Complainants Dora Torres and Francisco Aguillon, their heirs, executors, successors, assigns, agents, employees, or attorneys, with regard to any and all claims, damages, and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD ALJ No. 16-JM-0159-FH-024, or which could have been filed in any action or suit arising from said subject matter.
6. The parties and their counsel agree that if a party to this agreement needs an extension of time in order to satisfy a deadline provided herein, such extension must be obtained in writing by mutual agreement of the parties.
7. Pursuant to 24 C.F.R. § 180.680, the parties understand that this Consent Order shall be a public document.
8. The signature of the parties to this Consent Order constitute a waiver of any right to apply for additional attorney's fees or costs pursuant to 24 C.F.R. § 180.705. Each party is responsible for its own attorney's fees and costs.
9. Each of the signatories represents and warrants that he or she is duly authorized to execute this Consent Order on behalf of the indicated Party, that no further corporate or other action is necessary to authorize such execution, and that no other entity or person is a necessary party to this Consent Order.

III. INDIVIDUAL RELIEF

10. Within thirty (30) days of the effective date of this Consent Order, Respondents shall permanently waive any and all fines previously accumulated by Complainants as a result of the installation of any play structure or similar home modification. It is the understanding of the parties that the ~~current~~ fines total \$2,300.00. *have already been removed.*

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11. Within thirty (30) days of the effective date of this Consent Order, Respondents shall pay to Dora Torres and Francisco Aguillon the sum of \$25,000.00 in full settlement of their claims for damages arising out of the allegations presented in the Charge. Such payment shall be by certified check and shall be sent by Federal Express or Certified Mail to the following address:

Dora Torres
1775 Vinery Avenue
Cumming, Georgia 30041

Respondents shall send a copy of the check to the following address:

Samuel H. Williams
Trial Attorney
U.S. Department of Housing and Urban Development
Office of General Counsel, Region IV
40 Marietta Street, 3rd Floor
Atlanta, Georgia 30303

IV. ACTIONS IN THE PUBLIC INTEREST

12. Injunction from Discrimination: Respondents, their agents, employees, successors, member and assigns, and all other persons in active concert or participation with any of them in the ownership, operation, oversight, or management of the Peachtree Court community, are hereby enjoined from:
- Discriminating 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 therewith, because of any protected class under 42 U.S.C. §§ 3601, *et seq.*
 - Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in this litigation. Respondents further acknowledge that any subsequent retaliation or discrimination constitutes both a material breach of this Consent Order and a statutory violation of the Act.
13. Notice of Policy Withdrawal: Within thirty (30) days of the execution of this Consent Order, Respondents shall notify all residents of the Peachtree Court community that any previous prohibition on play structures is no longer in effect. The notice shall also notify all of the residents of the Peachtree Court community that play structures are permitted, subject to the individual obtaining the approval of the Board of Directors in accordance with Article VI Section 3 of the Declaration.
14. Mandatory Education and Training:
- Within thirty (30) days of the execution of this Consent Order, Respondents shall provide a copy of this Consent Order to all of their principals, agents, and employees

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involved in the operation, management, or oversight of the Peachtree Court community.

- b. Within one hundred and eighty (180) days of the entry of this Consent Order, all current members of the Peachtree Court Board of Directors shall attend a minimum of two (2) hours of training on their obligations under the Act and applicable state and local non-discrimination laws. This Fair Housing training can be conducted by any agency or organization approved by HUD. Respondents must obtain written approval of the trainer from counsel for the Charging Party at least thirty (30) days prior to the commencement of the training. All costs of the training shall be borne by Respondents. Respondents shall require all attendees to sign a certification of attendance.
15. Fair Housing Poster: Within ten (10) days of the entry of this Consent Order, Respondents agree to display a HUD Fair Housing Poster, provided by HUD, in a conspicuous location in the clubhouse or other central location of the Peachtree Court community. The poster shall be displayed throughout the term of this Consent Order.
16. Non-Discrimination Policy: Within ten (10) days of the entry of this Consent Order, Respondents agree to post the following non-discrimination policy on any website where the Respondents advertise or conduct business: "It is the policy and commitment of Peachtree Court~~x~~ that it does not discriminate on the basis of race, color, sex, religion, national origin, familial status or disability, in the rental of its residential dwellings. Peachtree Court~~x~~ affirms its policy of equal housing opportunity pursuant to state and federal fair housing laws." Respondents shall also post copies of its non-discrimination policies in the clubhouse, in both English and Spanish. These postings shall be prominently displayed, readily apparent to all persons seeking to rent, and shall include the fair housing logo.

