

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

Secretary, United States Department of Housing and Urban Development, on behalf of Redacted Name ,)	
)	
Charging Party,)	HUDOHA No. _____ FHEO No. 09-19-4402-8
)	
v.)	
)	
San Luis Rey Homes, Inc. and Kathleen Talley,)	
)	
Respondents.)	
)	

I. JURISDICTION

On August 21, 2018, [REDACTED] (“Complainant [REDACTED]”) filed a complaint with the United States Department of Housing and Urban Development (“HUD”) alleging that Respondent San Luis Rey Homes, Inc. (“Respondent SLRH”) and Respondent Kathleen Talley (“Respondent Talley”) (collectively, “Respondents”) discriminated against Complainant [REDACTED] on the basis of disability in violation of Sections 3604(f)(2), 3604(f)(3)(B), and 3604(c) of the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19.¹ On April 20, 2021, the complaint was amended to add Section 3617 of the Act as a basis for discrimination.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons 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)(2). The Secretary has delegated this authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405), who has retained and re-delegated this authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Regional Director of the Office of Fair Housing and Equal Opportunity (“FHEO”) for Region IX, on behalf of the Assistant Secretary for FHEO, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case and has authorized the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2); 24 C.F.R. § 103.405.

¹The Act uses the term “handicap” instead of the term “disability.” However, both terms have the same legal meaning and may be used interchangeably. This Charge uses the term “disability.”

II. SUMMARY FINDINGS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned complaint and the findings contained in the Determination of Reasonable Cause, Respondents 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 with such dwelling, because of a disability of that person. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b)(1).
2. Discrimination under subsection 804(f)(2) of the Act includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
3. It is unlawful to make, print, or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on disability, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).
4. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b).

B. Parties and Subject Property

5. Complainant is [REDACTED].
6. Complainant [REDACTED] is an aggrieved person as defined by the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
7. Complainant [REDACTED] has post-traumatic stress disorder, severe depression, anxiety disorder, and panic attacks. Complainant [REDACTED] disabilities substantially limit one or more major life activities including, but not limited to, working and social interactions.
8. Complainant [REDACTED] is an individual with a disability, as defined by the Act. 42 U.S.C. § 3602(h).
9. At all times relevant to this Charge, Complainant [REDACTED] needed her assistance animal, a cat, to provide therapeutic emotional support.

10. San Luis Rey Homes is a resident-owned, senior (55+) mobile home community located at 300 Academy Rd., Oceanside, CA 92057 (“Subject Property”). The Subject Property consists of 328 mobile homes.
11. The Subject Property is a dwelling as defined by the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.
12. At all times relevant to this Charge, Complainant ██████ resided at the Subject Property.
13. At all times relevant to this Charge, Respondent SLRH operated the Subject Property. Respondent SLRH acts as a “homeowners association” and is governed by the San Luis Rey Homes Board of Governors. Respondent SLRH is a non-profit mutual benefit corporation organized under the laws of California.
14. Respondent Talley served on the SLRH Board of Governors in 2017 and was the SLRH Board President in 2018. During this time, Respondent Talley lived at the Subject Property.

C. Factual Allegations

15. On January 16, 2016, Dr. ██████ (“Dr. ██████”) diagnosed Complainant ██████ with post-traumatic stress disorder, severe depression, anxiety disorder, and panic attacks. Dr. ██████ prescribed an assistance animal and provided Complainant ██████ with a letter supporting her need for her cat, ██████.
16. On or around December 2017, Complainant ██████ purchased a mobile home at San Luis Rey Homes and moved into the Subject Property. When Complainant ██████ moved into the property, she did not bring ██████ and instead left ██████ in her sister’s care.
17. The Subject Property is a “no-pets” community. Respondent SLRH’s grant deed contains a “no pets” provision that states “[t]hat no pets shall be kept in or upon any portion of said premises.”
18. In or around December 2017/January 2018, Complainant ██████ saw a notice posted near Respondent SLRH’s office that outlined how to request an accommodation to have an assistance animal. Complainant ██████ went to Respondent SLRH’s office to request the required paperwork from the office manager, Kathy Herr (“Herr”), to allow ██████ to reside with her at the property as an assistance animal.
19. At the same time, Respondent Talley was in an adjacent room and overheard the conversation between Complainant ██████ and Herr. Respondent Talley came out of the room and began to belittle Complainant ██████ about her request to obtain an assistance animal and eventually made her cry. Respondent Talley accused Complainant ██████ of lying about her assistance animal and threatened to kick her out of the property.

