

**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)	
)	ALJ No. _____
)	
Charging Party,)	FHEO No. 04-14-0799-8
)	
v.)	
)	
Peachtree Court Homeowners Association, Inc.,)	
Peachtree Court Board of Directors, and)	
Peachtree Court Architectural Advisory Committee)	
)	
Respondent.)	
_____)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

 (collectively "Complainants") timely filed a Housing Discrimination Complaint (the "Complaint") with the U.S. Department of Housing and Urban Development (the "Department" or "HUD") on or about June 17, 2014, alleging that Respondent Peachtree Court Homeowners Association, Inc. ("Peachtree Court Homeowners Association"), Peachtree Court Board of Directors, and Peachtree Court Architectural Advisory Committee ("Peachtree Court AAC") violated the Fair Housing Act (the "Act"), 42 U.S.C. §§ 3601-3619. The Complaint was amended on or about July 2, 2015 to add Respondents Peachtree Court Board of Directors and Peachtree Court AAC to the Complaint. Other aggrieved persons include Complainants' two (2) minor children.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (the "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)(1) and (2). The Secretary has delegated to the General Counsel, who has re-delegated to the Regional Counsel, the authority to issue such a Charge following a Determination of Reasonable Cause by the Assistant Secretary of Fair Housing and Equal Opportunity ("FHEO") or his or her designee. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

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

II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned amended Complaint and the Determination of Reasonable Cause and No Reasonable Cause, Respondents Peachtree Court Homeowners Association, Peachtree Court Board of Directors, and Peachtree Court AAC, are hereby charged with violating the Act as follows:

A. LEGAL AUTHORITY

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 therewith, because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2), 100.65(a), (b)(1) and (4).
2. "Familial status" is defined as one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or another person having legal custody of such individual or individuals. 42 U.S.C. § 3602(k)(1); 24 C.F.R. §100.20.
3. The Act defines an "aggrieved person" as any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i)(1); 24 C.F.R. § 100.20.
4. The Act defines "dwelling" as any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

B. PARTIES AND SUBJECT PROPERTY

5. At all times relevant to this Charge, Complainants had custody of their two (2) minor children.
6. Complainants and their two (2) minor children are protected under the Act on the basis of their familial status, as defined under 42 U.S.C. §3602(k).
7. Complainants and their two (2) minor children are "aggrieved person(s)" as defined by the Act. 42 U.S.C. § 3602(i).

8. At all times relevant to this Charge, Complainants resided in a single family dwelling located [REDACTED] in Cumming, Georgia (the "Subject Property").
9. The Subject Property is located within the Peachtree Court community which is comprised of 196 homes.
10. At all times relevant to this Charge, the Subject Property was owned by the parents of Complainant [REDACTED] who provided her with authorization to deal with matters related to the Subject Property, including requesting permission to make improvements to the dwelling and lot.
11. Complainants are members of the Peachtree Court Homeowners Association.
12. Respondent Peachtree Court Homeowners Association is a domestic nonprofit corporation organized under the laws of Georgia. At all times relevant to the Charge, Respondent Peachtree Court Homeowners Association was the organization responsible for the Peachtree Court community.
13. Respondent Peachtree Court Board of Directors is the governing body of Respondent Peachtree Court Homeowners Association and is responsible for overseeing the business of Respondent Peachtree Court Homeowners Association.
14. Respondent Peachtree Court AAC is an entity, established by Section 5 of the Peachtree Court Declaration of Covenants and Restrictions ("Peachtree Court Declarations"). The individuals that collectively make up Respondent Peachtree Court AAC are appointed by Respondent Peachtree Court Board of Directors to advise and assist Respondent Peachtree Court Board of Directors in its responsibilities under Section 3 of Article VI of the Peachtree Court Declarations.
15. The functions performed by Respondent Peachtree Court AAC include reviewing plans and specifications submitted by residents of the Peachtree Court community to Respondent Peachtree Court Homeowners Association in connection with proposals to construct or alter improvements upon lots within the Peachtree Court community. Respondent Peachtree Court AAC makes recommendations to Respondent Peachtree Court Board of Directors with respect to such plans and specifications.