V. REPORTING AND RECORDKEEPING

17. Within thirty (30) days of the entry of this Consent Order, Respondents shall send a copy of the check sent to Complainant, pursuant to Paragraph 11, to the attention of Samuel Williams, Trial Attorneys, at the aforementioned address.
18. During the term of this Consent Order, Respondents shall notify HUD of any formal complaint filed against them with a local, state, or federal agency regarding equal opportunity or discrimination in housing within ten (10) days of receipt of any such complaint. Respondents shall provide a copy of the complaint with the notification to HUD. Respondents shall also promptly provide HUD with all information it may request concerning any such complaint and its actual or attempted resolution.
19. Within one hundred and ten (110) days of the entry of this Consent Order, Respondents shall provide a copy of the notice sent to residents about the Notice of Policy Withdrawal, pursuant to Paragraph 13.

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20. Within ten (10) days after the completion of the Fair Housing Training required pursuant to Paragraph 14, Respondents shall submit the signed attendance list to HUD.
21. Within forty-five (45) days of the entry of this Consent Order, Respondents shall submit a photograph to HUD showing that the Fair Housing Poster described in Paragraph 15 has been posted in the requisite location.
22. All required notifications and documentation of compliance must be submitted to HUD as follows, unless otherwise indicated:

Sharon M. Swain
Regional Counsel
U.S. Department of HUD
Office of General Counsel
40 Marietta Street, SW
Third Floor
Atlanta, Georgia 30303
Sharon.M.Swain@HUD.gov
Kiara.B.Griggs@HUD.gov

Carolos Osegueda
Regional Director
U.S. Department of HUD
Office of Fair Housing and Equal Opportunity
40 Marietta Street, SW
Sixteenth Floor
Atlanta, Georgia 30303
Carlos.Osegueda@HUD.gov
Garian.D.Clark@HUD.gov

VI. DISMISSAL OF CHARGE

23. In consideration of Respondents' payment to Complainants and compliance with the terms and conditions of this Consent Order, and all orders contained herein, the Charging Party agrees to the dismissal, without a formal determination, of the allegations that Respondents injured Complainants by violating the Act. Therefore, as of the effective date of this Consent Order, the Charge against Respondents is hereby DISMISSED with prejudice. However, nothing in this paragraph should be construed to prevent any of the parties from taking action to enforce this Consent Order.

VII. COMPLIANCE

24. During the term of this Consent Order, HUD may review compliance with this Consent Order, subject to and in accordance with HUD regulations. As part of such review, HUD may, upon providing advance notice of said inspection, inspect Respondents' property, examine witnesses, and copy pertinent records of Respondents. Respondents agree to

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provide their full cooperation in any compliance review undertaken by HUD to ensure compliance with this Consent Order.

25. Upon a breach of any provision of this Consent Order, HUD may refer this matter to the Department of Justice to petition the United States Court of Appeals for the Eleventh Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. § 3612(j).

