

II. SUMMARY OF THE ALLEGATIONS THAT SUPPORT THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD complaints and Determination of Reasonable Cause, Respondent Millikin University and Respondent Richard Dunsworth (collectively referred to as "Respondents") are charged with discriminating against Complainant Nielsen, an aggrieved person as defined by 42 U.S.C. § 3602(i), based on disability in violation of § 3604(f)(1)(A) and 3604(f)(3)(B).

A. LEGAL AUTHORITY

1. It is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of that buyer or renter. 42 U.S.C. § 3604(f)(1)(A).
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 person with a disability equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B).

B. PARTIES AND SUBJECT PROPERTY

3. At all times relevant to this Charge, Oakland Hall was a four-story dormitory building located at 210 N. Oakland Avenue, Decatur, Illinois ("subject property"). The subject property is now named Dolson Hall.
4. At all times relevant to this Charge, Respondent Millikin University owned and operated the subject property.
5. At all times relevant to this Charge, Respondent Richard Dunsworth ("Respondent Dunsworth") was the Vice President for Enrollment at Respondent Millikin University. At all times relevant to this Charge, Respondent Dunsworth had the ultimate authority to determine whether or not Complainant Nielsen could continue to reside in the subject property.
6. At all times relevant to this Charge, Complainant Nielsen was disabled as defined under the Act. She had, and continues to have, a seizure disorder that causes her to have epileptic episodes. Additionally, she was, and still is, legally blind.
7. At all times relevant to this Charge, Complainant Nielsen was a student of Respondent Millikin University. Complainant Nielsen resided in a single occupancy room on the second floor of the subject property until March of 2006, when Respondents required her to move out because of her service animal.

C. FACTUAL ALLEGATIONS

8. Beginning in fall of 2004, Complainant Nielsen was enrolled as a student at Millikin University.
9. At all times relevant to this Charge, Respondent Millikin University required all of its students to reside in dormitories on campus, except in exigent circumstances. Accordingly, upon her acceptance to the University, Complainant Nielsen submitted a student housing application to Respondent Millikin University for the 2004-2005 school year. With her application, Complainant Nielsen submitted a physician's note stating that she had a special housing need due to her seizure disorder.
10. Stress, loud noise and lack of sleep aggravate Complainant Nielsen's seizure disability and cause the frequency of epileptic episodes to increase. Additionally, a residential unit that is not fully accessible is hazardous to her because of her poor eyesight.
11. Complainant Nielsen resided in a dormitory named New Hall for the 2004-2005 school year. New Hall did not meet her needs because its heating system was inadequate and because it was noisy. Complainant Nielsen suffered numerous epileptic episodes on campus and ambulances were called on several occasions. In response to these epileptic episodes, Respondent Millikin University required Complainant Nielsen to sign a legal waiver stating she would not hold it liable for any injury incurred on the campus due to her medical conditions.
12. In early 2005, Complainant Nielsen discussed on several occasions the inadequacy of her New Hall dormitory room with Sara Watterson (now Sara Lytle), who was then the Director of Residence Life at Respondent Millikin University. By virtue of her position, Sara Watterson had supervisory authority over student housing matters and dormitory hall directors.
13. Either as the result of the discussions with Sara Watterson or as the result of dormitory lottery, Complainant Nielsen was placed in the subject property (Oakland Hall) for the 2005-2006 school year.
14. The subject property is the largest dormitory at Respondent Millikin University. It consists of four floors, an attic and a basement and is capable of housing 210 students on just three of its four floors. It has 70,000 square feet of floor space.

15. The subject property has fully accessible units and is equipped with the most advanced HVAC (heating, ventilation and air-conditioning) system of Respondent Millikin University's dormitories. The subject property's HVAC system constantly takes and purifies outside air before directing it to students' rooms instead of re-circulating interior air. It is also equipped with fiberglass air filters and paper filters with the minimum efficiency reporting value ("MERV") rating of 7. Those filters are capable of being upgraded to higher grade filters, such as those rated MERV 16 or high efficiency particulate air ("HEPA") filters, which are capable of arresting most air particulates, including animal dander.
16. The subject property met Complainant Nielsen's needs because it was fully accessible, because it had a good HVAC system, and because it had bright lighting and elevators. The frequency of Complainant Nielsen's epileptic episodes during her residency at the subject property decreased substantially.
17. In or about July of 2004, Complainant Nielsen contacted Paws with a Cause ("PWAC"), a nonprofit organization dedicated to training service dogs for people with disabilities.
18. On or about April 15, 2005, Donna Nixon from PWAC conducted a needs assessment and concluded that Complainant Nielsen was a suitable candidate for a seizure dog.
19. Seizure dogs can support disabled owners by sensing and alerting the owner to epileptic episodes before they occur and by protecting the owners from injury during and after epileptic seizures.
20. In or about April of 2005, Donna Nixon from PWAC contacted Sara Watterson to inform her that Catherine would be provided with a service dog. Sara Watterson responded there would be no problem, or words to that effect. Complainant Nielsen also informed Sara Watterson on several occasions in January of 2005 that she was in the process of obtaining a service animal.
21. On or about January 7, 2006, PWAC contacted Complainant Nielsen to inform that her service dog—named River—was ready for delivery. Because Respondent Millikin University was closed for the winter break, Complainant Nielsen notified Respondent Millikin University about her service dog on or about January 17, 2006.

