

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, on behalf of)	
Complainants Eugene and Galina Ovsishcher,)	ALJ No. _____
Charging Party,)	FHEO No. 02-12-0545-8
v.)	
Trump Village Section IV Inc., and Igor Oberman,)	
Respondents.)	
)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about May 29, 2012, [REDACTED] (“Complainants”) filed a complaint with the United States Department of Housing and Urban Development (“HUD”), alleging that Trump Village Section IV Inc. (“Trump Village”) and Igor Oberman violated the Fair Housing Act, 42 U.S.C §§ 3601 *et seq.* (“Act”), by refusing to grant Complainants’ request to keep an emotional support animal (“Mickey,” a Shi Tzu) in their apartment as a reasonable accommodation for [REDACTED]. Complainants amended their complaint on August 30, 2012, alleging Respondents retaliated against them by freezing, or delaying, their waiting list application for a parking space in the main parking lot, and by removing [REDACTED] from the Trump Village’s Board of Directors.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (“Charge”) on behalf of aggrieved persons following an investigation and determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(2). The Secretary has delegated to the General Counsel, who has retained and re-delegated to Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause. 76 Fed. Reg. 42462, 42465 (July 18, 2011).

The Director of the Office of Fair Housing and Equal Opportunity (“FHEO”) for the New York/New Jersey Region, on behalf of the Assistant Secretary for FHEO, has authorized this Charge because he has determined after investigation that reasonable cause exists to believe that

a discriminatory housing practice has occurred. *See* 42 U.S.C. § 3610(g)(2). HUD's efforts to conciliate this complaint were unsuccessful. *See* 42 U.S.C. § 3610(b).

II. LEGAL AUTHORITY AND FACTUAL BASIS FOR THIS CHARGE

Based on HUD's investigation of the allegations of disability discrimination and retaliation contained in the above-mentioned verified complaint and the Determination of Reasonable Cause, Respondents are charged with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability¹ of that buyer or renter or any person associated with that buyer or renter. 42 U.S.C. § 3604(f) (1); 24 C.F.R. § 100.202(a).
2. It is unlawful to discriminate 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 a disability of that person. 42 U.S.C. § 3604(f) (2); 24 C.F.R. § 100.202(b).
3. For purposes of 42 U.S.C. § 3604(f)(1)-(f)(2), discrimination includes the refusal to make a reasonable accommodation in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f) (3)(B); 24 C.F.R. § 100.204(a).
4. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, any right granted or protected by Sections 803 to 806 of the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b).

B. PARTIES AND SUBJECT PROPERTY

1. Complainants are married to each other and at all times relevant to this Charge were cooperative shareholders in Trump Village.
2. Complainant [REDACTED], a United States Army combat veteran of Afghanistan and Kosovo, is a person with a psychiatric disability that substantially limits one or more of his major life activities. Mr. [REDACTED] is

¹ The Act uses the term "handicap" instead of "disability." However, both terms have the same legal meaning. This Charge will use the term "disability."

and, at all times relevant to the Charge, has been an individual with a disability, as defined by the Act. 42 U.S.C. § 3602(h).

3. Respondent Trump Village is an 1144-unit housing cooperative located at 2928 West 5th Street, Brooklyn, New York 11224 (“Subject Property”).
4. At all times relevant to this Charge, Respondent Oberman was a member of Trump Village’s Board of Directors and had a role supervising Trump Village’s management office.
5. At all times relevant to this Charge, Complainants were proprietary lessees, residing in unit [REDACTED] in the Subject Property. Complainants’ unit in the Subject Property is a “dwelling” within the meaning of 42 U.S.C. § 3602(b) and 24 C.F.R. § 100.20.
6. Complainants are “aggrieved persons,” as defined by 42 U.S.C. § 3602(i), and have suffered damages as a result of Respondents’ conduct.

C. FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

Respondents’ Failure to Grant a Reasonable Accommodation

7. On or about September 16, 2009, Complainants signed an occupancy agreement and entered into a proprietary lease with Respondent Trump Village.
8. In 2009, Respondent Trump Village implemented a no pet policy at the Subject Property which continues to the present.
9. In August of 2011, based on a recommendation from Complainant [REDACTED] [REDACTED] psychiatrist and primary care physician, Complainants purchased Mickey, a Shi Tzu, to provide Mr. [REDACTED] with emotional support and other assistance.
10. In early February 2012, Anna Richter, an administrative assistant working in Trump Village’s management office, told Complainants that they were required to register their dog with the management office and to provide the office with a copy of Mickey’s picture and dog license and a letter explaining Mr. [REDACTED] medical need for Mickey.
11. While Complainants were gathering the information Ms. Richter requested, on or about February 8, 2012, Respondent Trump Village sent Complainants a “Cooperative Apartment Notice To Cure,” demanding that Complainants remove their dog from their apartment by February 28, 2012, and cautioning that failure to do so may lead to the termination of their lease.