VIII. ADMINISTRATION

26. This Consent Order shall remain in effect for a period of four (4) years from its effective date.
27. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. The effective date of the Consent Order shall be the date it becomes final, *i.e.*, upon the expiration of thirty (30) days from the date of its issuance, or affirmance by the Secretary within that time. 42 U.S.C. § 3612(h); 24 C.F.R. § 180.680(b)(2).
28. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other complaints involving Respondents made pursuant to the Act, or any other complaints within HUD's jurisdiction.
29. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period, and a waiver of any right to challenge the validity of the Consent Order at any time.
30. The parties and counsel agree that in the interest of a prompt conclusion of this matter, the execution of this Consent Order may be accomplished by the parties' signatures on separate pages of this Consent Order, with the individual signature pages to be attached to the body of the Consent Order to constitute one document to be filed with the Office of Administrative Law Judges. Signatures of the parties to this Consent Order may be executed by way of facsimile or electronic transmission.

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IX. CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 16-JM-0159-FH-024, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes on them as signified by their signature:

RESPONDENTS:

Name: *Tancy Green*

Title: *President*

Peachtree Court Homeowners Association, Inc.

1/30/17
Date

Name: *Clara Hunt*

Title: *Treasurer*

Peachtree Court Board of Directors

1/30/17
Date

Name: *Patricia Richardson*

Title: *Secretary / Participation Act*

Peachtree Court Architectural Advisory Committee

1/30/2017
Date

COUNSEL FOR RESPONDENTS:

Todd M. LaDouceur
Attorney for Respondents

Date

Tony C. Jones
Attorney for Respondents

2/2/17
Date

IX. CONSENT AND SIGNATURE PAGES

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RESPONDENTS:

Name: [Signature]

Title: [Signature]

Peachtree Court Homeowners Association, Inc.

1/30/17
Date

Name: [Signature]

Title: [Signature]

Peachtree Court Board of Directors

1/30/17
Date

Name: [Signature]

Title: [Signature]

Peachtree Court Architectural Advisory Committee

1/30/2017
Date

COUNSEL FOR RESPONDENTS:

[Signature]
Todd M. LaDouceur
Attorney for Respondents

2/6/2017
Date

[Signature]
Tony C. Jones
Attorney for Respondents

2/2/17
Date

CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD ALJ No. 16-JM-0159-FH-024, and willingly consent to it with a full understanding of the rights it confers and the responsibilities it imposes on them as signified by their signature:

COMPLAINANTS:

Jones
Dora Emma Aguilon
Dora Torres

12-29-2016
Date

[Signature]
Francisco Aguilon

12-29-2016
Date

COUNSEL FOR THE CHARGING PARTY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:

Samuel H. Williams
Trial Attorney

Date

Robert A. Zayac
Associate Regional Counsel

Date

CONSENT AND SIGNATURE PAGES


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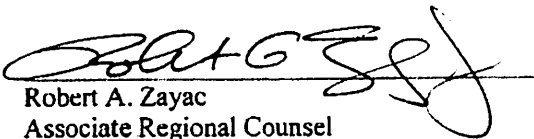
COMPLAINANTS:

_____ Date _____
Dora Torres

_____ Date _____
Francisco Aguillon

COUNSEL FOR THE CHARGING PARTY. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:

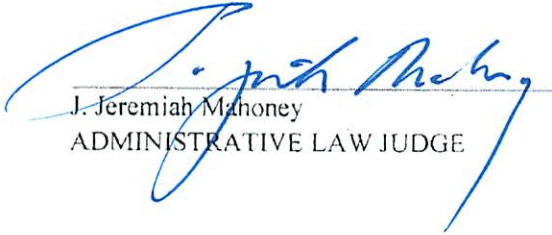

_____ Date 2/10/17
Samuel H. Williams
Trial Attorney


_____ Date 2/10/17
Robert A. Zayac
Associate Regional Counsel

X. ORDER OF THE COURT

This Consent Order settling HUD ALJ Case No. 16-JM-0159-F11-024 has been signed by all parties and appears to be in the public interest. Accordingly, the terms of the Consent Order are hereby entered.

So ORDERED, this 14TH day of FEBRUARY, 2017.


J. Jeremiah Mahoney
ADMINISTRATIVE LAW JUDGE