



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

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and the Determination of Reasonable Cause and No 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 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. Discrimination under 42 U.S.C. § 3604(f)(1) and (2) includes the 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.

### B. PARTIES AND SUBJECT PROPERTY

4. Respondents Lily and Shahram are shareholders of a one-bedroom Co-op apartment located at **ADDRESS REDACTED**, New York, NY 10128 (the "subject property").
5. 89<sup>th</sup> and Madison Owners Corp. ("Owners Corp.") is the owner of **ADDRESS REDACTED**, New York, NY 10128 where the subject property is located.
6. Owner Corp.'s Board of Directors ("Board") must approve any sublease applications and reasonable accommodation requests to building policies.
7. 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** has been medically diagnosed with a psychiatric condition that substantially limits one or more of his major life activities. Complainant **NAME REDACTED** has difficulty getting out of bed in the morning, finding the desire to complete activities of daily living (grooming, eating, exercise, and cleaning), and engaging in social activities. At all times relevant to this Charge, Complainant **NAME REDACTED** has been associated with Complainant **NAME REDACTED**.

8. Complainants are aggrieved persons as defined by 42 U.S.C. § 3602(i) and have suffered damages as a result of Respondents' conduct.
9. The subject property is a "dwelling," as defined by the Act, 42 U.S.C. § 3602(b).

### C. FACTUAL ALLEGATIONS

10. Complainant **NAME REDACTED** has medical and psychiatric conditions as diagnosed by his medical provider, Dr. Nathan L. Schleider, MD, who specializes in psychiatry and mental health care.
11. Dr. Schleider has been treating Complainant **NAME REDACTED** since August 3, 2019 and has prescribed assistance animals to ameliorate his condition.
12. In September 2019, Complainant **NAME REDACTED** obtained his assistance animals, one poodle mix, and one Yorkshire terrier, both under 20 lbs. and hypo-allergenic.
13. Respondents Lily and Shahram purchased the subject property on September 14, 2014.
14. Owners Corp. property allows primary tenants to have dogs as pets with prior approval from the Owners Corp.'s Board, but it does not permit sublessors to keep dogs as pets.
15. On December 15, 2018, Respondents rented the unit to tenants for the first time since they purchased it. Those tenants vacated the unit on December 15, 2020. Respondents Lily and Shahram subsequently listed the subject property for rent on StreetEasy.com, which is a property listing site for New York City.
16. On December 30, 2020, Respondents Lily and Shahram received a letter from their lending bank, Wells Fargo, regarding the rental of the subject property. The letter stated in pertinent part:

We are unable to approve your request to rent this property because your account originated as a second home. According to the terms of the Security Instrument signed at closing, properties purchased as a second home cannot be rented.
17. Despite the receipt of this letter, Respondents Lily and Shahram chose to proceed with the rental process.
18. On January 11, 2021, Respondent Lily's and Shahram's Real Estate Broker, Ms. Afsaneh Hay Gabbay ("Broker Gabbay"), met Complainants at the subject property for a showing.
19. Complainants made a request to Broker Gabbay to have a February 1, 2021, move-in date because their lease at the time was due to expire on February 1, 2021. Broker

Gabbay explained to Complainants that this was unlikely because they were beginning the rental application in the middle of January, and the application process could take up to 30 days once it was received by the Owners Corp.

20. Complainants told Broker Gabbay that the property management at their then-apartment would not allow a month-to-month lease extension and that they were under the impression that the February 1, 2021, date was a guaranteed move-in date as written on the rental application.
21. On January 19, 2021, Complainants submitted a rental package and paid all associated fees on Boardpackager.com, which is the platform utilized by Respondents to process applications for the subject property. Complainant **NAME REDACTED** then emailed Broker Gabbay to inform her that he had submitted the rental package on Boardpackager.com and that he had also attached a letter from his treating Psychiatrist, Dr. Schleider, dated December 15, 2020, which stated the following:

**NAME REDACTED** suffers from chronic medical and mental health issues for which, in addition to medical management, I advised he obtain and maintain care of emotional support animals. Mr. **NAME REDACTED**'s mood is much improved with his two dogs, and I kindly request he be allowed to keep them in his residence to maintain his health and keep him disability free.
22. Following Complainants' submission of the application on January 19, 2021, Broker Gabbay informed them over the phone that Respondents did not allow animals in the apartment because they had just installed new floors and Respondent Lily had allergies to dogs.
23. Broker Gabbay told Complainant **NAME REDACTED** that Respondents don't allow dogs so they can no longer move into the subject property, and that Respondents had called the Owner Corp.'s Board to ensure that fees he had submitted would be reversed.
24. Complainants reached out to Respondents Lily and Shahram directly and informed them that Complainant **NAME REDACTED** had assistance animals. They were told by Respondents Lily and Shahram that they did not allow dogs in the apartment because of the owner's allergy and that it was their right not to allow dogs in the unit.
25. The rental application package was transmitted to Senior Transfer Agent Bernadette Payne, who was employed by a management company that Owners Corp. hired to review applications, for Board approval.
26. Respondent Lily instructed Ms. Payne to refund the fees to Complainant on Boardpackager.com on January 19, 2021, the same day Complainants submitted their package.

27. On January 20, 2021, Complainants received confirmation of the fees being refunded the following day.
28. Complainants perceived the action of the fees being refunded and the rental application not being forwarded to the Board as a denial.
29. On January 20, 2021, during a phone conversation, Respondent Lily Daneshgar spoke with Complainants and expressed being upset with them because they lied to her about not having animals until the day they submitted the rental application package. Respondent Lily reiterated that she had allergies to dogs, would eventually be moving back to the apartment, and was worried about allergens that might be left in the apartment from the dogs.
30. On January 20, 2021, Complainant **NAME REDACTED** emailed Respondent Lily as a follow up requesting a response to their reasonable accommodation request for the two assistance animals. In her email, Complainant **NAME REDACTED** stated, “[w]ith the tentative move-in date of February 1, 2021, I would need a prompt reply to our reasonable accommodation request.”
31. On January 21, 2021, Respondent Lily emailed Complainant **NAME REDACTED** requesting pictures of the assistance animals, inquiring whether they were certified, and requesting photographs of the animals.
32. On January 22, 2021, counsel for Respondents Lily and Shahram, Mr. Jeremy Poland, emailed Complainant **NAME REDACTED** the letter dated December 30, 2020, from the lending bank, Wells Fargo, stating that a sublease would violate the terms of the “security instrument” that was entered into when the shares were purchased and therefore Respondents Daneshgar could no longer rent the subject property.
33. On January 25, 2021, Complainant **NAME REDACTED** emailed Mr. Poland questioning the validity of the rationale regarding Wells Fargo, noting that the apartment had already been rented out for two years to a prior tenant. Complainants also stated:

[T]he application was authorized by both parties, credit reports were run, and application fees were incurred. We cancelled negotiations for renewal, forfeited our current apartment, and stopped looking for other apartments based on a finalized lease agreement. Within less than an hour of disclosing the disability, we were alerted that the apartment was no longer available.
34. On January 27, 2021, Mr. Poland emailed Complainants stating that Respondents Lily and Shahram had now received approval from the lending bank to sublet the subject property. Mr. Poland stated:

“After further consideration and receiving authorization from her lending bank that she can rent the apartment, my client is ready to proceed with your tenancy, pending Board approval. To that end, please contact the management company and advise them to proceed with your application so my client can pay the appropriate fees. Also, please be advised that it is our understanding that it could take up to one month for Board approval.”

35. On January 29, 2021, Complainants renewed their lease at their current apartment for one year because it was their belief that Respondents had denied their request for the accommodation when they refused to forward the rental application to the Board for review and refunded their application fees.
36. Complainants were denied the housing of their choice, because of their assistance animals, which caused Complainant **NAME REDACTED** to become depressed, anxious, and upset.
37. As a result of Respondents’ discriminatory conduct, Complainants suffered actual damages, including lost housing opportunity, out-of-pocket expenses, inconvenience, 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 have their assistance animals. 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) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(f)(1), (f)(2), and 3604(f)(3)(B) of the Act, and requests 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, officers, employees, and successors, and all other persons in active concert or participation with any of them, from discriminating because of disability against any person in any aspect of the sale, rental, use, or enjoyment of a dwelling;
3. Mandates Respondents, their agents, employees, officers, 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 monetary damages pursuant to 42 U.S.C. § 3612(g)(3) as will fully compensate Complainant for damages caused by Respondents' discriminatory conduct;
5. Assesses a civil penalty 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,



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