20. In or around December 2017/January 2018, Complainant [REDACTED] submitted a written reasonable accommodation request for an assistance animal along with a doctor's note from Dr. [REDACTED] to then SLRH Board President Brian [REDACTED] in person at his residence.
21. Shortly after Complainant [REDACTED] submitted the reasonable accommodation request, she went to Respondent SLRH's office and Herr told her she was permitted to have [REDACTED] immediately. Complainant [REDACTED] then picked up [REDACTED] from her sister's home and brought [REDACTED] back to the Subject Property to live with her.
22. In 2018, the SLRH Board began to pull the files of residents who were previously approved to have emotional support animals and send the residents monthly violation notices. Additionally, Respondent Tally instructed the two office managers, Chris Weber and Herr, to deny membership applications to all potential owners who have assistance animals.
23. On May 4, 2018, Respondents sent a notice entitled, "SLRH New Rules" to all residents at the Subject Property, including Complainant [REDACTED]. The notification stated that SLRH was created as a "no pet community" and "[m]any members wish it was still that way," but "new laws both Federal and State" require that they allow "service dogs." Residents who needed "service dogs" were now required to complete forms and register the dog with SLRH along with submitting a copy of the dog's license and certification from the San Diego County Humane Society. The notice stated that the forms were available in Respondent SLRH's office and needed to be completed and returned by June 30, 2018 to comply. The Notice stated:
- "No animal shall be permitted upon any common area at any time—including the private streets within the Community—unless transported or carried in a vehicle or other suitable container from the owner's space to a location outside the Community." . . .
- "Animals must be driven or carried out of the Community. No animals will be allowed on the streets, in recreational areas or other common areas."
24. The second form mandated by Respondents required a "physician or licensed mental health professional" to certify 1) that the resident had a documented disability, 2) that the physician or licensed mental health professional had evaluated the resident's "San Diego Humane Society Assistance Dog Identification Application," and 3) that the "Dog" was "specifically trained to do the work or perform tasks for the [resident's] specific disability." The form also stated, "Note: [the ADA] states a Service Animal is a Dog. Comfort Animals are NOT Service Animals: Emotional Support, Well-being or Companionship Dogs do not qualify as Service Dogs."
25. The third form required by Respondents was a San Diego Humane Society form entitled, "Assistance Dog Identification Application," which required the resident to list the name, breed, color, sex and age of their animal and stated that "snakes or other animals that

cannot be specifically trained to perform specific tasks to assist a person” and “dogs who provide solely comfort, support, and/or therapy” did not qualify as assistance animals.

26. On July 1, 2018, Respondents sent a letter to Complainant [REDACTED] notifying her that she was not in compliance with the new rules for service dogs because she had not requested approval and completed the required documentation for [REDACTED] by June 30, 2018. Respondents stated Complainant [REDACTED] was “violating the no pet rule and subject to [a] \$100 fine.” The fine was assessed to Complainant [REDACTED] on August 1, 2018.
27. After receiving the July 1, 2018 letter, Complainant [REDACTED] submitted a second written reasonable accommodation request, date stamped as received by Respondents on August 21, 2018, in which she referenced her first request and stated that she was renewing her reasonable accommodation request to have [REDACTED] as an assistance animal. Complainant [REDACTED] provided a copy of Dr. [REDACTED]’s letter supporting her need for an assistance animal that she had included with her first request. Complainant [REDACTED] asked that Respondents “notify her within ten working days in writing of the Approval or Denial of [the] Reasonable Accommodation.” Respondents failed to respond to Complainant [REDACTED]’s second reasonable accommodation request.
28. From September 1 to December 1, 2018, Complainant [REDACTED] was fined an additional \$200 per month for her alleged violations of Respondents’ new rules. Complainant [REDACTED] was also charged \$45 total in late fees in September 2018, October 2018, and November 2018 for failure to pay the fines. Complainant [REDACTED] was assessed a total of \$945 in fines and late fees between August 1, 2018 and December 1, 2018.
29. As a result of Respondents’ discriminatory conduct, Complainants suffered actual damages, including but not limited to, emotional distress.

D. Fair Housing Act Violations

30. As described above, Respondents violated the Act by discriminating against Complainant because of disability in the terms, conditions, or privileges of Complainant’s dwelling by denying Complainant’s reasonable accommodation request and assessing fines and late fees related to the denial, when such an accommodation was necessary to afford Complainant an equal opportunity to use and enjoy the dwelling. 42 U.S.C. § 3604(f)(2) and (f)(3)(B); 24 C.F.R. § 100.202(b)(3) and § 100.204.
31. As described above, Respondents violated the Act by unlawfully making, printing, or publishing or causing to be made, printed or published any notice, statement, or advertisement, with respect to the sale of the Subject Property that indicated a preference, limitation, and discrimination based on disability, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75.
32. As described above, Respondents violated the Act by unlawfully coercing, intimidating, threatening, or interfering with Complainant in the exercise or enjoyment of, or on account of her having exercised or enjoyed, any right granted or

protected by §§ 3603-3606 of Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(a)-(c).

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the Regional Counsel for Region IX, 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(c), (f)(2), (f)(3)(B), and 3617 and requests that an Order be issued that:

- a. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Act, as amended, 42 U.S.C. § 3601, *et seq.*;
- b. Enjoins Respondents, their agents, employees, successors, and all others in active concert or participation with any of them, from discriminating against any person because of disability in any aspect of the sale, rental, use, or enjoyment of a dwelling;
- c. Awards such damages as will fully compensate Complainant for the damages caused by Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3);
- d. Assesses 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. § 180.671; and
- e. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted this 21st of June, 2021.

/s/ Michael Propst

Michael Propst
Regional Counsel

/s/ Abigail F. Greenspan

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