

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

The Secretary, United States Department of Housing and Urban Development,)	
)	
Charging Party,)	
)	
on behalf of NAME REDACTED and NAME REDACTED , aggrieved persons,)	
)	
Complainants,)	HUDOHA No. _____
)	FHEO No. 02-21-7355-8
v.)	
)	
Maria Trini Menendez, Josefina Amparo De La Fuente-Mundo, Alicia De La Fuente-Mundo, and Rosalia De La Fuente-Mundo,)	
)	
Respondents.)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

NAME REDACTED (“Complainant **NAME REDACTED**”) and **NAME REDACTED** (“Complainant **NAME REDACTED**”) (collectively, “Complainants”) filed a complaint with the U.S. Department of Housing and Urban Development (“HUD” or the “Department”), alleging that Maria Trini Menendez (“Respondent Menendez”), Josefina Amparo De La Fuente-Mundo (“Respondent Josefina”), Alicia De La Fuente-Mundo (“Respondent Alicia”), and Rosalia De La Fuente-Mundo (“Respondent Rosalia”) (collectively, “Respondents”) violated the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.* (the “Act”) by discriminating against Complainants on the basis of disability, by declining to execute their lease after learning about her service animal.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (“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)(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. 76 Fed. Reg. 42462, 42465 (July 18, 2011). The Director of the Office of Fair Housing and Equal Opportunity (“FHEO”) for the New York/New Jersey Region, 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. *See* 42 U.S.C. § 3610(b).

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 against any person in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter 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 **NAME REDACTED** is a person with a disability, as defined by the Act, 42 U.S.C. § 3602(h) and 24 C.F.R. §100.201(a)(2). Complainant **NAME REDACTED** is legally blind, which severely impacts her ability to see, walk, and navigate her home and environs. At all times relevant to this Charge, Complainant **NAME REDACTED** has been associated with Complainant **NAME REDACTED**.
5. Complainants are aggrieved persons as defined by 42 U.S.C. § 3602(i) and have suffered damages as a result of Respondents’ conduct.
6. The subject property is a three-bedroom, two-bathroom unit, located at **ADDRESS REDACTED**, San Juan, Puerto Rico 00911 in a three-story building with a total of four units (the “Subject Property”). The Subject Property is a “dwelling” as defined by 42 U.S.C. § 3602(b).
7. Respondents Josefina, Rosalia, and Alicia are the owners of the Subject Property.

8. Respondent Josefina manages the Subject Property on behalf of Respondents Rosalia and Alicia through separate powers of attorney.
9. At all times relevant to the Charge, Respondent Menendez was a real estate agent, duly licensed by the commonwealth of Puerto Rico, retained by Respondent Josefina to rent the Subject Property

C. FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

10. Complainant **NAME REDACTED** is legally blind in both eyes. She normally uses a walking stick to guide her as she walks.
11. Since 2017, Complainant **NAME REDACTED** has utilized a guide dog as a service animal.
12. In November 2019, Complainant **NAME REDACTED** obtained an Irish Wolfhound named Nyyrikki as her service animal, after her previous guide dog passed away. Nyyrikki has been trained to help Complainant **NAME REDACTED** avoid tripping, falling, and walking into obstacles, and can locate items on the floor and pick them up for her.
13. In August or September 2020, Respondent Josefina hired Respondent Menendez to find a tenant to rent the Subject Property.
14. Respondent Josefina stated that she “instructed [Respondent Menendez] to rent the apartment with the provision that there be no pets allowed due to the troublesome staircase.” Respondent Josefina does not maintain a reasonable accommodation policy.
15. On October 4, 2020, Complainants saw the Subject Property listed on a ClasificadosOnline advertisement. At the time, the advertisement did not indicate whether pets were allowed at the Subject Property, although the advertisement was edited sometime before October 18, 2020, to state that no pets would be permitted.
16. On October 10, 2020, Complainant **NAME REDACTED** called Respondent Menendez to inquire about the Subject Property.
17. On the morning of October 11, 2020, Respondent Menendez arranged an appointment to the Subject Property via text to Complainant **NAME REDACTED**.
18. On the afternoon of October 11, 2020, Complainants and Respondent Menendez toured the Subject Property. Complainant **NAME REDACTED** did not bring Nyyrikki with her to tour the apartment.

