UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

Secretary, United States Department of Housing and Urban Development, on behalf of Complainants [redacted], [redacted] & the Fair Housing Advocates Association,	)	HUD ALJ No.
Charging Party,	)	FHEO Nos. 05-10-0670-8 05-10-0669-8
v.	)	
Kent State University, Jill Church, Brian Hellwig, Betsy Joseph & Amy Quillin,	)	August 1, 2014
Respondents.	)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

Complainant [redacted] and Complainant Fair Housing Advocates Association ("FHAA") timely filed complaints with the U.S. Department of Housing and Urban Development (the "Department" or "HUD") on February 19, 2010,[1] alleging that Respondents Kent State University, Jill Church, Brian Hellwig, Betsey Joseph, and Amy Quillin, discriminated against them on the basis of handicap[2] in violation of the Fair Housing Act ("the Act"), as amended, 42 U.S.C. Sections 3601-3619. The complaints were amended on July 10, 2013, to properly name all respondents and add Complainant [redacted] as a party to Complainant [redacted] complaint.

The Act authorizes the Secretary of HUD to issue 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), (2). The Secretary has delegated to the General Counsel, who has redelegated to the Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee. 24 C.F.R. §§ 103.400, 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

[1] HUD referred the complaints to the Ohio Civil Rights Commission ("OCRC") for investigation on February 19, 2010. OCRC voluntarily waived the complaints back to HUD for investigation on November 18, 2010.

[2] While federal laws still use the obsolete term "handicap," this Charge and the Determination uses the term "disability" as interchangeable with "handicap."

The Regional Director of the Office of Fair Housing and Equal Opportunity for Region V has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case, and he has authorized the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned complaint and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondents Kent State University, Jill Church, Brian Hellwig, Betsy Joseph and Amy Quillin with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to discriminate in the rental of, or to otherwise make unavailable, a dwelling to any renter because of the disability of that renter, the disability of any person residing in that dwelling after it is rented, or the disability of any person associated with the renter. 42 U.S.C. § 3604(f)(1)(A-C); 24 C.F.R. § 100.202(a).

2. It is unlawful to discriminate against any person in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of the disability of that renter, the disability of any person residing in that dwelling after it is rented, or the disability of any person associated with the renter. 42 U.S.C. § 3604(f)(2)(A-C); 24 C.F.R. § 100.202(b)(1-3).

3. For the purposes of § 3604(f)(1-2), "discrimination" includes a refusal to make reasonable accommodations 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 make any statement regarding the rental of a dwelling that indicates a preference, limitation, or discrimination based on disability. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).

5. Pursuant to the Act at § 3602(h), disability means, with respect to a person: "(1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment....." 42 U.S.C. § 3604(h); 24 C.F.R. § 100.201.

6. Pursuant to the Act, an "aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

7. Pursuant to the Act, "person" includes "one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 [of the United States Code], receivers, and fiduciaries." 42 U.S.C. § 3602 (d); 24 C.F.R. § 100.20.

8. Pursuant to the Act, "dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

B. PARTIES AND SUBJECT PROPERTY

9. Complainant [redacted] has been diagnosed by medical professionals as suffering from panic disorder and generalized anxiety disorder. Complainant [redacted] psychiatric disabilities affect her major life activities [redacted] Complainant [redacted] is a person with disabilities within the meaning of 42 U.S.C § 3602(h), and is an aggrieved person under 42 U.S.C. § 3602(i).

10. Complainant [redacted] is Complainant [redacted] husband and is a person associated with an individual with a disability under the Act. At all times relevant to this Charge, Complainant [redacted] was domiciled with Complainant [redacted]. Complainant [redacted] is an aggrieved person under 42 U.S.C. § 3602(i).

11. Complainant Fair Housing Advocates Association, Inc. ("Complainant FHAA") is a non-profit corporation in Ohio whose mission is to eliminate housing discrimination and ensure equal housing opportunities for all people. Complainant FHAA is an aggrieved person under 42 U.S.C. § 3602(d & i).