C. FACTUAL ALLEGATIONS

16. In order to make a “home improvement” or “landscape improvement” to property located within the Peachtree Court community, homeowners or occupants must submit a completed “Request for Architectural/Landscape Review” form to Respondent Peachtree Court Homeowners Association.
17. The Request for Architectural/Landscape Review form provides instructions for submitting a completed request for review and asks various questions detailing the proposed improvement or alteration.
18. Improvements that may be requested on the Request for Architectural/Landscape Review form include, but are not limited to, decks/patios, pools/spas, windows, painting, tree removal, water features, and play structures. These improvements are listed on the Request for Architectural/Landscape Review form adjacent to a pre-established box that could be checked.
19. On or about August 6, 2013, Complainant [REDACTED] submitted to Respondent Peachtree Court Homeowners Association a completed Request for Architectural/Landscape Review form requesting to install a play structure in the backyard of the Subject Property.
20. On the Request for Architectural/Landscape Review form, Complainant [REDACTED] checked the box located next to the “play structure” option. Under the section titled “Describe Your Improvement in Detail” the Request for Architectural/Landscape Review form submitted by Complainant Torres stated: “Play set for my kids. It will be small and simple. It will have a slide and two glider swing, (pressure treated wood). Space to use in the backyard is 12 feet by 8 feet.” The Request for Architectural/Landscape Review form included a scale drawing of the backyard with the proposed play structure.
21. On or about August 14, 2013, at a Peachtree Court community board meeting, Respondent Peachtree Court Homeowners Association, through the actions of Respondent Peachtree Court Board of Directors, unanimously voted to prohibit play structures in yards within the Peachtree Court community. The vote to prohibit play structures was memorialized in the August 14, 2013 board meeting minutes and was listed under “New Business.”

22. Subsequent to Respondent Peachtree Court Board of Directors' decision to prohibit play structures, Complainant ██████ inquired about the change in policy to Cathi Provenzano, a member of Respondent Peachtree Court AAC, who stated that there were many elderly residents in the Peachtree Court community.
23. On or about September 26, 2013, Complainants received a Notice of Disapproved Request. The Notice of Disapproved Request denied Complainants' request for a play structure.
24. The Notice of Disapproved Request stated that "[y]our request to erect a play set has been denied." The Notice of Disapproved Request further informed Complainants that the decision was made by "the Board of Directors and/or the review committee."
25. The Notice of Disapproved Request included a section that states "[i]n this case, your request was not approved due to the following reason(s)[.]" No reason was provided as to why Complainants' request to set up a play structure was denied.
26. All other Notices of Disapproved Request provided by Respondents to either Complainants or the Agency included a reason or explanation for the particular denial.
27. Subsequent to the prohibition on play structures being implemented and receiving the Notice of Disapproved Request, Complainants attached a slide to the rear deck of the Subject Property to be used by Complainants' minor children.
28. On or about February 14, 2014, Complainants received a Request for Compliance from Respondent Peachtree Court Homeowners Association. The Request for Compliance stated, in part: "It was recently noted you have installed a slide off your rear deck. This slide was installed without written approval from the Board of Directors and must be removed no later than February 26, 2014 to prevent at a minimum, a fine of \$25.00 per day being assessed [against] you until the slide is removed to the satisfaction of the Board. You will recall the September 26, 2013 letter sent to you denying the installation of a play set. Please be reminded exterior changes, alterations, or additions must first be approved in writing by the Board prior to the change taking place."

