

**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 Complainant <b>NAME REDACTED</b> ,	)	
	)	HUDOHAP No.
Charging Party,	)	FHEO No. 05-21-2884-8
	)	
v.	)	
	)	
Larpenteur Estates Apartments, LLC, Major Management,	)	
Jennifer Costello & Mark Frisch;	)	
	)	
Respondents.	)	
	)	
	)	
	)	
	)	

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**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

Complainant **NAME REDACTED** timely filed a complaint with the U.S. Department of Housing and Urban Development (the “Department” or “HUD”) on June 28, 2021, alleging that Respondents Larpenteur Estates Apartments, LLC, Major Management, Jennifer Costello, and Mark Frisch (“Respondents”) discriminated against her on the basis of disability<sup>1</sup> in violation of the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-3619. The complaint was amended on August 12, 2021, to clarify the Respondents.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (“Charge”) on behalf of an aggrieved person 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)(1), (2). The Secretary has delegated to the General Counsel, who has redelegate to the Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee. 24 C.F.R. §§ 103.400, 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Regional Director of the Office of Fair Housing and Equal Opportunity for Region V has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case, and he has authorized the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

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<sup>1</sup> While the Act uses the term “handicap,” this Charge uses the term “disability” as interchangeable with “handicap.”

## **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, the Secretary charges Respondents Larpenteur Estates Apartments, LLC, Major Management, Jennifer Costello, and Mark Frisch, with violating the Act as follows:

### **A. LEGAL AUTHORITY**

1. It is unlawful to make unavailable or deny a dwelling to any buyer or renter because of a disability of that buyer or renter, or a person residing, or intending to reside, with that buyer or renter. 42 U.S.C. § 3604(f)(1); 24 C.F.R. §§ 100.50(b)(1), 100.60(a), 100.202(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), 100.50(b)(2) and 100.70(c)(4).
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 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, among others, 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).
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. Complainant **NAME REDACTED** has been diagnosed with major depressive disorder. Complainant’s disabilities affect the major life activities of sleeping and interacting with others. Complainant is disabled within the meaning of 42 U.S.C § 3602(h).
8. James Clark is the husband of Complainant and is an aggrieved person within the meaning of 42 U.S.C. § 3602(i).

9. At all times relevant to this Charge, Respondent Larpenteur Estates Apartments, LLC, (“Respondent Larpenteur Estates”) owned the apartment complex known as Larpenteur Estates, located in Saint Paul, Minnesota.
10. At all times relevant to this Charge, the day-to-day management of Larpenteur Estates was provided by Respondent Major Management (“Respondent Major Management”), an agent of Respondent Larpenteur Estates.
11. At all times relevant to this Charge, Respondent Jennifer Costello (“Respondent Costello”) was employed by Respondent Major Management as Resident Property Manager. As part of her duties, Respondent Costello had authority to grant routine reasonable accommodation requests.
12. At all times relevant to this Charge, Respondent Mark Frisch (“Respondent Frisch”) was the Registered Manager of Respondent Larpenteur Estates and the Vice President of Respondent Major Management. Respondent Frisch retained final decision-making authority over reasonable accommodation requests elevated to him by Respondent Costello.
13. 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**

14. On June 13, 2021, Complainant emailed Respondent Costello to inquire about renting a unit at the subject property.
15. On June 14, 2021, Respondent Costello replied to Complainant’s inquiry by email providing an application and asking who would be residing in the apartment. That same morning, Complainant responded by email, stating, in relevant part: “It will be for my husband and me and my emotional support animal.”
16. On June 14, 2021, Respondent replied to Complainant’s email stating, in relevant part: “Oh I’m sorry **NAME REDACTED**, but we are an animal-free/pet-free community so we wouldn’t be able to accommodate your request. I’d recommend Rose Vista Apartments or The Burlington Apartments as neither are too far away from us.”
17. Complainant responded at 1:51 pm that day, asking, in relevant part: “Are you animal free certified? I’ve never heard of an apartment not allowing an ESA.”
18. Respondent Costello did not reply, and Complainant sent a further email that same day at 5:47 pm, to follow up.
19. Respondent Costello did not respond to Complainant’s emails, and, on June 15, 2021, Complainant sought to speak to someone higher up in the decision-making process at the subject property. On June 15, 2021, Complainant emailed Respondent Costello asking for the

contact information of the subject property's manager. Respondent Costello did not respond. Complainant then called the subject property's office number, spoke to an unknown employee, and received a phone number and email for Respondent Frisch.