12. Respondent Kent State University is a public research university in Kent, Ohio composed of numerous colleges and schools offering both undergraduate and graduate level degrees. At all times relevant to this Charge, Allerton Apartments was owned and operated by Respondent Kent State University.

13. At all times relevant to this Charge, the day-to-day management of Allerton Apartments was handled by Kent State University Residence Services ("Residence Services").

14. At all times relevant to this Charge, Respondent Jill Church was the Associate Director of Residential Communities within Kent State University Residence Services, and supervised Respondent Brian Hellwig.

15. At all times relevant to this Charge, Respondent Brian Hellwig was the Assistant Director, Residential Safety and Security for Kent State University Residence Services. This position was responsible for managing Allerton Apartments.

16. At all times relevant to this Charge, Respondent Betsy Joseph was the Director of Kent State University Residence Services and supervised Respondent Jill Church.

17. At all times relevant to this Charge, Respondent Amy Quillin was the Associate Director of Kent State University Student Accessibility Services ("SAS").

18. Allerton Apartments is a housing complex consisting of apartment buildings owned by Respondent Kent State University and set aside for upperclassmen and their families.

19. From November 2008 to mid-February 2010, Complainant [redacted] and [redacted] Complainants") resided in Allerton Apartments, [redacted] 1134 Allerton Street, Kent, Ohio 44240 ("subject property").

20. The subject property constitutes a dwelling within the meaning of 42 U.S.C. § 3602(b). The subject property is not exempt under the Act.

C. FACTUAL ALLEGATIONS

21. Complainants [redacted] began attending Respondent Kent State University in February 2008 and moved into the subject property in November 2008.

22. On or about October 26, 2009, Complainant [redacted] began treatment for anxiety and panic attacks, with [redacted], a psychologist employed by Respondent Kent State University to provide psychological counseling services to Kent State University students.

23. On or about October 27, 2009, [redacted] provided Complainant [redacted] with a letter stating, in relevant part:

> To Whom It May Concern:
>
> [redacted] is under my care for panic disorder and anxiety. While she is taking steps in therapy to reduce her symptoms, they have had little impact thus far. The best tool for [redacted] at this time is having a pet. This has been extremely beneficial for her symptoms in the past. In my opinion, [redacted] symptoms will be much better if she is able to have a dog in her apartment. Please take into consideration her mental health disorders when considering her request.

24. In early December 2009, Complainants communicated to Respondent Hellwig that Complainant [redacted] required an emotional support animal and that she had a doctor's note for the animal. Respondent Hellwig referred Complainant [redacted] to SAS.

25. Allerton Apartments has a written pet policy which states, in relevant part: "Due to maintenance and sanitation problems that pets create, they are not permitted at Allerton. The only exception to this is fish."

26. On December 15, 2009, Complainant [redacted] met with Respondent Quillin. At this meeting, Complainant [redacted] explained her need for a support animal and presented Respondent Quillin with Dr. [redacted] letter. Complainant [redacted] also explained that the need was urgent and that she and Complainant [redacted] would have to find other housing if the request was denied.

27. At the December 15, 2009 meeting, Respondent Quillin stated that a "therapy dog/animal was not a typical accommodation we provide" and that SAS would need to check with Respondent Kent State University Residence Services. Respondent Quillin also asked Complainant [redacted] to have her doctor fill out a "Kent State University Disability Verification Psychological Disabilities" form.

28. Respondent Quillin memorialized the December 15, 2009 meeting in writing in a Pre-Enrollment Interview Summary document ("PEI Summary"). On the PEI Summary of the December 15, 2009 meeting, Respondent Quillin noted that documentation was complete for Complainant [redacted] to be considered a student with disabilities. Respondent Quillin also offered Complainant [redacted] academic accommodations for Complainant [redacted] disabilities.

29. On the PEI Summary of the December 15, 2009 meeting, Respondent Quillin noted that the documentation of Complainant [redacted] reasonable accommodation request was considered "incomplete."

