

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS**

The Secretary, United States Department of Housing and)
Development, Charging Party, on behalf of:)

[REDACTED])

Complainant,)

v.)

Tamaron Association,)

Respondent.)

18-JM-0210-FH-010

November 16, 2018

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

On June 29, 2018, the U.S. Department of Housing and Urban Development (“HUD” or “Department”) filed a Charge of Discrimination against Tamaron Association (“Respondent”). The Charge alleges that Respondent violated Section 804(f) of the Fair Housing Act, 42 U.S.C. § 3604, as amended by the Fair Housing Amendments Act of 1988 (the “Fair Housing Act” or the “Act”), by discriminating against Complainant [REDACTED] and her late-husband [REDACTED] based on the disability of Mr. [REDACTED] and their adult daughter, [REDACTED].

The Charge alleges that Respondent violated the Act when it denied Complainants’ request for a reasonable accommodation to allow [REDACTED] and [REDACTED] to purchase and reside in a condominium unit at the Tamaron with [REDACTED]. The Charge further alleges that Respondent discriminated in the terms or conditions of a sale of a dwelling because of [REDACTED] disability.

Respondent, through a Board of Directors (the “Board”), operates a community of residential condominium units for persons 55-and-over in Waldwick, New Jersey.

Respondent denies that it violated the Act as alleged in the Charge. However, to avoid the additional cost and expense and uncertainty of litigation, the parties agree to settle the claims in the underlying action by entering into this Initial Decision and Consent Order (“Consent Order”). The entry of this Consent Order shall not be deemed an admission or finding of any fault or liability by Respondent.

II. GENERAL PROVISIONS

1. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed complaint. No party has been coerced, intimidated, threatened, or in any way forced to become a party to it. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations under it.
2. The parties agree that the Charging Party shall file with the Office of Hearings and Appeals a Motion for Entry of an Initial Decision and Consent Order, along with this Consent Order, after this document is executed by all parties.
3. This Consent Order is binding upon Respondent, its members, principals, owners, employees, successors, agents, assigns and all others in active concern with them in the management of the community of condominium units located in Waldwick, New Jersey.
4. Pursuant to 24 C.F.R. § 180.680(a), the parties understand that this Consent Order is a public document.

III. MUTUAL RELEASE

5. In consideration of the execution of this Consent Order, the Charging Party, their successors, assigns, agents, employees, and attorneys hereby forever waive, release, and covenant not to sue Respondent, their heirs, executors, assigns, agents, employees, or attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUDOHA 18-JM-0210-FH-010/FHEO Case No. 02-17-5205-8, or which could have been filed in any action or suit arising from said subject matter, except where necessary to enforce this agreement. Nothing in this release will be construed to prevent HUD from investigating other complaints filed against Respondent or taking appropriate enforcement action thereon.
6. In consideration of the execution of this Consent Order, Respondent, its successors, assigns, agents, employees, and attorneys hereby forever waive, release, and covenant not to sue HUD, its heirs, executors, assigns, agents, employees, or attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUDOHA 18-JM-0210-FH-010/FHEO Case No. 02-17-5205-8, or which could have been filed in any action or suit arising from said subject matter, except where necessary to enforce this agreement. Nothing contained in this release will be construed to prevent Respondent from bringing and maintaining a proceeding for an alleged violation or breach not arising out of the subject matter of the Charge.

IV. RELIEF FOR COMPLAINANT

7. Complainant agrees to resolve the Charge for the relief set forth in the Section V of this Consent Order. Moreover, the parties acknowledge that nothing in this Consent Order shall be construed to prevent Complainant from pursuing and maintaining Civil Action No. L-007207-17 in the Superior Court of New Jersey, Bergen County.

