

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARING AND APPEALS**

The Secretary, United States Department of Housing and Urban Development, on behalf of:)	
)	
Allan Finley and Alise Evans)	
)	HUDOHA No. 22-AF-0181-FH-010
Charging Party,)	
)	FHEO No. 04-21-5434-8
v.)	
)	
21 Palms RV Resort, Inc. and Nathan Dykgraaf)	
)	
Respondents)	
)	
)	
)	

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

On June 30, 2022, the United States Department of Housing and Urban Development (“Charging Party” or “HUD”) filed a Charge of Discrimination (“Charge”) alleging Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf (collectively “Respondents”) discriminated against Complainants Allan Finley and Alise Evans and her minor child (“Complainants and Other Aggrieved Persons”) on the basis of sex (including gender identity) in violation of the Fair Housing Act, as amended (the “Act”), 42 U.S.C. §§ 3601-3619.

The Charge alleges that Respondents discriminated against Complainants in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sex, in violation of Subsection 804(b) of the Act. 42 U.S.C. 3604(b); 24 C.F.R. §§ 100.50(b)(2), (4), 100.65(a), (b)(4). In addition, the charge alleges that Respondents violated Subsection 804(c) of the Act when they gave written notice to Complainant Finley to act and dress like a man indicating a preference, limitation, or discrimination based on sex. 42 U.S.C. 3604 (c); 24 C.F.R. § 100.75(a). The Charge further alleges that Respondents violated Section 818 of the Act by coercing, intimidating, threatening, or interfering with Complainant Finley’s exercise or enjoyment of her fair housing rights granted and protected by Section 804 of the Act. 42 U.S.C. § 3617; 24 CFR § 100.400(b), (c)(2).

Complainants Allan Finley and Alise Evans, Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf, and the Charging Party have agreed to resolve this matter without the need for a hearing before a HUD Administrative Law Judge. Nothing contained in this Consent Order is deemed an admission of wrongdoing on the part of Respondents. 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

1. The parties to this Consent Order are Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf, and Complainants, Allan Finley and Alise Evans.
2. 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 this Consent Order. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and agree to fully comply with their obligations hereunder.
3. Respondents are required to comply with Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.
4. The parties agree that, after this Consent Order is executed by all parties, the Charging Party shall file with the Office of Hearing and Appeals the Motion for Entry of an Initial Decision and Consent Order.
5. This Consent Order is binding upon Respondents, their successors, agents, and assigns as it relates to the operation and management of 21 Palms RV Resort, Inc. a/k/a/ "21 Palms RV Resort," a multifamily apartment community located at 6951 Osceola Polk Line Road, Davenport, Florida 33896 ("Subject Property").
6. This Consent Order is binding upon Allan Finley and Alise Evans and their successors, agents and assigns as it relates to Allan Finley's and Alise Evans' and her minor child's tenancy in Lot 128 at the Subject Property.
7. In consideration of the execution of this Consent Order, Allan Finley and Alise Evans hereby forever waive, release, and covenant not to sue 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 OHA No. 22-AF-0181-FH-010, or which could have been filed in any action or suit arising from said subject matter.
8. In consideration of the execution of this Consent Order, Respondents hereby forever waive, release, and covenant not to sue HUD or Complainants and Other Aggrieved Persons, 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 OHA No. 22-AF-0181-FH-010, or which could have been filed in any action or suit arising from said subject matter.

9. The term "effective date" means and refers to the date this Consent Order is signed by the HUD ALJ.
10. 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 to the Consent Order, at least five (5) business days before the deadline.
11. Time periods referred to in this Consent Order are for "calendar" days unless specifically indicated otherwise.
12. Pursuant to 24 C.F.R. § 180.680, the parties understand that this Consent Order shall be a public document.
13. The signature of the parties to this Consent Order, provided herein on separate pages attached hereto, constitute a waiver of any right to apply for additional attorney's fees or costs beyond any previously provided for or authorized prior to the execution of this Consent Order pursuant to 24 C.F.R. § 180.705. Each Party is responsible for their own attorney's fees and costs.
14. Each of the signatories represents and warrants that she or he 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. SPECIFIC RELIEF FOR COMPLAINANTS AND AGGRIEVED PERSONS

15. In order to resolve HUDOHA No. 22-AF-0181-FH-010, Respondents agree to provide to Complainants the amount of \$45,000 to compensate Complainants and Other Aggrieved Persons in this matter for the harm alleged in the Charge. Payment shall be made in two installments as detailed in paragraphs 16 and 17.
16. Within ten (10) calendar days of the effective date of this Consent Order, Respondents shall pay to Complainants, the sum of \$25,000.00. The payment shall be made by certified check payable to Allan Finley and Alise Evans. The certified check shall be sent to the attention of Allan Finley and Alise Evans via overnight mail (or similar method with delivery tracking and confirmation) at the following address:

Allan Finley & Alise Evans



17. Within one hundred and sixty (160) calendar days of the effective date of this Consent Order, Respondents shall pay to Complainants, the additional sum of \$20,000.00. The payment shall be made by certified check payable to Allan Finley and Alise Evans. The certified check shall be sent to the attention of Allan Finley and Alise Evans via overnight mail (or similar method with delivery tracking and confirmation) at the following address:

Allan Finley and Alise Evans

18. A copy of each certified check shall be sent via electronic transmission to Carlos Quijada, Trial Attorney, at Carlos.E.Quijada@hud.gov, and Kristin Mills, Fair Housing Investigator, at Kristin.L.Mills@hud.gov, on the same date that each certified check is sent to Allan Finley and Alise Evans.

IV. ACTIONS IN THE PUBLIC INTEREST

19. Injunctive Relief: 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 Subject Property, are hereby enjoined from the following:
- a. Discriminating against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sex. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2), (4), 100.65(a), (b)(4).
 - b. Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on sex or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).
 - c. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of her having exercised or enjoyed any right granted or protected by Section 804 of the Act. 42 U.S.C. § 3617; 24 CFR § 100.400(b), (c)(2); and
 - d. Retaliating against Complainants or any other person who participated in the investigation of this complaint, as prohibited by the Act, 42 U.S.C. § 3617.
20. Education and Training
- a. Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf, and their employees and individuals acting under their direction who receive, process, review or make determinations with regard to the rental of dwellings (“covered employee”) shall, within sixty (60) calendar days of the effective date of this Consent Order, attend a

minimum of six (6) hours of training pertaining to their obligations under the Fair Housing Act, as amended and applicable state and local housing non-discrimination laws, to include training on transgender and gender non-confirming discrimination. Respondents must seek approval of the trainer from HUD. All costs of the training shall be borne by Respondents.

- b. During the term of this Consent Order, any newly hired covered employee or management agent for Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf as of the date of the execution of this Consent Order, must receive at least six (6) hours of training pertaining to their obligations under the Fair Housing Act, as amended, within thirty (30) calendar days of starting employment. Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf, shall maintain records of evidence of the completion of the required fair housing training, including but not limited to certifications dated and signed by the new employees and trainer(s), throughout the term of this Consent Order.

V. REPORTING AND RECORDKEEPING

21. Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf shall notify HUD in writing of any formal complaint filed against them with a federal agency regarding equal opportunity or discrimination in housing within ten (10) calendar days of receipt of any such complaint. Respondents shall provide a copy of the complaint(s) 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.
22. Within ten (10) calendar days after the completion of the Fair Housing Training required in Paragraph 20, Respondents shall submit a certificate of attendance signed by the trainer to HUD.
23. All required notifications and documentation of compliance must be submitted to HUD as follows:

Antonette D. Sewell
Regional Counsel
U.S. Department of HUD
Office of General Counsel
40 Marietta Street, SW, 3rd Floor
Atlanta, Georgia 30303
Antonette.D.Lettman-Sewell@hud.gov
Robert.A.Zayac@hud.gov
Carlos.A.Quijada@hud.gov

Carlos Osegueda
Regional Director, Region IV
U.S. Department of HUD
Office of Fair Housing and Equal Opportunity

40 Marietta Street, SW, 16th Floor
Atlanta, Georgia 30303
Carlos.Osegueda@hud.gov
Vicki.D.Johnson@hud.gov
Kristin.L.Mills@hud.gov

VI. DISMISSAL OF CHARGE

24. 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 any admission of liability or wrongdoing, and without a formal determination, of the allegations that Respondents injured Complainant 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

25. 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 Respondent 21 Palms RV Resort, Inc. and Nathan Dykgraaf's property, examine witnesses, and copy pertinent records. Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf agree to provide their full cooperation in any compliance review undertaken by HUD to ensure compliance with this Consent Order.
26. 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

27. This Consent Order shall remain in effect for a period of three (3) years from its effective date.
28. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. This Consent Order shall become final upon the expiration of thirty (30) days from the date of its issuance, or affirmance by the Secretary of HUD within that time. 42 U.S.C. § 3612(h); 24 C.F.R. § 180.680(b)(2).
29. This Consent Order does not diminish the ability of any person or class of persons to exercise their rights under the Fair Housing Act, or any other Federal, State, or local civil rights statute or authority with respect to any past, current, ongoing, or future actions. This

agreement does not create any private right of action for any person or class of persons not a Party to this Consent Order.