30. On the PEI Summary of the December 15, 2009 meeting, Respondent Quillin also notated in the "Follow-up" section of the report: "contacted Jill Church ... - no to therapy dog, although they would consider a cat." This statement was never communicated to Complainants.

31. On or about December 16, 2009, Dr. [redacted] completed the "Kent State University Disability Verification Psychological Disabilities" form requested by Respondent Quillin and transmitted it to SAS. In this form, Dr. [redacted] described Complainant [redacted] symptoms as, "recurrent panic attacks [redacted]" When directed to describe how the symptoms substantially limit Complainant [redacted] in a major life activity, Dr. [redacted] wrote, "[redacted] Consequently, it hinders her studying and activities of daily living."

32. On the "Kent State University Disability Verification Psychological Disabilities" form, Dr. [redacted] also stated: "Thus far, behavioral strategies have been producing only mild benefit. I recommend that [redacted] be able to have a pet in her apartment to assist her in coping with panic. Cl. reports this has been very effective in the past." Dr. [redacted] signed this form with her name and her state medical license number.

33. On or around December 16, 2009, Respondent Quillin and Dr. [redacted] spoke regarding Complainant [redacted] request. During this conversation, Respondent Quillin asked Dr. [redacted] if she witnessed the dog performing services for Complainant [redacted]. Dr. [redacted] informed Respondent Quillin that she had not met the dog, but that Complainant [redacted] reported that having a dog reduced her symptoms.

34. On or around December 18, 2009, Respondent Church and Respondent Joseph spoke regarding Complainant [redacted] request for permission to have a therapy dog. According to Respondent Joseph's affidavit, Respondents Church and Joseph decided that "Residence Services would not allow the dog to live at Allerton in the event SAS did not support the accommodation request" and communicated this position to Respondent Quillin.

35. On or around December 22, 2009, Complainant [redacted] emailed Respondent Quillin requesting an update on her request. In an email response sent on December 22, 2009, Respondent Quillin offered Complainant [redacted] academic accommodations but stated that her research into the support animal issue was ongoing.

36. In or around December 2009, the [redacted] Complainants obtained a dog and began keeping it in the subject property.

37. During this period, and continuing until mid-March 2010, Complainant [redacted] continued treatment with Dr. [redacted]. Dr. [redacted] notes from January 19, 2010, reported that, with the support dog, Complainant [redacted] panic symptoms were less frequent and less severe. [redacted]

38. On or around February 3, 2010, Respondent Hellwig allegedly received a complaint regarding barking coming from the [redacted] Complainants' unit. Respondent Hellwig informed Complainants that they would have to remove the dog from their unit.

39. In an email dated February 4, 2010, Respondent Quillin rejected Complainant [redacted] reasonable accommodation request, writing, in relevant part:

> In regards to your request for a therapy dog to be with you in your Allerton apartment, we have determined, after checking a variety of policies and regulations, that we are not able to provide that as an accommodation. Given various interpretations of the law and some newer amendments to the ADA, there has been some discussion about pet therapy dogs having equal status to service animals, e.g. "guide dogs". At this point, however, there has been no official consensus on these discussions and no rulings from the courts that would, at this time, provide for pet therapy animals as an accommodation.

40. On February 5, 2010, the [redacted] Complainants submitted a Petition for Contract Release, so that that they could move to a property where Complainant [redacted] could keep her support animal.

41. In or around February of 2010, the [redacted] Complainants contacted Complainant FHAA for counsel and assistance regarding Respondents' denial of Complainant [redacted] reasonable accommodation request. Complainant FHAA met with Complainants and developed an investigation and advocacy strategy.

42. On or around February 8, 2010, Mr. Vince Curry, the executive director of Complainant FHAA, contacted Respondent Hellwig by telephone. During the conversation, Respondent Hellwig stated that Complainant [redacted] request for a reasonable accommodation was denied because the dog was not a "service animal." Respondent Hellwig acknowledged that Complainant [redacted] request would have been granted if the requested animal was a seeing-eye dog and she were blind.

