

**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 Massachusetts
Fair Housing Center,

Charging Party,

v.

Bernashe Realty, Inc.,
Pleasant Valley Estates, Inc.,
Diane Bernashe-Lecca and James Lecca,

Respondents.

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) HUD ALJ No. 18-JM-0220-FH-013
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) FHEO No. 01-18-8950-8
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INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

1. This matter arose from a complaint of discrimination filed by Complainant Massachusetts Fair Housing Center (“MFHC” or “Complainant”) on February 5, 2018 with the United States Department of Housing and Urban Development (“Department” or “HUD”) pursuant to the Fair Housing Act, 42 U.S.C. §§ 3601-19 (“Act”).
2. On August 8, 2018, the Department issued a Charge of Discrimination (“Charge”) against Respondents Bernashe Realty, Inc. (“Bernashe Realty”), Pleasant Valley Estates, Inc. (“Pleasant Valley”), Diane Bernashe-Lecca, and James Lecca (collectively, “Respondents”) alleging violations of 42 U.S.C. §§ 3604(c) and (f), which prohibit discriminatory statements on the basis of disability, the failure to grant reasonable accommodations to persons with disabilities, and making housing unavailable to persons because of their disabilities.
3. The Complainant, Respondents, and the Department (“parties”) have agreed to resolve this matter without the need for a hearing before a HUD Administrative Law Judge (“ALJ”). The parties have consented to the entry of this Initial Decision and Consent Order (“Consent Order”) as indicated by their signatures below.

II. GENERAL PROVISIONS

4. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed Charge. No party has been coerced or in any way forced to become a party to this Consent Order. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations as set forth below.
5. It is understood that the execution of this Consent Order does not constitute an admission by the Respondents of any violation of the Fair Housing Act.
6. The parties agree that HUD shall file with the Office of Administrative Law Judges a Motion for Entry of an Initial Decision and Consent Order, along with this Initial Decision and Consent Order, after this document is executed by all parties.
7. 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 of Bernashe Realty and Pleasant Valley.
8. This Consent Order is a full settlement of all claims by Complainant that are in any way related to the allegations set forth in the Charge.
9. Pursuant to 24 C.F.R. § 180.680, this Consent Order is a public document.

III. RELIEF FOR COMPLAINANT

10. Within thirty (30) days of the effective date of this Consent Order, Respondents shall pay to Complainant by certified or cashier's check the sum of fifteen thousand dollars (\$15,000) in full settlement of Complainant's claims for damages arising out of the allegations presented in the Charge. Respondents shall make the check payable to "Massachusetts Fair Housing Center" and send the check to:

Ashley Grant, Esq.
Massachusetts Fair Housing Center
57 Suffolk Street
Holyoke, MA 01040

Respondents shall photocopy this check and send it to HUD's Regional Counsel for New England at the address given below:

Miniard Culpepper, Regional Counsel
c/o Hillary Harnett
U.S. Department of Housing and Urban Development
Office of Regional Counsel
10 Causeway Street, Room 310
Boston, MA 02222

IV. RELIEF IN THE PUBLIC INTEREST

11. Respondents, their agents, employees, successors, members and assigns, and all other persons in active concert or participation with any of them, are hereby enjoined from violating the Fair Housing Act, including:

- A. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of a disability of that buyer or renter, a person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or any person associated with that buyer or renter, as prohibited by the Act, 42 U.S.C. § 3604(f)(1). This includes the refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.
- B. 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 with such dwelling, because of the disability of that person, a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available, or any person associated with that person, as prohibited by the Act, 42 U.S.C. § 3604(f)(2). This includes the refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.
- C. Making, printing, or publishing any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicate a preference, limitation, or discrimination based on disability, or any intention to make any such preference, limitation, or discrimination, as prohibited by the Act, 42 U.S.C. 3604(c). This includes advertisements that prohibit "service animals" or "emotional support animals."