V. ACTIONS IN THE PUBLIC INTEREST

8. Injunction from Discrimination. Respondent, its agents, employees, successors, and assigns, and all other persons in active concert or participation with any of them, are hereby enjoined from:
- a. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of disability, as prohibited by the Act, 42 U.S.C. § 3604(f)(1);
 - b. Discriminating 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 disability, as prohibited by the Act, 42 U.S.C. § 3604(f)(2);
 - c. Refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling, as prohibited by the Act, 42 U.S.C. § 3604(f)(1), (f)(2), and (f)(3)(B).
9. Mandatory Education and Training.
- a. Within ninety (90) days of the issuance of this Consent Order, Respondent Tamaron Association, and all agents and employees of Respondent, and individuals acting under their direction who receive, process, review or make determinations with regard to any reasonable accommodation request ("covered agent/employee") shall attend a minimum of two (2) hours of training pertaining to their obligations under the Fair Housing Act and applicable state and local housing non-discrimination laws. The fair housing education training may be conducted by HUD's Office of Fair Housing and Equal Opportunity. Respondents may contact the FHEO Regional Director, Region II, to schedule the date, time and location of the fair housing training. Respondents may request the approval of the FHEO Regional Director to attend said fair housing training not conducted by HUD. If Respondents choose to attend fair housing education training not conducted by HUD, Respondents agree to provide a certification of compliance with this provision to the FHEO Regional Director, Region II. All costs of the training shall be borne by Respondents.
 - b. During the term of this Consent Order, each newly employed covered agent/employee must receive at least two (2) hours of fair housing training within thirty (30) days of starting employment. Respondent shall maintain records of evidence of the completion of fair housing training throughout the term of this Consent Order.
 - c. Within twenty-one (21) days after the completion of the fair housing training required under this subsection, Respondent will submit the signed attendance list to HUD.

10. Adoption and Implementation of Reasonable Accommodation Policy.
- a. Within thirty (30) days of the issuance of this Consent Order, Respondent shall submit a "Reasonable Accommodation Policy" that complies with the Fair Housing Act to HUD for approval.
 - b. Within fifteen (15) calendar days of the receipt of Respondent's Reasonable Accommodation Policy, HUD agrees to notify Respondents of its approval or disapproval. In the event of disapproval, HUD shall provide suggested revisions to the Policy. If revisions are required, Respondents agree to submit a revised Policy within fifteen (15) days of receipt of HUD's notice of disapproval.
 - c. Upon obtaining HUD approval, Respondent agrees to take any and all steps necessary to immediately amend its By-Laws to incorporate the Reasonable Accommodation Policy and remove any contradictory terms. The Reasonable Accommodation Policy is to be included in any governing documents necessary for its implementation. All current Tamaron residents and applicants will be immediately notified of the policy.
11. Monitoring. During the term of this Consent Order, Respondent agrees to provide to the FHEO Regional Director, Region II, information regarding every new request for a reasonable accommodation it receives. Within one week of receiving such a request, Respondent shall forward a description of the requested accommodation, a narrative report of the process for considering the request, including a description of the interactive process, and a description of the outcome.

VI. CIVIL MONEY PENALTY

12. Within thirty (30) days of the entry of this Consent Order, Respondent shall pay to the United States a civil penalty pursuant to 42 U.S.C. § 3612(g)(3) in the amount of nine-thousand dollars (\$9,000). Such sum shall be paid by submitting a certified check made payable to the United States of America to Valerie M. Daniele, Trial Attorney, Office of Regional Counsel, U.S. Department of Housing and Urban Development, 26 Federal Plaza, Room 3500, New York, New York 10278.

VII. COMPLIANCE

13. During the term of this Consent Order, HUD may review compliance with this Consent Order, subject to and in accordance with HUD regulations.
14. The parties shall endeavor, in good faith, to resolve informally any differences regarding interpretation of and compliance with this Consent Order.
15. Upon breach of any provision of this Consent Order, HUD may refer this matter to the Department of Justice to petition the United States Court of Appeals for the Third Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. §3612(j).

VIII. ADMINISTRATION

16. This Consent Order shall remain in effect for a period of two (2) years from its effective date or until compliance with all the terms and specific time periods set forth within, whichever is later.

17. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. The effective date of the Consent Order shall be the date it becomes final, *i.e.*, upon the expiration of thirty (30) days from the date of its issuance, or earlier affirmance by the Secretary. 42 U.S.C. § 3612(h); 24 C.F.R. § 180.670(b)(2).

18. All required notification and documentation of compliance must be submitted to HUD as follows, unless otherwise indicated:

Jay Golden
Director, Region II
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3532
New York, NY 10278

Sean P. Kelly
Associate Regional Counsel for Program Enforcement and Litigation
Office of Regional Counsel, Region II
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

Valerie M. Daniele
Trial Attorney
Office of Regional Counsel, Region II
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

19. This Consent Order does not, in any way, limit or restrict HUD's authority to investigate any other complaints involving Respondents made pursuant to the Act, or any other complaints within HUD's jurisdiction.

20. The parties agree that if any party to this agreement needs an extension of time to satisfy a deadline provided herein, such extension must be obtained in writing from counsel for the Charging Party.

