

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)
Disability Law Center,)
)
Charging Party,)
)
v.)
)
Sergey Krasovski and Evgenia Tchernik,)
)
Respondents.)
)
_____)

HUD ALJ No.
FHEO No. 08-14-0114-8

CHARGE OF DISCRIMINATION

I. **JURISDICTION**

On or about March 25, 2014, the complainant, Disability Law Center (“Complainant” or “DLC”), filed a verified complaint with the United States Department of Housing and Urban Development (the “HUD Complaint”), alleging that Respondents Sergey Krasovski (“Respondent Krasovski”) and Evgenia Tchernik (“Respondent Tchernik”) (collectively “Respondents”) violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the “Act”), by refusing to negotiate for the sale or rental, or otherwise make unavailable a dwelling, imposing different terms and conditions, and by refusing to grant a reasonable accommodation in rules, policies, practices, or services based on disability in violation of 42 U.S.C. § 3604. On or about May 8, 2014, the HUD Complaint was amended to correct the address of the subject property.

The Act authorizes the issuance of a charge of discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary has delegated that authority to the General Counsel, who has redelegated to the Regional Counsel. 24 C.F.R. §§ 103.400, 103.405; 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Office of Fair Housing and Equal Opportunity Region VIII Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable

cause exists to believe that a discriminatory housing practice has occurred in this case and has authorized and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondents Sergey Krasovskiy and Evgenia Tchernik are charged with discriminating against Complainant Disability Law Center, an aggrieved person as defined by 42 U.S.C. § 3602(i), based on disability in violation of 42 U.S.C. § 3604(f) of the Act as follows:

A. Legal Authority

1. It is unlawful to refuse to rent or to otherwise make unavailable or deny a dwelling to any renter because of disability of that renter, a person residing in that dwelling after it is rented, or any person associated with that 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 a dwelling, because of a disability of that person or any person associated with that person. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).
3. It is unlawful discrimination under 42 U.S.C. § 3604(f)(1) and (f)(2) 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 an equal opportunity to use and enjoy a dwelling unit. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
4. The Act defines a "handicap"¹ as a "physical or mental impairment which substantially limits one or more major life activities." 42 U.S.C. § 3602(h)(1); 24 C.F.R. § 100.201.

B. Subject Property and Parties

5. The subject property is a three-story apartment building located at [REDACTED] Salt Lake City, Utah ("Subject Property").
6. At times relevant to this Charge, Respondents Sergey Krasovskiy and Evgenia Tchernick were the owners of the Subject Property. Respondent Krasovskiy managed the day-to-day operations of the Subject Property.
7. Complainant Disability Law Center is a non-profit organization whose organizational mission is to combat illegal housing discrimination throughout the State of Utah. In

¹ This charge uses "disability" in place of "handicap," the term which appears in the Fair Housing Act. The terms have the same legal meaning

furtherance of its mission, Complainant DLC engages in activities including, but not limited to, encouraging fair housing practices through educational efforts, assisting persons who believe they have been the victim of housing discrimination, and identifying barriers to fair housing in order to counteract and eliminate discriminatory housing practices.

8. Complainant DLC is an aggrieved person as defined by the Act. 42 U.S.C. § 3602(i).

C. Factual Allegations

9. On or about July 11, 2013, Complainant DLC located an internet advertisement for the Subject Property on Craigslist that stated in part:

Nice and clean unit located on ground floor... features 2 bedroom, one full bathroom, spacious living room and kitchen with dining area... background check... sorry, no smokers, no pets... please call [REDACTED]
[REDACTED]

10. In response to that advertisement, Complainant DLC developed and conducted two paired-tests of the Subject Property to test whether or not the Subject Property discriminated against individuals with disabilities necessitating a service or companion animal.
11. Each pair of testers consisted of one tester whose household needed an accommodation for an assistance animal known as a Protected Tester, and one tester who did not need an assistance animal, known as a Control Tester.
12. Complainant DLC instructed Protected Tester 1 and Protected Tester 2 to inquire about the availability of the Subject Property and pose as individuals with disabilities who used assistance animals.
13. Complainant DLC instructed Control Tester 1 and Control Tester 2 simply to inquire about the availability of the Subject Property.
14. On or about July 12, 2013, Protected Tester 1 was the first of the four testers to call the number in the Craigslist advertisement placed by Respondent Krasovskiy. Protected Tester 1 portrayed herself as a veterinary technician with a husband with a disability who used an assistance animal.
15. A man, who identified himself as "Serge" (Respondent Krasovskiy) and as one of the owners of the property answered the phone. Respondent Krasovskiy disclosed the availability, price, deposit, and application process and then asked who would be living in the apartment.
16. During the July 12, 2013 conversation, Protected Tester 1 explained she would be living with her husband who is a person with a disability and needs an assistance

animal, and she asked about the pet policy. Respondent Krasovskiy replied, "I really don't know, we don't come across this often. I need to talk to my partner to decide if this is against our policy, because we usually don't accept animals," or words to that effect.