12. Respondents Diane Bernashe-Lecca and James Lecca shall, within ninety (90) days of the effective date of this Consent Order, attend fair housing training to be conducted by a qualified fair housing enforcement agency. The training must cover Respondents' responsibility under federal, state, and local fair housing laws. Respondents may contact Daniel Weaver, Supervisory Equal Opportunity Specialist, at (617) 994-8311 for assistance in locating a qualified fair housing enforcement agency to conduct the required training. Respondents shall provide a certificate of completion to HUD in a form to be provided to Respondents by HUD. Respondents as well as the instructor conducting the training shall sign and date the certificate of completion and send it to HUD within thirty (30) days of completion of the training.

13. Within 30 days of the effective date of this Consent Order, Respondents shall enact the written reasonable accommodation policy attached as Exhibit A. Within 15 days after enacting the policy, Respondents shall distribute a copy to all tenants of any residential rental properties that they have a direct or indirect ownership, management or other financial interest in, and send to HUD: (a) a copy of the policy; and (b) evidence that they distributed the policy to all such tenants.
14. Should Respondents acquire any direct or indirect ownership, management, or other financial interest in any residential rental properties during the term of this Consent Order ("New Properties"), Respondents shall notify HUD within fifteen (15) days of the acquisition of such interest.
15. Within 60 days of the acquisition of New Properties during the term of this Consent Order, Respondents shall enact the written reasonable accommodation policy attached as Exhibit A. Within 15 days after enacting the policy, Respondents shall distribute a copy to all tenants of the New Properties, and send to HUD: (a) a copy of the policy; and (b) evidence that it distributed the policy to all such tenants.

V. REPORTING AND RECORD KEEPING

16. With respect to the Relief in the Public Interest described in Section IV above, Respondents shall submit any required correspondence or certifications to HUD at the following email address: ConciliationMonitoringRegion1FHEO@hud.gov. If for any reason the Parties need to mail hard copies of documentation to HUD, they shall use the following mailing address:

Susan Forward, Regional Director
U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
10 Causeway Street, Room 308
Boston, MA 02222

17. 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 provide such notification to the Regional Director at the address in Paragraph 16.

VI. COMPLIANCE

18. 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' residential rental properties, examine witnesses, and copy pertinent

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

19. Upon 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 First Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. § 3612(j).

VII. ADMINISTRATION

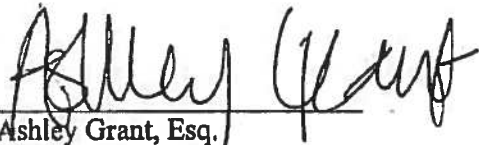
20. This Consent Order is entered into pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. This Consent Order will become effective and final thirty (30) calendar days from the date it is issued by the HUD ALJ or earlier, if affirmed by the Secretary within that time ("effective date"). 24 C.F.R. § 180.680(b).
21. This Consent Order shall remain in effect for a period of three (3) years from its effective date.
22. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other unrelated complaints involving Respondents made pursuant to the Act, or any other complaints within HUD's jurisdiction.
23. If Respondents need an extension of time in order to satisfy a deadline provided in this Consent Order, such extension must be obtained in writing from counsel for the Department.
24. The signature of the parties to this Consent Order constitute a waiver of any right to apply for attorney fees or costs pursuant to 24 C.F.R. § 180.705. Each party is responsible for its own attorney fees and costs, if any.
25. The parties 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 signature pages and Consent Order to constitute one document to be filed with the Office of Administrative Law Judges. Signature pages may be provided by facsimile or electronic transmission.

VIII. AGREEMENT OF THE PARTIES

26. The parties below have read this Consent Order in HUD ALJ 18-JM-0220-FH-013 and have willingly signed it with a full understanding of the rights it confers and the responsibilities it imposes upon them, as signified by their signature, or that of their counsel, below:

[SIGNATURE PAGES TO FOLLOW]

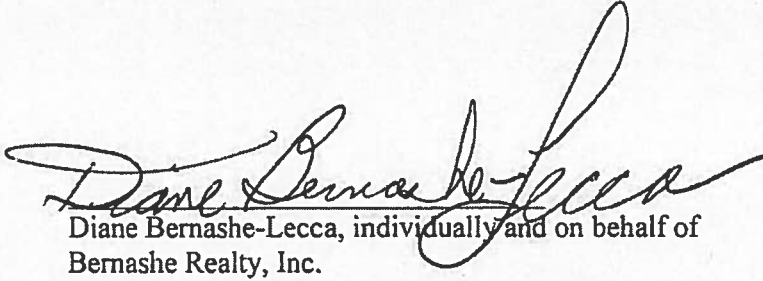
FOR COMPLAINANT:



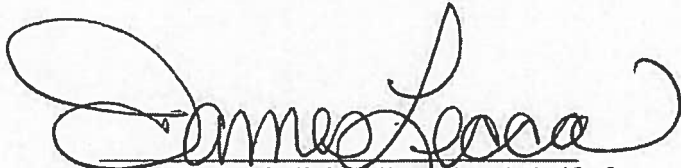
Ashley Grant, Esq.
Legal Director
Massachusetts Fair Housing Center
57 Suffolk Street
Holyoke, MA 010140

Date: 10/5/18

FOR RESPONDENTS:

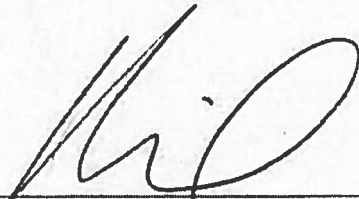

Diane Bernashe-Lecca, individually and on behalf of
Bernashe Realty, Inc.

Date: 9-21-2018


James Lecca, individually and on behalf of
Pleasant Valley Estates, Inc.

Date: 9-21-2018


COUNSEL FOR RESPONDENTS:



Michael Ainley, Esq.
Ainley Hoover & Hoover, PLLC
200 N. Poplar Street
Paris, TN 38242

Date: 9/27/18

FOR THE DEPARTMENT:



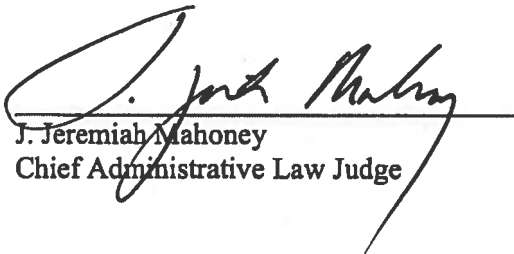
Minnard Culpepper
Regional Counsel for New England

Date: Oct. 11, 2018

IX. ORDER OF THE COURT

On OCTOBER 11, 2018, the parties forwarded to the Office of Administrative Law Judges the foregoing proposed Consent Order, incorporating the terms of their agreement. Having reviewed the Consent Order, the Chief Administrative Law Judge finds that it appears to be in the public interest. All parties have given their consent and signed the agreement incorporated in the foregoing Consent Order, which is hereby accepted and issued.

So ORDERED, this 19th day of NOVEMBER, 2018.



J. Jeremiah Mahoney
Chief Administrative Law Judge

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The Secretary, United States Department)	
of Housing and Urban Development,)	
on behalf of Complainant Massachusetts)	
Fair Housing Center,)	
Charging Party,)	
v.)	HUD ALJ No. 18-JM-0220-FH-013
Bernashe Realty, Inc.,)	FHEO No. 01-18-8950-8
Pleasant Valley Estates, Inc.,)	
Diane Bernashe-Lecca and James Lecca,)	
Respondents.)	
)	

INITIAL DECISION AND CONSENT ORDER
EXHIBIT A

REASONABLE ACCOMMODATION POLICY

Bernashe Realty, Inc. and Pleasant Valley Estates, Inc. are committed to assuring equal access to [INSERT PROPERTY NAME] in accordance with federal law.

A reasonable accommodation is a change or exception to a rule or policy that is needed because of a person's disability. For example, a housing provider that has a policy of not assigning parking spaces must make an exception to this policy in order to grant an assigned parking space to an individual who is substantially limited in his ability to walk.

Upon request and review, Bernashe Realty, Inc. and Pleasant Valley Estates, Inc. will allow reasonable accommodations in rules, policies, practices, or services governing the property when such accommodations may be necessary to afford persons with disabilities the equal opportunity to use and enjoy their dwellings or common areas. Bernashe Realty, Inc. and Pleasant Valley Estates, Inc. are obligated to provide such reasonable accommodations, unless doing so would result in an undue hardship or fundamental alteration in the operation of the property.

The Fair Housing Act defines a person with a disability as (1) a person with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such impairment.