22. On or about January 18, 2006, Respondent Millikin University informed Complainant Nielsen that she had to leave the subject property because the service dog would allegedly affect other students with allergies living in the subject property.
23. Respondent was not aware of any student living in the subject property who was allergic to dogs at any time relevant to this Charge.
24. Respondents did not possess any evidence that the Complainant Nielsen's service dog was a threat to the health or safety of any student residing there at any time relevant to this Charge.
25. Complainant Nielsen's service dog was not a threat to the health or safety of any resident of the subject property at any time relevant to this Charge.
26. Respondents had no official written policy specifying that service animals were prohibited at the subject property at any time relevant to this Charge.
27. Respondents did not have, implement or circulate an official written disability policy for their dormitories at any time relevant to this Charge, despite the fact that they were required to have such a policy under a consent decree arising from an earlier Fair Housing Act lawsuit to which Respondent Millikin University was a defendant.¹
28. On or about January 20, 2006, Donna Nixon from PWAC arrived at the subject property with the service dog and canine equipment. When she and Complainant Nielsen were in the process of bringing in canine equipment to Complainant Nielsen's room, officials of Respondent Millikin University informed Nixon that all of Complainant Nielsen's belongings should be moved to another dormitory because of students with allergies living in the subject property. Donna Nixon explained that a single dog would not affect a person with allergies unless there was a direct contact, but Respondent Millikin University continued to demand that Complainant Nielsen leave the subject property.
29. Later on January 20, 2006, Donna Nixon examined a room at Blackburn Hall, offered by Respondents to Complainant Nielsen as alternative housing, and concluded it was unsuitable and hazardous to Complainant Nielsen, who is legally blind, and her service dog because of various features, including a wall heater with no front plate, a 4" lip to the shower, exposed wires, holes in wall, lack of an

¹ *U.S. v. First Site Commercial Properties, Inc.*, No. 02-2114 (D. Ill. May 17, 2002).

elevator and an exterior door that led to a railroad crossing nearby. Due to this assessment, and because of her belief that her rights were being violated, Complainant Nielsen rejected the alternative room offered.

30. Finally, January 20, 2006, Donna Nixon, Complainant Nielsen and Complainant Nielsen's mother met with Respondent Millikin University officials, including Respondent Dunsworth. In this meeting, Respondent Dunsworth indicated that he had the decision-making authority to determine Complainant Nielsen's housing. In the meeting, Respondent Dunsworth admitted he was not personally aware of any student in the subject property who was allergic to animal dander. Nevertheless, Respondent Dunsworth refused to allow Complainant Nielsen to stay with her service dog in the subject property, either permanently or temporarily. As the consequence, Donna Nixon took the service dog back to Complainant Nielsen's mother's house.
31. On or about January 27, 2006, Respondent Millikin University, through Respondent Dunsworth, sent a letter to Complainant Nielsen reiterating that she could not live with a service dog in the subject property.
32. From approximately January of 2006 to February of 2006, Complainant Nielsen's service dog was delivered to campus every day for training and bonding exercises with Complainant Nielsen. The need to have the service dog delivered every day caused inconvenience and expense for Complainant Nielsen and reduced the usefulness of the service dog because the bonding process was delayed and because the dog was not available to serve her at all times.
33. On or about February 14, 2006, Respondent Millikin University sent an electronic mail message to Complainant Nielsen acknowledging that she had submitted all necessary documentation for her service animal. The email, however, reiterated that she could not live in the subject property with a service animal.
34. On or about February 7, 2006, Donna Nixon brought the service dog into the subject property for training purposes. Shortly after the service dog arrived, three employees of Respondent Millikin University confronted Complainant Nielsen in her room and escorted her and her service dog out of the subject property to the sidewalk outside. Complainant Nielsen and her service dog had to wait outside for Complainant Nielsen's mother to pick them up because Respondent Millikin University refused to let them into the lobby of the subject property.

