



cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(2). The Secretary has delegated to the General Counsel, who has retained and re-delegated to Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed. Reg. 42462, 42465 (July 18, 2011).

The Director of the Office of Fair Housing and Equal Opportunity (“FHEO”) for Region II, on behalf of the Assistant Secretary for FHEO, has authorized this Charge because he has determined after investigation that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(2).

## **II. LEGAL AUTHORITY AND FACTUAL BASIS FOR THIS CHARGE**

Based on HUD’s investigation of the allegations contained in the above-mentioned verified complaint and the Determination of Reasonable Cause, Respondents are charged with violating the Act as follows:

### **A. LEGAL AUTHORITY**

1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any person because of a disability of (1) that person, or (2) a person residing in or intending to reside in that dwelling after it is rented or made available, or (3) any person associated with that person. 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 dwelling, because of a disability of (1) that person, or (2) a person residing in or intending to reside in that dwelling after it is rented or made available, or (3) any person associated with that person. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).
3. For the purposes of 42 U.S.C. §§ 3604(f)(1) and (f)(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).

### **B. PARTIES AND SUBJECT PROPERTY**

4. Complainant [Redacted Name] has anxiety disorder and panic disorder and is a person with a disability as defined by the Act. 42 U.S.C. § 3602(h). Complainant [Redacted Name] is Complainant [Redacted Name] mother and, at the time relevant to this Charge, co-owner of a condominium (“subject property”) located at [Redacted Name], Commack, NY.
5. The subject property is part of Respondent Pinewood, which is a collection of 42 units of attached ranch-style and two-story townhouses.

6. Respondent Pinewood is overseen by a board of directors made up of fellow condominium owners.
7. Respondent Fairfield is a property management company that develops, owns, and/or manages apartments, co-ops, and condominium communities in and around Long Island, NY and other states. Respondent Fairfield manages Respondent Pinewood and is responsible for enforcing its condominium house rules.
8. The subject property is a “dwelling” as defined by 42 U.S.C. § 3602(b).
9. Complainants are aggrieved persons as defined by 42 U.S.C. § 3602(i) and have suffered damages as a result of Respondents’ conduct.

C. FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

10. In October 2009, Complainants purchased a dog named [Redacted Name], a pug, who at all times relevant to this Charge weighed less than 30 pounds. In 2012, they purchased another dog named [Redacted Name], a boxer, who at all times relevant to this Charge weighed more than 30 pounds.
11. Complainant [Redacted Name] has anxiety and panic disorders. Complainant [Redacted Name] experiences panic attacks. To manage those attacks, Complainant [Redacted Name] either lies on the floor or paces until feeling more in control. When lying on the floor, [Redacted Name] lies by her side, which allows her to cuddle him until she is calm. When Complainant [Redacted Name] needs to pace, she will carry her pug, [Redacted Name], and stroke him until feeling better.
12. Both [Redacted Name] and [Redacted Name] keep Complainant [Redacted Name] calm and decrease her anxiety. She has an emotional attachment to both dogs.
13. In May 2016, Complainants purchased a unit in the subject property. Complainant [Redacted Name] moved into the subject property in June 2016.
14. Respondent Pinewood has house rules which provide, in relevant part:
  6. All dogs must weigh no more than 30 lbs. at full growth[; and]
  9. There shall never be more than 1 dog or 2 cats in any unit.
15. Prior to bringing [Redacted Name] to live with Complainant [Redacted Name], Complainants registered [Redacted Name] as an emotional support animal in June 2016. Complainants were aware of the pet policy restriction of one dog under 30 pounds, but they believed that they were compliant with that policy because [Redacted Name] was a pet dog under 30 pounds, while [Redacted Name] was an assistance animal.