29. On or about February 20, 2014, Complainant ██████ expressed concerns about being discriminated against to Alison Cohen, a member at large of Respondent Peachtree Court Board of Directors.
30. On or about March 2, 2014, Ms. Cohen sent Complainant ██████ an email stating that in June of 2013, prior to Complainants' request, Respondent Peachtree Court Board of Directors voted to prohibit any new play structures due to spacing issues in yards and the complexity of the differences between play structures.
31. The June 2013 meeting of Respondent Peachtree Court Board of Directors occurred on or about June 19, 2013. The recorded minutes from the June 2013 board meeting contain no mention or reference to play structures or a rule prohibiting play structures.
32. The board minutes from the August 2013 board meeting of Respondent Peachtree Court Board of Directors, occurring on or about August 14, 2013, state "[v]oted to not allow [p]lay sets in yards. Unanimous approval." This notation is located under the section entitled "New Business." The August 2013 board meeting occurred after Complainants requested to install the play structure.
33. At no time relevant to the Charge was any other "home improvement" or "landscape improvement" listed in Respondent Peachtree Court Homeowners Association's Request for Architectural/Landscape Review form prohibited.
34. On or about March 3, 2014, Complainant ██████ requested a meeting with Respondent Peachtree Court Board of Directors regarding the prohibition on play structures.
35. On or about March 4, 2014, Ms. Cohen responded to Complainant ██████ request and acknowledged receipt of Complainant ██████ email. Ms. Cohen again articulated that it was in June of 2013 that Respondent Peachtree Board of Directors voted to prohibit play structures within the Peachtree Court community.
36. On or about March 19, 2014, a meeting took place between Complainant ██████ and Respondent Peachtree Court Board of Directors wherein Complainant ██████ presented her view that the prohibition on play structures was discriminatory.

37. On or about May 7, 2014, Respondent Peachtree Court Board of Directors conducted a Special Board Meeting lifting the prohibition on play structures. Notes from the May 7, 2014 meeting state: "Play Sets: Must be enclosed in a fenced backyard and cannot be visible from the road and/or over 6' tall. Portable play sets should not [be] left out overnight."
38. During the period of time relevant to the Charge, Complainants were fined for unauthorized improvements by Respondents. The fines levied against Complainants total \$2,300.00. As a result of the fines, Complainants and their two (2) minor children have, since 2014, been unable to utilize certain community amenities such as the community pool.

D. FAIR HOUSING ACT VIOLATIONS

39. As described in paragraphs 5 through 38 above, Respondents Peachtree Court Homeowners Association, Peachtree Court Board of Directors, and Peachtree Court AAC discriminated against Complainant [REDACTED] Complainant [REDACTED] and Complainants' two (2) minor children by treating them less favorably on the basis of familial status than similarly situated residents of the Peachtree Court community who applied for home and landscape improvements. 42 U.S.C. § 3604(b).
40. Respondents treated Complainants and Complainants' two (2) minor children less favorably on the basis of familial status than similarly situated residents who applied for home or landscape improvements without minor children by failing to provide a reason or explanation for the denial of Complainants' request to install a play structure. 42 U.S.C. § 3604(b).
41. Respondents further treated Complainants and Complainants' two (2) minor children less favorably on the basis of familial status than similarly situated residents who applied for home or landscape improvements without minor children by creating a rule prohibiting the installation of play structures in the Peachtree Court community but not prohibiting any other home or landscape improvement. 42 U.S.C. § 3604(b).

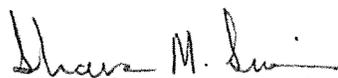
III. CONCLUSION

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), hereby

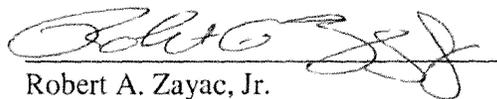
charges Respondents with engaging in discriminatory housing practices in violation of the Act and prays that an order be issued that:

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 because of familial status in any aspect of the rental or sale of a dwelling pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671(b)(3)(ii);
3. Mandates Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, to attend training that addresses the Act's prohibitions against discrimination on the basis of familial status;
4. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with any of them, from collecting any previously levied fines against Complainants for the installation of play structures.
5. Awards such damages as will fully compensate Complainants for the actual 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);
6. Awards a civil penalty against each Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 189.671(b)(3).

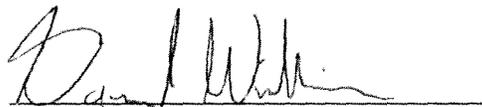
Respectfully submitted,



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