12. Soon thereafter, Complainants gave Respondent Trump Village the information Ms. Richter had requested, including a note dated February 4, 2012, from Complainant [REDACTED] physician, [REDACTED], MD, explaining that Mr. [REDACTED] has a psychological disorder and his dog helps him recover from his disability and reduces the symptoms.
13. Nevertheless, on or about March 1, 2012, Respondent Trump Village served Complainants with a “Cooperative Apartment Notice of Termination,” demanding that Complainants permanently remove themselves and their possessions from their apartment no later than March 20, 2012, because they harbored a dog in their apartment in violation of paragraph 16B of the occupancy agreement.
14. Respondents did not seek additional medical or other information from Complainants regarding the need for an emotional support animal.
15. Instead, on or about March 27, 2012, Respondents commenced an eviction proceeding against Complainants in the Civil Court of The City of New York, County of Kings, Housing Part (“Housing Court”).
16. On or about May 3, 2012, Complainants filed a verified answer with the Housing Court maintaining, among other things, that (1) Complainant [REDACTED] obtained Mickey as an emotional support animal; (2) that Complainants filed a complaint with HUD based upon Respondent Trump Village’s discriminatory action of refusing to grant them a reasonable accommodation; and (3) Respondent Trump Village accepted rent from Complainants after the alleged termination date.
17. On or about June 19, 2012, the Housing Court dismissed the eviction action without prejudice because Respondents had accepted rent after the Notice of Termination had been served and before the eviction proceeding had commenced. The Housing Court did not address Complainants’ other defenses.
18. Since February 2012, when Complainants first sought to register Mickey and to obtain a reasonable accommodation, Respondents have not granted Complainants’ request for a reasonable accommodation.

Respondents’ Acts of Retaliation

Denial of a parking space

19. Respondent Trump Village has two parking lots— a main lot, which has 700 parking spaces, and a transit lot, which has 249 parking spaces. Those 949 parking spaces serve 1144 apartments.

20. The main lot is closer to the Subject Property than the transit lot and coop shareholders are entitled to only one space in the main lot.
21. New coop shareholders are first assigned a space in the transit lot and are placed on a waiting list for parking spaces in the main lot.
22. Parking spaces are allocated in the main lot chronologically from the time coop shareholders purchase their apartment.
23. Complainants were placed on the waiting list for a parking space in the main lot in September 2009, when they purchased coop shares in their apartment.
24. By May 2012, Complainants were third on the waiting list for a parking space in the main lot.
25. Because Complainants exercised their rights for a reasonable accommodation, Respondent Oberman, the President of the Trump Village Board of Directors, directed that Complainants' position on the main lot waiting list be frozen in place.
26. As a consequence of Mr. Oberman's directive, at least one shareholder who was lower on the main lot waiting list moved ahead of Complainants and acquired a space before Complainants. Complainants did not receive a parking space in the main lot until October 2014.

Removal from Board of Directors

27. Complainant [REDACTED] began campaigning for election to the Trump Village Board of Directors in February 2012.
28. In June 2012, Complainant [REDACTED] was elected to the Trump Village Board of Directors.
29. In August 2012, Respondent Oberman disseminated a "Notice of Special Board Meeting" seeking the removal of Complainant [REDACTED] from the Board of Directors.
30. The Notice sought Complainant [REDACTED] removal for, among other things, commencing legal proceedings against Respondent Trump Village, seeking monetary compensation, and threatening litigation against Trump Village to secure special services.
31. On August 17, 2012, the Trump Village Board of Directors voted to remove Complainant [REDACTED] from the Board, at least in part because

Complainants had obtained an emotional support animal and otherwise exercised their rights under the Act.

32. Respondents' unlawful denial of Complainants' request for a reasonable accommodation and retaliatory conduct has caused Complainants anxiety, distress, emotional trauma and actual damages, including out-of-pocket expenses.

D. FAIR HOUSING ACT VIOLATIONS

33. As described above, Respondents violated the Act by discriminating against Complainant [REDACTED] on the basis of his disability when it caused Complainants to fear that their home would be made unavailable to them by pursuing their eviction rather than granting the request for a reasonable accommodation. 42 U.S.C. §§ 3604(f)(1)(A), (C) and (f)(3)(B); 24 C.F.R. §§ 100.202(a) and 100.204(a).
34. As described above, Respondents discriminated against Complainants in the terms, conditions, or privileges of a sale or rental of a dwelling based on disability when they refused to allow Complainant [REDACTED] to live with his support animal at the subject property when such an accommodation was necessary to afford him an equal opportunity to use and enjoy the subject dwelling. 42 U.S.C. §§ 3604(f)(2)(A), (C) and (f)(3)(B); 24 C.F.R. §§ 100.202(b) and 100.204(a).
35. As described above, Respondents retaliated against Complainants by freezing Complainants' application for a parking space in the main lot and by removing Complainant [REDACTED] from the Trump Village Board of Directors because Complainants exercised their rights under the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b).

III. CONCLUSION

WHEREFORE, the Secretary of HUD, through the office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents Trump Village and Oberman with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(f)(1), (f)(2), (f)(3)(B) and § 3617 of the Act, and requests that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondents, their agents, officers, employees, and successors, and all other persons in active concert or participation with them, from discriminating

because of disability against any person in any aspect of the sale, rental, use, or enjoyment of a dwelling pursuant to 42 U.S.C. § 3612(g)(3);

3. Enjoins Respondents, their agents, officers, employees, and successors, and all other persons in active concert or participation with it, from coercing, intimidating, threatening, or interfering with Complainants or any person in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of any right granted by the Act pursuant to 42 U.S.C. § 3612(g)(3);
4. Mandates Respondents, their agents, officers, employees, and successors, and all other persons in active concert or participation with it, take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;
5. Awards such monetary damages pursuant to 42 U.S.C. § 3612(g)(3) as will fully compensate Complainants for damages caused by Respondents' discriminatory conduct;
6. Awards a civil penalty against Respondents of \$16,000.00 for each violation of the Act; or \$42,500.00 for each violation of the Act in the event that Respondents have been adjudged to have committed one prior discriminatory housing practice during the last 5 years; or \$70,000.00 in the event that Respondents have been adjudged to have committed two prior discriminatory housing practices during the last 7 years, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
7. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted,



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