

The Acting Regional Director of the Office of Fair Housing and Equal Opportunity for Region VIII has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case and 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 and No Reasonable Cause, the Secretary charges Respondent Spring Creek Homeowners Association with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to make, print, or publish, or cause to be made, printed, or published any 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).
2. It is unlawful to discriminate in the terms, conditions, or privileges of sale or rental of a dwelling because of a disability of: [a disabled] person; or a person residing in or intending to reside in that dwelling after it is rented or made available; or any person associated with that person. 42 U.S.C. § 3604(f)(2); 24 C.F.R. §§ 100.202(b) and 100.50(b)(2).
3. For the purposes of Subsection 3604(f), “discrimination” includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [a disabled] person equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204.
4. It is unlawful to interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, any right granted or protected by 42 U.S.C. §§ 3603, 3604, 3605, or 3606. 42 U.S.C. § 3617; 24 C.F.R. § 100.400.
5. 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).
6. “Handicap,” herein referred to as “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 impairment, or (3) being regarded as having such impairment . . .” 42 U.S.C. § 3602(h); 24 C.F.R. § 100.201.

B. PARTIES AND SUBJECT PROPERTY

7. Complainants are disabled within the meaning of 42 U.S.C § 3602(h).
8. Complainants are aggrieved persons as defined by 42 U.S.C. § 3602(i) who have suffered damages as result of Respondent’s conduct.

9. At all times relevant to this Charge, Respondent was responsible for the oversight and management of the Spring Creek Ranch community, within which the subject property is located. Respondent's responsibilities include establishing and administering reasonable accommodation policies; making statements concerning the reasonable accommodation policies; and enforcing policies related to the ban on dogs in the community.
10. 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

11. On or around November 2019, Complainants purchased the subject property. The subject property is governed by rules and policies enforced by Respondent.
12. On or around July 1, 2020, Respondent published its dog policy, which imposed restrictions on support animals and indicated a preference for those without support animals. In pertinent part, the policy included the following provisions:
 1. Permitted Dog owners are encouraged to be discreet when walking their animals outside by staying in close proximity to their homes or choosing locations not frequented by other residents.
 2. Owners of individual homes are encouraged to confine Permitted Dogs to their own property and/or take them off the butte for walks.
 3. Owners of townhomes are encouraged to retain Permitted Dogs within the land area of their unit and the common areas applicable to their own subdivision....Preferably townhome owners should take their dogs for walks off the butte as well.
 10. Emotional Support Dogs **must** [emphasis added] be registered with Spring Creek HOA management by submitting emotional support documentation on forms as required by American, Delta or United Airlines prior to arrival. Forms **must** [emphasis added] be no more than 1 year old.
 13. Owners of Service Dogs must submit a written statement prior to arrival affirming that their dog is a Service Dog and describing the functions that their Service Dog has been trained to provide. Wyoming Statute § 35-13-203(b) provides that any person who knowingly and intentionally misrepresents that an animal is a service animal or emotional support animal to obtain access to public facilities may be guilty of a misdemeanor and fined.
13. On or around July 6, 2020, Respondent sent a letter to all homeowners imposing a deadline of August 15, 2020, for submission of all required support animal documentation under threat of fine. The letter contains the following relevant excerpts:

For all animals you should submit a veterinarian's statement that your dog has been vaccinated for rabies and that vaccination is current. Also,

you **must** [emphasis added] state that you assume absolute and total personal liability for any acts that your dog commits.

...

If you declare that your dog is an emotional support animal you also need to submit a letter or certificate from a licensed health care professional who has a legitimate ongoing relationship with you stating that you require an emotional support animal. See airline documentation requirements from American, Delta and United airlines for the substance required in this documentation which can be provided in any reasonable format.

...

Please also remember that many Spring Creek Ranch homeowners do not like to see dogs within Spring Creek Ranch. Please do your part by complying with the aforementioned dog regulations and also by walking your dog off the butte at the many wonderful dog-friendly locations around Teton County.

...

Letting your dog out briefly to relieve itself in the immediate vicinity of your residence during the early morning and late evening are reasonable exceptions to this, but otherwise please minimize the presence of your dog within Spring Creek Ranch.

14. On or around July 13, 2020, Complainants requested a reasonable accommodation to be allowed to live at the subject property with their support animals. Enclosed were recommendations from Complainants' medical provider that their request to live with their support animals be approved.
15. On or around August 3, 2020, Respondent approved Complainants' reasonable accommodation request.
16. On or around October 6, 2020, Complainants filed a fair housing complaint with HUD.
17. On or around March 9, 2021, Respondent issued a letter to all residents which provided sufficient detail to identify the Complainants as having engaged in protected activity and having filed a complaint with HUD. The letter admonished Complainants for not engaging in binding arbitration with Respondent prior to filing a complaint with HUD. The letter also described Complainants' support animals as "two large dogs which they contend are emotional support animals" even though Respondent had approved the support animal accommodation request many months before the letter was sent and the dogs' support animal status was no longer in question.

D. FAIR HOUSING ACT VIOLATIONS

18. Respondent violated Section 804(c) of the Act when it published rules governing support animals that expressed a preference for residents without such animals and impermissibly sought to limit the owners of support animals from enjoying shared community resources. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).
19. Respondent violated subsection 804(f)(2) of the Act by discriminating in the terms and conditions of sale by constructively denying Complainants a reasonable accommodation to keep their support animals when they conditioned approval on requirements that are beyond what is allowable under the Act including imposing conditions on where, when, and how Complainants could take their support animals in the community. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).
20. Respondent violated Section 818 of the Act when it sent a letter to all residents identifying Complainants as having filed a complaint with HUD without first utilizing the HOA's arbitration provisions and further questioning Complainants' need for support animals. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(c)(5).

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the Regional Counsel for Region VIII, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondent with engaging in discriminatory housing practices in violation of sections 804(c), 804(f)(2), and 818 of the Act and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondent, as set forth above, violate the Act, as amended, 42 U.S.C. § 3601, et seq.;
2. Enjoins Respondent, its 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 damages caused by Respondent's discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(i);
4. Awards a civil penalty against 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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