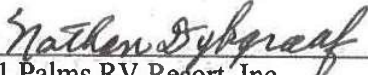
30. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other complaints involving Respondents 21 Palms RV Resort, Inc. and Nathan Dykgraaf made pursuant to the Act, or any other complaints within HUD's jurisdiction.
31. If applicable laws, regulations, or guidance are changed or clarified in a manner that would affect the provisions of this Consent Order, then the Parties shall confer in good faith to determine any appropriate modifications to this Agreement.
32. This Consent Order (including its Attachments) is the entire agreement between the Parties on the matters raised pursuant to the Act.
33. The original and/or electronic 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.
34. The parties and their 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' and their counsel's 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 Hearings and Appeals. Signatures of the parties to this Consent Order may be executed by way of facsimile or electronic transmission.

[SIGNATURE PAGES TO FOLLOW AS SECTION IX]

IX. CONSENT AND SIGNATURE PAGES

The undersigned parties have read the foregoing Consent Order, HUD OHA No. 22-AF-0181-FH-010, 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:



21 Palms RV Resort, Inc.
Name: Nathan Dykgraaf
Title: Officer

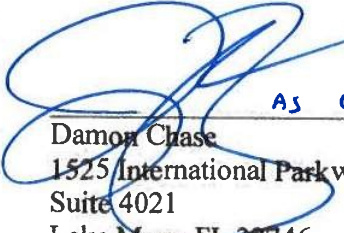
AUG 9, 2022
Date



Nathan Dykgraaf
Name:
Title:

AUG 9, 2022
Date

COUNSEL FOR RESPONDENTS:



FBN 14100
AS CO-COUNSEL AND FOR
Damon Chase
1525 International Parkway
Suite 4021
Lake Mary, FL 32746
damonchase@outlook.com

8-11-2022
Date

JONATHAN N. ZAFERT,

IX. CONSENT AND SIGNATURE PAGES (continued)

The undersigned parties have read the foregoing Consent Order, HUD OHA No. 22-AF-0181-FH-010, 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 AND OTHER AGGRIEVED PERSONS:



Allan Finley

8/11/2022

Date



Alise Evans

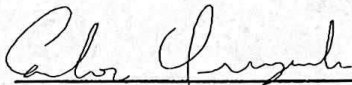
08/11/2022

Date

IX. CONSENT AND SIGNATURE PAGES (continued)

The undersigned parties have read the foregoing Consent Order, HUD OHA 22-AF-0181-FH-010, 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:

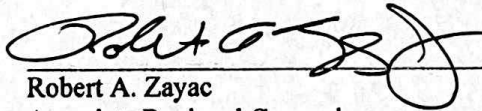
COUNSEL FOR THE CHARGING PARTY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:



Carlos E. Quijada
Trial Attorney
HUD's Regional Counsel's Office – Region IV
40 Marietta Street, Third Floor
Atlanta, GA 30303
Carlos.E.Quijada@hud.gov

08/11/2022

Date



Robert A. Zayac
Associate Regional Counsel
Robert.A.Zayac@hud.gov

8/11/22

Date

X. ORDER OF THE COURT

The foregoing order was presented to the undersigned Administrative Law Judge for approval on August 12, 2022. In accord with 24 C.F.R. § 180.450, the ALJ shall accept a settlement agreement agreed to by the parties if he finds the agreement to be in the public interest, by issuing an Initial Decision and Consent Order.

After considering the record in its entirety, the undersigned ALJ has independently determined that the agreement between the parties does not offend the public interest and is approved. All parties have given their consent and signed the agreement incorporated in the foregoing Consent Order, which is hereby accepted and issued.

This Consent Order carries no precedential weight, as the matter has been reviewed solely to determine that the parties' settlement does not offend the public interest. No opinion is expressed on legal or policy statements contained herein, nor the form and quantum of the agreed relief.

So **ORDERED** this 18th day of August, 2022

**ALEXANDER
FERNANDEZ-
PONS**

Digitally signed by: ALEXANDER
FERNANDEZ-PONS
DN: CN = ALEXANDER FERNANDEZ-
PONS email = ALEXANDER.
FERNANDEZ-PONS@HUD.GOV C =
AD,O = OFFICE OF THE SECRETARY
OU = OHA
Date: 2022.08.18 11:36:15 -04'00'

Alexander Fernández-Pons
Administrative Law Judge