35. After this incident, Complainant Nielsen commuted to school from home every day in an attempt to spend adequate bonding time with her service dog.
36. On or about March 1, 2006, Respondent Millikin University held a mediation session with Complainant Nielsen in order to resolve the issue of her housing. Respondent Millikin University continued to insist that Complainant Nielsen could not live in the subject property with her service dog. Feeling she had no alternative, Complainant Nielsen agreed to move to another dormitory.
37. On or about March 7, 2006, Complainant Nielsen moved out of the subject property and moved into Hessler Hall.
38. Complainant Nielsen's new room at Hessler Hall did not meet Complainant Nielsen's disability-related needs. The room was too small and cramped for Complainant Nielsen and her service dog. The new room was located next to a recreational lounge with a ping-pong table, which was frequently the site of loud and competitive late-night matches. Vending machines were lined up against her room wall, frequently causing loud noises from kicking and slamming. Additionally, machines were sometimes tipped forward, generating sudden crashing noises. Furthermore, her new room was located near the main entrance and students without access cards often knocked loudly to attract attention. The conditions at her new room at Hessler Hall caused stress to Complainant Nielsen and made it difficult for her to sleep, aggravating her epileptic seizure disorder.
39. Complainant Nielsen, as the result of the relocation, experienced increased incidents of epileptic episodes.
40. On or about March 21, 2006, Complainant Nielsen filed a housing discrimination complaint with HUD.
41. On or about August 25, 2006, Equip for Equality, a nonprofit organization chartered to advocate for disability rights, sent a letter to Respondent Millikin University and Respondent Dunsworth on behalf of Complainant Nielsen. The letter requested that Respondents provide a reasonable accommodation to Complainant Nielsen to allow her to return to the subject property with her service dog. Respondents did not respond to the letter.
42. As a result of Respondents' discriminatory acts, Complainant Nielsen suffered emotional distress and the loss of a unique housing opportunity. Respondents' discriminatory acts made her angry and offended her because she felt her rights

were being violated. She felt humiliated when she was forcibly ejected from the subject property and had to wait for her mother on the sidewalk in cold February weather because of her service dog. Furthermore, Complainant Nielsen lost time and incurred expenses commuting from her mother's house to school in order to train and spend adequate time with her service dog. She lost social contacts with her friends and acquaintances residing at the subject property because she was banned from even visiting the subject property with her service dog. The subject property met her disability-related needs and Complainant Nielsen suffered inconvenience, discomfort, stress and increased incidents of epileptic episodes when she was forced to live in other dormitories that did not meet her needs because of Respondents' discriminatory actions.

D. FAIR HOUSING VIOLATIONS

43. When Respondents made the subject property unavailable to Complainant Nielsen because of her service animal, Respondents violated 42 U.S.C. § 3604(f)(1)(A).
44. When Respondents refused to modify or waive their rules, policies or practices to allow Complainant Nielsen to live in the subject property with her service dog and instead required Complaint to move to another dormitory, Respondents violated 42 U.S.C. § 3604(f)(3)(B).

III. CONCLUSION

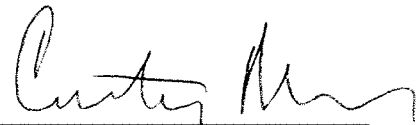
Wherefore, the Secretary of HUD, through the Office of the General Counsel and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondent Millikin University and Respondent Richard Dunsworth with engaging in discriminatory housing practices as set forth above and prays that an order be issued that:

- A. Declares that Respondents' discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and its implementing regulations;
- B. Enjoins Respondents, their agents, employees and successors, and all other persons in active concert or participation with them, from discriminating against any person based on disability in any aspect of the sale, rental, occupancy, use or enjoyment of a dwelling;
- C. Awards such monetary damages as will fully compensate Complainant Nielsen for her economic losses and emotional distress, including but not limited to, all out-of-

pocket expenses, medical expenses, emotional and physical distress, embarrassment, humiliation, inconvenience, the loss of a housing opportunity and any and all other damages caused by Respondents' discriminatory conduct;

- D. Imposes a \$16,000 civil penalty against each Respondent for each violation of the Act; and
- E. Awards such additional relief as may be appropriate pursuant to 42 U.S.C. § 3612(g)(3).

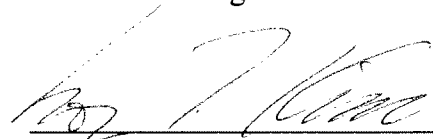
Respectfully Submitted,



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