

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)	
Iris Melendez,)	
)	
Charging Party,)	
)	
)	FHEO No. 03-04-0346-8
)	
Reading Housing Authority and)	
Joseph Garcia, manager)	
)	
Respondents)	
)	
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CHARGE OF DISCRIMINATION

I. JURISDICTION

Complainant Iris Melendez (“Complainant”) filed a verified complaint with the United States Department of Housing and Urban Development (“HUD”) on or about May 21, 2004¹ alleging that Respondents, Reading Housing Authority and Joseph Garcia, public housing manager for Glenside Homes (“Respondents”, committed discriminatory housing practices against the Complainant, on the basis of her disability, in violation of the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19.

The Act authorizes the issuance of a charge of discrimination (“Charge”) on behalf of an aggrieved person following an investigation and determination that reasonable cause exists to believe that a discriminatory housing practice has occurred.² 42 U.S.C. §§ 3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel (67 Fed.Reg. 44234), the authority to issue such a charge, following a

¹ The case was transferred to the City of Reading Commission on Human Relations by the United States Department of Housing and Urban Development (“HUD”) for continued administrative processing, but was reactivated by HUD on September 30, 2004.

² Contemporaneous with this Charge, HUD is issuing a Determination with respect to this case. HUD concluded that there was insufficient evidence to support a finding of Cause with respect to Complainant’s claim of intimidation, coercion and interference in violation of Section 818 of the Fair Housing Act.

determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee. The Fair Housing and Equal Opportunity Region III Director has determined, with the concurrence of the Regional Counsel, that reasonable cause exists to believe that discriminatory housing practices have occurred and, therefore, has authorized the issuance of this charge of discrimination.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of this complaint and the following allegations, the Secretary has reasonable cause to believe that Respondents housing authority and Joseph Garcia have committed discriminatory housing practices against the Complainant on the basis of the disability of the Complainant in violation of subsection 804(f) at: (f)(2)(A) and (f)(3)(B). The allegations that support this charge of discrimination are as follows:

A. Statutory and Regulatory Provisions

1. 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)(A); 24 C.F.R. § 100.202(b)(1) (2005).
2. It is unlawful to refuse to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a) (2005).

B. Factual Allegations

1. Respondent Reading Housing Authority ("Housing Authority") is a housing authority, located at 1301 Schuylkill Avenue, Reading, Pennsylvania, that administers housing programs that include providing public housing units for low-income tenants. Daniel Luckey is the Executive Director of the housing authority. The housing authority's low rent public housing includes a 130-unit development known as Glenside Homes and a 102-unit development known as Hensler Homes.
2. Joseph Garcia is a Public Housing Manager who has been employed by Respondent housing authority since April of 2002. Mr. Garcia has been manager at Glenside Homes, a public housing project, since 2002.
2. On or about March 16, 2000, Complainant Iris Melendez was approved for occupancy by the Reading Housing Authority and began to reside at Glenside Homes. Complainant resided with her husband and teenage son at Glenside Homes from March of 2000 until January of 2004.

3. Since 2000, the Complainant has been under the care of Dr. Edwin Feliciano, a psychiatrist with Pennsylvania Counseling Services. The complainant has been diagnosed with severe depression that is characterized by melancholy, sleeplessness, problems coping with social situations and bouts of crying.
4. Complainant's depression substantially limits her activities of daily living including working, sleeping, performing household chores and socializing with friends.
5. Complainant is a person with a disability as defined in the Act at 42 U.S.C. § 3602(h) and 24 C.F.R. § 100.201. Disability is defined as a physical or mental impairment that substantially limits one or more major life activities.
6. In 2001, Dr. Feliciano recommended to the Complainant that she obtain an emotional support animal to ameliorate the effects of her depression. The investigation revealed that Complainant's psychiatrist certified in writing to the housing authority that the Complainant is disabled and needs an assistance animal. Dr. Feliciano stated that Complainant's depression worsened as a result of her inability to have an assistance animal. The Complainant asked two different housing authority managers whether she could have an animal in her apartment and was told that she could not.
7. On or about January 3, 2002, Complainant asked the housing authority for a reasonable accommodation of its no pet policy. In support of her request, she provided a note from her doctor stating that it would be therapeutic for the Complainant to have an animal in her apartment. Respondent housing authority denied the Complainant's initial request as well as subsequent requests for an assistance animal. Housing authority manager Garcia advised the Complainant that the housing authority only allows pets for blind and disabled people. The Complainant was eventually permitted to have an assistance animal. In or around April of 2003, Complainant acquired a Chihuahua. Having the dog helped to relieve her loneliness and the isolation she experiences as a result of her disability.
8. In order to maintain her dog, the housing authority required the Complainant to sign a Pet Permit and Lease Addendum form. On January 9, 2004, Mr. Garcia presented to the Complainant the form that obligated the Complainant to pay a \$300.00 pet security deposit fee. Prior to signing the Pet Permit and Lease Addendum, the Complainant was not aware that she would have to pay a pet security deposit fee. The Complainant agreed to pay the fee in installments. Prior to paying off the pet deposit fee, the Complainant received two eviction notices citing delinquency as justification for the notices. The Complainant was not delinquent in her rental payments.
9. The Complainant finished paying the \$300.00 pet deposit fee to the housing authority in June of 2004.

10. HUD program regulations state that a pet does *not* include “animals that are used to assist persons with disabilities”. 24 C.F.R. § 5.306(a) (2005).
11. HUD’s public housing regulations prohibit the imposition of a pet deposit on a person with a disability who needs an assistance animal as a reasonable accommodation. 24 C.F.R. § 960.705(a) (2005).
12. The Complainant filed the present complaint with HUD on or about May 15, 2004 alleging that the Respondents’ collection of the pet security deposit fee from the Complainant constituted discrimination on the basis of her disability.
13. At no time did Respondent housing authority incur any expense as a result of Complainant’s dog.

C. Fair Housing Act Violations

1. By requiring that Complainant pay a pet security deposit fee Respondents discriminated against Complainant on the basis of her disability 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. 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b)(1) (2005).
2. By failing to waive the housing authority pet deposit fee, Respondent housing authority discriminated against Complainant in failing to make reasonable accommodation in rules, policies, practices or services when such accommodation was necessary to afford the Complainant an equal opportunity to use and enjoy her dwelling unit. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a) (2005).
3. As a result of Respondents’ discriminatory conduct, the Complainant has suffered emotional distress, embarrassment, humiliation, and inconvenience caused by Respondent’s discriminatory conduct.

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel, Region III, and pursuant to subparagraph 810(g)(2)(A) of the Act, charges Respondent housing authority with engaging in discriminatory housing practices in violation of subsection 804(f) of the Act and prays that an order be issued that:

1. Declares that Respondent housing authority’s discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;
2. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), enjoins Respondents housing authority and Garcia and all other persons in active concert or

participation with it, from discriminating against any person based on disability in any aspect of the sale of a dwelling;

3. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), requires the Respondent housing authority to establish and promulgate a policy regarding emotional support animals that complies with the Act and train all housing authority staff on this policy;

4. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), awards such damages as will fully compensate Complainant for emotional distress, embarrassment, humiliation, loss of housing opportunity and inconvenience caused by Respondents' discriminatory conduct;

5. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), requires Respondent housing authority to allow the Complainant to obtain and maintain an assistance animal in her unit at Reading Housing Authority and to promptly refund the \$300.00 pet deposit it collected from the Complainant, with interest; and

6. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), assesses a civil penalty against Respondents for each violation of the Act that the Respondents have committed.

The Secretary further prays for such additional relief as may be appropriate.

Respectfully submitted,

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