16. On July 25, 2016, Respondents sent a letter to Complainants advising that they had violated the pet policy based on the presence of both [Redacted Name] and [Redacted Name]. Respondents also indicated that Complainants had failed to return a pet profile form as requested.
17. In response, Complainants sent Respondents a completed Pinewood Estates Condominium Pet Profile Form for [Redacted Name] and [Redacted Name] dated July 29, 2016; a picture of both animals; Emotional Support Dog Certification Registration No: AD689502 for [Redacted Name] dated June 19, 2016; and a copy [Redacted Name] Emotional Support Dog Identification. Complainants specifically identified on the pet profile form that [Redacted Name] is a service dog and that [Redacted Name] is a dog under 30 lbs. In their July 29, 2016 correspondence, Complainants informed Respondents that because [Redacted Name] is an emotional support animal, “he does not classify as a pet.”
18. On August 4, 2016, Respondents sent a Pet Violation Notice to Complainants informing them that “[t]he condominium will allow the service dog (the Boxer)[; h]owever, the ‘part-time dog’ (the Pug) will not be permitted to reside within the . . . unit.” Respondents requested that Complainants remove [Redacted Name] from the subject property.
19. On August 8, 2016, Complainants responded to the letter of August 4 advising that they had removed the pug from the subject property and that they were starting the process to register the pug as an emotional support dog. In this letter, Complainant [Redacted Name] stated, “[w]e are unfortunately in a situation that we thought was going to be acceptable with one pet dog and one service dog.”
20. On August 19, 2016, Complainants sent Respondents a letter informing them that [Redacted Name], the pug, was registered as an emotional support animal as of August 7, 2016. Complainants’ letter informed Respondents that [Redacted Name] would return to the subject property on August 25, 2016.
21. On August 25, 2016, Respondents sent Complainants a “Pet Violation” stating, “please be advised that while you are free to register your dog (the pug) as an emotional support dog, you are still barred from housing that dog at the [Redacted Name] address.” Respondents asserted “. . .pursuant to the Fair Housing Act you have been allowed a reasonable accommodation with the other dog (the boxer). Your pug will not be permitted to reside at the [subject property] as the condominium had already allowed you the one (1) emotional support dog.”
22. On September 6, 2016, Complainant [Redacted Name] wrote an email to Respondents requesting a reconsideration of their refusal to allow Complainant [Redacted Name] to keep her pug in addition to her boxer. Complainant [Redacted Name] wrote:

We understand there is a one dog policy, which we intended to follow, but addition medical circumstances have arisen. . . . there

has been no accommodation on your part because one dog is allowed anyway.

23. On September 9, 2016, Respondents sent Complainants another letter asserting that Complainants had been granted a reasonable accommodation for the boxer and that they stood by their denial of their request to allow the pug to reside in the unit as a second dog.
24. Because Respondents would not allow an assistance animal and a pet dog at the condominium, Complainants have kept **Redacted Name** and **Redacted Name** separate. When one is at the condominium, the other is with Complainant **Redacted Name** at her home in Connecticut or with a dog sitter.
25. On December 5, 2019, Complainants sold the subject property.
26. As a result of Respondents' discriminatory actions, Complainants have suffered actual damages, including, but not limited to, out-of-pocket expenses and emotional distress.

### **III. FAIR HOUSING ACT VIOLATIONS**

1. As described in the paragraphs above, Respondents discriminated against Complainants in the terms, conditions, or privileges of the rental of a dwelling based on disability when they refused Complainants the benefit of their pet policy, which allowed one dog under 30 pounds, because of Complainant **Redacted Name** disability. 42 U.S.C. § 3604(f)(2); 24 C.F.R. §§ 100.202(b).
2. As described in the paragraphs above, Respondents discriminated against Complainants by making the subject property unavailable to them when they failed to make reasonable accommodation to their house rules concerning dogs, which forced them to sell the subject property. 42 U.S.C. §§ 3604(f)(1) and (f)(3)(B); 24 C.F.R. §§ 100.202(a) and 100.204(a).
3. As described in the paragraphs above, Respondents discriminated against Complainants in the terms, conditions, or privileges of the sale of a dwelling based on disability when they failed to make reasonable accommodation to their house rules concerning dogs. 42 U.S.C. §§ 3604(f)(2) and (f)(3)(B); 24 C.F.R. §§ 100.202(b) and 100.204(a).

### **IV. 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 Respondents with engaging in discriminatory

housing practices in violation of 42 U.S.C. § 3604(f)(1), (f)(2) and (f)(3), and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents as set forth above violate Sections 804(f)(1), (f)(2) and (f)(3) of the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating on the basis of disability against any person in any aspect of the sale, rental, use, or enjoyment of a dwelling;
3. Mandates Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;
4. Awards such damages as will fully compensate Complainants for damages caused by Respondents' discriminatory conduct;
5. Assesses a civil penalty in the amount allowable by law against Respondents for each violation of the Act pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
6. Awards any additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted this 28<sup>th</sup> day of September 2020.



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