19. During the tour, Complainant **NAME REDACTED** held Complainant **NAME REDACTED**'s arm as they walked around the Subject Property. Although, Complainant **NAME REDACTED** normally uses a walking stick to help her as she walks, on this occasion she kept it folded in her hands because Complainant **NAME REDACTED** was there to guide her.
20. Complainant **NAME REDACTED** verbally guided Complainant **NAME REDACTED** around the Subject Property to help her avoid tripping.
21. Complainants explained to Respondent Menendez that the verbal instructions were necessary because Complainant is legally blind and has tripped and fallen over objects in the past. Respondent Menendez responded, "ah ok, I understand."
22. Complainants did not find the staircase at the Subject Property troublesome.
23. Complainants told Respondent Menendez that they were very interested in renting the Subject Property.
24. Respondent Menendez then asked if they had any pets to which Complainants responded that they did not have a pet, but that Complainant **NAME REDACTED** has a service dog.
25. Complainants then reminded Respondent Menendez that Complainant **NAME REDACTED** is legally blind and told her that Nyirikki is a "service animal" protected under the law— not a pet— and explained the role of a service dog.
26. Complainants told Respondent Menendez that she should speak with the owner. In response, Respondent Menendez insisted that they could not rent the apartment because the owner had a no pet policy at the Subject Property.
27. Complainants began to leave the Subject Property but, before leaving, Complainant **NAME REDACTED** told Respondent Menendez to speak with the owner and explain to her that not renting to someone who has a service dog could be grounds for a lawsuit.
28. Respondent Menendez responded with a mocking attitude beginning her statement with "Damn it **NAME REDACTED**" and adding that they "would have no way to prove that she didn't rent to her because of the dog in court because she would just rent it to someone else and say it was simply taken."
29. Later that afternoon, Respondent Menendez spoke with Respondent Josefina. Respondent Menendez told her that the couple had a service dog. According to

Respondent Menendez, Respondent Josefina responded by stating that she does not allow pets in the building.

30. Respondent Menendez confirmed that, during this call, Respondent Josefina understood the nature of service animals and that they were not pets.
31. Later that same day, Complainant **NAME REDACTED** texted Respondent Menendez and requested that she “talk to the apartment’s owner [and reminded her that] Service dogs are not pets.”
32. Respondent Menendez responded that she had already done so, but “it was to no avail.” She then texted Complainant **NAME REDACTED** photos of different properties nearby that were pet friendly.
33. As a result of Respondents’ discriminatory conduct, Complainants suffered actual damages, including lost housing opportunity, out-of-pocket expenses, emotional and physical distress, embarrassment, and humiliation.

III. FAIR HOUSING ACT VIOLATIONS

1. As described in the paragraphs above, Respondents discriminated against Complainants in the sale or rental of a dwelling based on disability when they refused to grant their request for a reasonable accommodation and refused rent to them, thereby forcing them to find alternative housing. 42 U.S.C. §§ 3604(f)(1) and (f)(3)(B); 24 C.F.R. §§ 100.202(a) and 100.204(a).
2. 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 to grant their request for a reasonable accommodation by declining to permit them to keep a service animal. 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) and (f)(2), as defined by § 3604(f)(3)(B), 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) and (f)(2), as defined by Section 804(f)(3)(B) 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 of \$21,410 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 28th day of April, 2022



Ventura Simmons
Regional Counsel, Region II



Sean P. Kelly
Associate Regional Counsel for Litigation



David Heitner
Trial Attorney
U.S. Department of Housing and
Urban Development
26 Federal Plaza, Room 3500

New York, New York 10278-0068
(212) 542-7995
David.Heitner@HUD.gov