43. On or around February 8, 2010, Mr. Curry also contacted Dr. [redacted], who told him that SAS had denied Complainant [redacted] request because the animal was a "therapy dog." She also stated that she believed that Complainant [redacted] dog helped her and said that she would write another letter in support of the accommodation.

44. On February 9, 2010, Dr. [redacted] wrote another note for Complainant [redacted], which stated:

> I am currently treating [redacted] at University Psychological Services for Panic Disorder. [redacted] has tried many strategies to reduce her symptoms. She has had only mild success with her coping strategies. What has helped immensely is her dog. Having a pet allows her to utilize her coping strategies in a way that has significantly reduced her symptoms.

Please take into consideration this medical condition when making a determination on whether she is allowed to have a dog in her apartment. If this cannot be worked out, please consider letting her out of her lease due to medical conditions, without financial penalty.

45. On or about February 9, 2010, Respondent Kent State University approved the [redacted] petition to be released from their rental contract.

46. At some point between February 12, 2010 and February 15, 2010, the [redacted] Complainants moved from the subject property to a unit not owned or managed by Respondent Kent State University.

47. The [redacted] Complainants continued to consult with Complainant FHAA. As a result of these consultations, Complainant FHAA worked to develop a fair housing enforcement strategy for Complainant [redacted], including processing of a fair housing complaint. Complainant FHAA continued to counsel the [redacted] Complainants throughout the OCRC and HUD investigation process, including, but not limited to, conducting research, participating in conciliation efforts, preparing and submitting evidence, and advocating.

48. As a result of Respondents' actions, Complainant [redacted] has suffered damages, including but not limited to physical and emotional distress, inconvenience, frustration, loss of housing opportunity, out of pocket expenses, and economic loss. Complainant [redacted] is an aggrieved person under 42 U.S.C. § 3602(i).

49. As a result of the Respondents' actions, Complainant [redacted] has suffered damages, including but not limited to emotional distress, inconvenience, frustration, loss of housing opportunity, and economic loss. Complainant [redacted] is an aggrieved person under 42 U.S.C. § 3602(i).

50. As a result of Respondents' actions, Complainant FHAA has suffered damages including, but not limited to, the diversion of resources from the education activities, training activities, and other enforcement/advocacy activities that Complainant FHAA normally engages in to investigating and addressing Respondents' discriminatory conduct. Respondents' discriminatory conduct has also frustrated Complainant FHAA's mission of ensuring equal housing opportunities for all.

D. FAIR HOUSING ACT VIOLATIONS

51. Respondents Kent State University, Jill Church, Brian Hellwig, Betsy Joseph, and Amy Quillin violated the Act by discriminating against Complainants on the basis of disability in the terms and conditions of rental and by making housing otherwise unavailable when they denied Complainant [redacted] reasonable accommodation request to keep an emotional support animal at the subject property when such accommodation was necessary to afford the [redacted] Complainants an equal opportunity to use and enjoy their dwelling. 42 U.S.C. §§ 3604(f)(1)(A-C), (f)(2)(A-C) & (f)(3)(B); 24 C.F.R. §§ 100.202(a) (1-3), (b)(1-3) & 100.204.

52. Respondents Kent State University, Respondent Hellwig, and Respondent Quillin violated the Act by discriminating against Complainants on the basis of disability when they made statements indicating a preference, limitation, or discrimination against renting to tenants with disabilities when they denied Complainant [redacted] reasonable accommodation request and informed her that she would have to remove the animal from her unit. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).

III. CONCLUSION

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

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Act, as amended, 42 U.S.C. § 3601, *et seq.*;

2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, from discriminating on the basis of disability against any person in any aspect of the rental of a dwelling;

3. Awards such damages as will fully compensate Complainants for the actual and intangible damages caused by Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(i).

4. Awards a $16,000 civil penalty against each Respondent for each violation of the Act 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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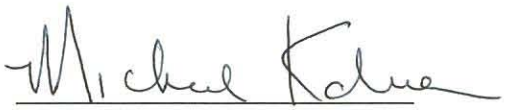

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