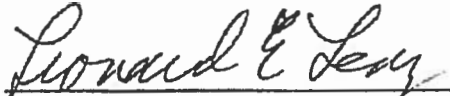
21. The signatures of the parties constitute a waiver of any right to apply for attorney's fees or costs pursuant to 24 C.F.R. § 180.705. Each party is responsible for its own attorney's fees and costs.

22. The parties and counsel agree that in the interest of a prompt conclusion of this matter, the execution of this Consent Order may be accomplished by the parties' signatures on separate pages of this Consent Order, with the individual signature pages to be attached to the body of the Consent Order to constitute one document to be filed with the Office of Administrative Judges. Signatures of the parties to this Consent Order may be executed by way of facsimile or electronic transmission.

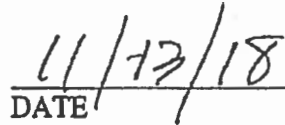
23. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30)-day Secretarial review period, and a waiver of any right to challenge the validity of the Consent Order at any time.

IX. AGREEMENT OF THE PARTIES

RESPONDENT:

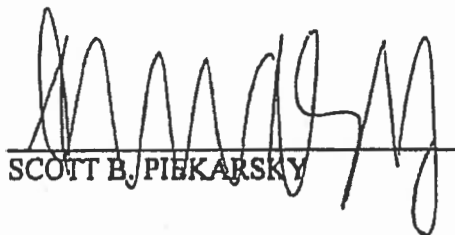


LEONARD LEVY, PRESIDENT

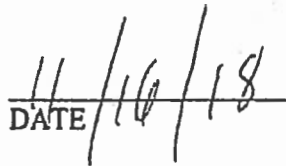


DATE

COUNSEL FOR RESPONDENT:



SCOTT B. PIEKARSKY



DATE

Initial Decision and Consent Order
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IX. AGREEMENT OF THE PARTIES

COMPLAINANT:



10/18/18
DATE

COUNSEL FOR COMPLAINANT:


ROBERT C. GRIFFIN

10/18/18
DATE

IX. AGREEMENT OF THE PARTIES

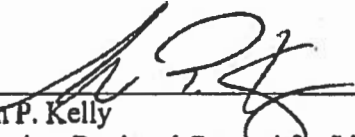
COUNSEL FOR THE CHARGING PARTY, UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT:



Ventura Simmons
Regional Counsel, Region II
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

11/16/18

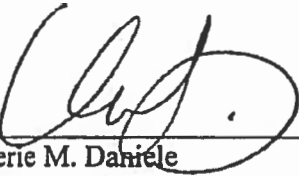
DATE



Sean P. Kelly
Associate Regional Counsel for Litigation, Region II
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

11-16-18

DATE



Valerie M. Daniele
Trial Attorney
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278

11/16/18

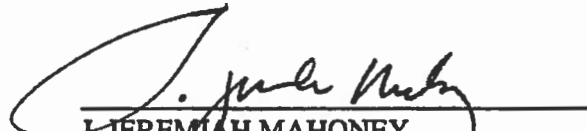
DATE

X. ORDER OF THE COURT

The hearing in this matter was originally scheduled for October 23, 2018. On September 12, 2018, the Court stayed the proceedings to accommodate settlement discussions.

On November 16, 2018, the parties filed a motion for entry of this Initial Decision and Consent Order, incorporating the terms of their agreement. The Court, having read the agreement, finds that it appears to be in the public interest. All parties have given their consent as reflected by their signature to the agreement incorporated in the foregoing Initial Decision and Consent Order, which is hereby accepted and issued.

SO ORDERED this 19th day of NOVEMBER, 2018.

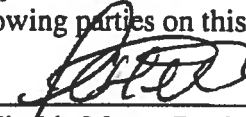


J. JEREMIAH MAHONEY
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

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I hereby certify that copies of the foregoing **INITIAL DECISION AND CONSENT ORDER**, issued by, J. Jeremiah Mahoney, Chief Administrative Law Judge, in HUDOHA 18-JM-0210-FH-010 were sent to the following parties on this 19th day of October 2018, in the manner indicated:


60- _____
Cynthia Matos, Docket Clerk

VIA FIRST-CLASS MAIL

Complainant:

North Haledon, NJ 07508

Respondent's Representative:

Scott B. Piekarsky, Esq.
191 Godwin Avenue, Suite 1
Wyckoff, NJ 07481
spiekarsky@pielaw.com

Officials:

Nicholas R. Bourlan
Sean P. Kelly, Esq
Office of Regional Office
U.S. Department of Housing and Urban Development
New York, NY 10278
Nicholas.R.Bourland@hud.gov
Sean.p.kelly@hud.gov

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