20. Later that day, on June 15, 2021, Complainant called Respondent Frisch twice and left one voicemail message for him.
21. On June 16, 2021, Complainant emailed Respondent Costello to ask if the sought-after apartment was still available and stated that she wanted to drop off the required application and fees. Respondent Costello did not reply. On that same day, Complainant left another voicemail message for Respondent Frisch.
22. On June 16, 2021, at 5:14 pm, Complainant emailed Respondent Costello stating that she had dropped off the application materials at the leasing office.
23. On June 17, 2021, Respondent Frisch attempted to call Complainant back but did not reach her. Later that day, Complainant called Respondent Frisch back and left a voicemail message when she was unable to reach him.
24. On June 17, 2021, Complainant went to the subject property's leasing office and provided Respondent Costello with photo identifications. When Complainant asked about the processing of her application, Respondent Costello told Complainant that her application was "on hold" because of Complainant's "special circumstances."
25. On June 22, 23, and 24, 2021, Complainant called Respondent Frisch once each day, leaving voicemail messages for him on June 22, 2021, and June 24, 2021.
26. On June 25, 2021, Respondent Frisch called Complainant back and spoke to her.
27. In the June 25, 2021, conversation, Respondent Frisch dismissed Complainant's request to reside at the property with an emotional support animal, stating that other tenants do not want to live around animals, and that tenants live at the subject property because there are no animals allowed, or words to that effect. He also asked Complainant "Why don't you go and find somewhere else to live?" and told Complainant "You are welcome, your animal is not" or words to that effect.
28. In this conversation, Respondent Frisch admitted that he would allow a service animal. When Complainant mentioned the U.S. Department of Housing and Urban Development and the relevant fair housing laws for assistance animals, Respondent admonished her not to involve HUD.
29. As a result of Respondent Frisch's refusal to consider Complainant's reasonable accommodation request for an assistance animal, Complainant decided to no longer pursue a rental at the subject property.

30. As a result of Respondents' actions, Complainant and Aggrieved Person James Clark have suffered actual damages, including, but not limited to, physical and emotional distress, inconvenience, frustration, and loss of housing opportunity.

#### **D. FAIR HOUSING ACT VIOLATIONS**

31. Respondent Larpenteur Estates Apartments, LLC, Major Management, Jennifer Costello, and Mark Frisch violated subsection 804(f)(1) of the Act by making housing unavailable by refusing to grant Complainant a reasonable accommodation necessary to afford Complainant an equal opportunity to use and enjoy her dwelling. 42 U.S.C. § 3604(f)(1); 24 C.F.R. § 100.202(a).
32. Respondent Larpenteur Estates Apartments, LLC, Major Management, Jennifer Costello, and Mark Frisch violated subsection 804(f)(2) of the Act by discriminating in the terms and conditions of rental by refusing to grant Complainant a reasonable accommodation to keep her assistance animal, while allowing reasonable accommodations to other tenants to keep service animals. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).
33. Respondent Larpenteur Estates Apartments, LLC, Major Management, Jennifer Costello, and Mark Frisch violated subsection 804(f)(2) of the Act by placing Complainant's application "on hold" due to her request for a reasonable accommodation, thereby imposing discriminatory terms and conditions on Complainant's application as compared to that of other tenants. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).
34. Respondent Costello violated Section 804(c) of the Act when she responded to Complainant's statement *via* e-mail that she had an ESA by telling her that "we are an animal-free/pet-free community so we wouldn't be able to accommodate your request." 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a) 2
35. Respondent Frisch violated Section 804(c) of the Act by responding to Complainant's request to live with her assistance animal by making statements, including: "Why don't you go and find somewhere else to live?"; "You are welcome, your animal is not."; "Your neighbors don't want to live next to animals," and informing her that people want to live at the subject property because there are no animals there, or words to that effect. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).

#### **III. CONCLUSION**

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the Regional Counsel for Region V, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of Sections 804(f)(1), 804(f)(2), and 804(c) of the Act and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Act, as amended, 42 U.S.C. § 3601, *et seq.*;

2. Enjoins Respondents, their 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 Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(i);
4. Awards a \$21,663 civil penalty against each 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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Courtney Minor  
Regional Counsel  
for Region V

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Lisa Danna-Brennen  
Associate Regional Counsel for Litigation  
for Region V

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Christopher C. Ligatti  
Mariam Jaffery  
Trial Attorneys  
Office of Regional Counsel  
Department of Housing and Urban  
Development  
77 West Jackson Boulevard, 26<sup>th</sup> Floor  
Chicago, IL 60604