When the disability is readily apparent or otherwise known, and the need for the requested accommodation is similarly apparent or known, there will be no request for information in support of the disability or the disability-related need for the accommodation.

When the disability is not obvious or known, property management may request additional information that (1) is necessary to verify that the person meets the Fair Housing Act definition of disability, (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation. This additional information can be provided by the requested person (e.g., proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance Benefits or a credible statement by the individual). A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability. In most cases, medical records or detailed information about the nature of the disability is not necessary.

One common type of reasonable accommodation is allowing a person with a disability to keep an assistance animal. An assistance animal is an animal that works, provides assistance, performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.

Many times, it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability, such as a dog guiding an individual who is blind. If this is the case, then we will not make additional inquiries about the disability or the assistance animal and will grant the request. If it is not readily apparent that an animal is trained to aid an individual with a disability, then we will need to make a few inquiries before granting the reasonable accommodation. We will first ask if the animal is required because of a disability and what assistance the animal provides. If the animal provides emotional support, we will ask for a statement from a health or social service professional, such as a doctor, physician's assistant, psychologist, or social worker, that the individual has a disability and the designated animal provides emotional support or other assistance that alleviates one or more symptoms or effects of the person's disability. We will not ask for additional information about a person's disability.

In no case will a person requesting to keep an assistance animal as a reasonable accommodation be charged any fee, deposit, or other charge for making the request or for keeping the animal.

All information obtained in analyzing a request for reasonable accommodation will be kept confidential and will not be shared unless necessary to make or assess a decision to grant or deny a reasonable accommodation request or unless disclosure is required by law.

To obtain a reasonable accommodation request form, there are several ways to contact us:

[INSERT PROPERTY MANAGER CONTACT INFORMATION]

Telephone:

Email:

Address:

If you need assistance filling out our forms, or if you would like to submit a request in some other way, please contact us as set forth above.

All requesters will be promptly notified in writing of a decision. Prior to denying a request, property management will attempt to engage in an interactive process with the requester in which the parties discuss possible alternative accommodations that might effectively meet the individual's disability related needs. We recognize that an individual with a disability is generally in the best position to know whether or not a particular accommodation will be effective in meeting his or her needs. If the request is denied, an explanation for the denial will be provided in the written notification.

If an individual believes that he or she has been the subject of a discriminatory housing practice, including the wrongful denial of a request for reasonable accommodation, then he or she may contact the Department of Housing and Urban Development (HUD) within one year after the alleged discrimination. There are several ways to contact HUD, including:

Toll free: 1-800-669-9777 or TTY 1-800-927-9275

Website: www.hud.gov

Address: Office of Fair Housing and Equal Opportunity
Department of Housing & Urban Development
451 Seventh Street, S.W., Room 5204
Washington, DC 2-410-2000

Reasonable Accommodation Request Form

Date: _____

Occupant Name: _____ Phone: _____

Address: _____ Zip: _____
PO Box or Street City/Town

The following member of my household claims a physical or mental impairment that limits the ability to occupy our unit: _____

Please let us know how the accommodation will help you. Please attach a separate sheet if you need more space.

Please provide the following reasonable accommodation:

This reasonable accommodation is needed because:

You may be asked to allow us to verify the need for this accommodation. If so, the information we obtain will be kept completely confidential and used only to determine if the accommodation is needed.

**Reasonable Accommodation Request –
Certification by Health Care or Social Service Professional**

Date: _____

Occupant Name: _____
Occupant Address: _____

The person named above has made a request for a reasonable accommodation in the rules, policies, or practices of their housing provider. In accordance with federal law, a person with a physical or mental impairment that limits a major life activity is entitled to a reasonable accommodation if it is necessary to allow them an equal opportunity to use and enjoy their dwelling. In this case, the individual has requested the following:

I, _____ (name of certifying professional) hereby certify to the following responses regarding the person named above:

- a. Do you believe the individual has a physical or mental impairment that limits a major life activity?

- b. Do you believe that the requested accommodation is necessary to allow this individual to use and enjoy their dwelling?

- c. Is there any other information that would be helpful in making the right accommodation for this individual?

In signing this form, I certify that the above-named individual requires the reasonable accommodation requested to reside at the property.

Signature

Date

Title of Physician or Professional

Address: _____

Phone: _____