17. Respondent Krasovskiy then inquired into the type of animal and Protected Tester 1 disclosed it was a dog. Respondent Krasovskiy then asked if Protected Tester 1's husband was blind, to which Protected Tester 1 responded "no," and Respondent Krasovskiy inquired as to the kind of disability the husband had.
18. During the July 12, 2013 conversation, Protected Tester 1 informed Respondent Krasovskiy that she was able to provide a letter from her husband's doctor verifying the need for the animal.
19. Without further engaging Protected Tester 1, or informing her that an accommodation to the general prohibition against pets would be possible in the right circumstances, Respondent Krasovskiy ended the conversation by asking Protected Tester 1 to call him the following day after he had talked to his business partner.
20. On or about July 13, 2013, Protected Tester 1 called Respondent Krasovskiy back as requested. Respondent Krasovskiy stated he had been unable to reach his business partner due to it being the weekend and asked Protected Tester 1 to call back again later.
21. Protected Tester 1 gave Respondent Krasovskiy her telephone number and asked if he could call her back after he had spoken with his partner. Respondent Krasovskiy agreed to return the phone call, but failed to do so.
22. On or about July 15, 2013, Protected Tester 1 called Respondent Krasovskiy for the third time. Respondent Krasovskiy again said that he had not spoken with his business partner and would return the tester's call as soon as he did.
23. Respondent Krasovskiy never called Protected Tester 1 back as he indicated that he would.
24. Respondent Krasovskiy terminated phone calls with Protected Tester 1 on three separate occasions by informing her of his need to consult with his business partner.
25. Respondent Krasovskiy routinely instructed potential tenants who called about the units at the Subject Property to come and view the property.
26. Respondent Krasovskiy had three separate opportunities to invite Protected Tester 1 to view the Subject Property and to state that an accommodation might be possible.

27. Protected Tester 1 inquired with Respondent Krasovskiy about the availability of units at the Subject Property on three occasions, July 12, 13, and 15, 2013.
28. Respondent Krasovskiy subsequently entered into two separate lease agreements with prospective tenants without disabilities on July 26 and 31, 2013.
29. Respondent Krasovskiy has previously utilized the excuse of needing to check with his business partner as a way to end conversations with prospective tenants he views as troublesome or wishes to avoid.
30. Respondent Krasovskiy's "business partner" is his son-in law, who resides in California and has no involvement in the day-to-day operations and management of the Subject Property.
31. Respondent Krasovskiy practice is to not call back potential renters regarding available units at the Subject Property.
32. When Respondent Krasovskiy told Protected Tester 1 he would "call her back," or words to that effect, he had no intention of returning her phone call.

D. Legal Allegations

33. As described above, Respondents violated the Act by refusing to negotiate for the rental of a dwelling and/or otherwise making a unit unavailable based upon disability when Respondent Krasovskiy repeatedly told Protected Tester 1 of the need to speak with his "business partner," an admitted technique for ending phone conversations with potential tenants he found to be troublesome or problematic, when he had multiple occasions to engage in a meaningful discussion about a clear need for an accommodation, and when he repeatedly informed Protected Tester 1 he would call her back with no intentions of ever doing so. 42 U.S.C. § 3604(f)(1); 24 C.F.R. § 100.202(a).
34. As described above, Respondents violated the Act by imposing different terms and conditions based upon disability in the rental of a dwelling by not inviting Protected Tester 1 to view the Subject Property. 42 U.S.C. § 3604(f)(2); 24 C.F.R. §100.202(b).
35. As described above, Respondents violated the Act by discriminating against the Complainant DLC in the terms, conditions, or privileges of the rental of a dwelling, by refusing to engage in the interactive process with Protected Tester 1 or to grant an accommodation to their "no pet" policy, when such an accommodation may be necessary for equal opportunity to use and enjoy the dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204.

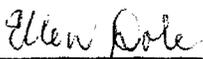
36. As a result of Respondents' discriminatory conduct, Complainant DLC has suffered damages including, but not limited to economic loss through diversion of its resources and frustration of its mission to achieve equal housing opportunities.
37. As a result of Respondents' discriminatory conduct, Complainant DLC incurred damages including but not limited to, testing costs, administrative costs, and other miscellaneous costs.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of Section 3604(f) of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondents, as set forth above, violate subsections 804(f)(1), 804(f)(2), and 804(f)(3)(B) of the Act. 42 U.S.C. § 3604(f)(1)-(3);
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating against any person because of disability in any aspect of the rental, sale, use, or enjoyment of a dwelling;
3. Awards such damages as will fully compensate the Complainant for its damages, caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3612(g)(3); and
4. Assesses a \$16,000 civil penalty against each Respondent for each violation of the Act that Respondents have committed pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

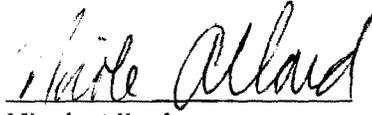
Respectfully submitted,



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