

**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, on behalf of	)	
Complainants <b>NAME REDACTED</b> and	)	
<b>NAME REDACTED</b> and their minor children,	)	
	)	
Charging Party,	)	
	)	OHA No. _____
v.	)	
	)	FHEO No. 09-19-5995-8
Preferred RV Resort Owners Association,	)	
James Horton	)	
	)	
Respondents.	)	
_____	)	

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On or about March 20, 2019, Complainants **NAME REDACTED** and **NAME REDACTED** filed a timely complaint with the U.S. Department of Housing and Urban Development (“HUD” or “the Department”) alleging they and their minor children were injured by discriminatory acts based on familial status. The Complainants allege that Preferred RV Resort Owners Association and its General Manager, James Horton (collectively “Respondents”), discriminated against Complainants and their three minor children in violation of Subsections 3604(b) and 3604(c) of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-19 (“the Act”).

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination 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) and (2). The Secretary has delegated that authority to the General Counsel, who has redelegated the authority to the Regional Counsel. 24 C.F.R. §§ 103.400 and 103.405; 76 Fed. Reg. 42463, 42465 (July 18, 2011).

By Determination of Reasonable Cause dated September 1, 2023, the Regional Director of HUD’s 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 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 on HUD’s investigation of the allegations contained in the above-referenced complaint and the Determination of Reasonable Cause dated September 1, 2023, 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 rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2), 100.65(a) and (b)(3).
2. It is unlawful to make any statement with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a), (c)(1) and (c)(2).
3. Pursuant to the Act, “familial status” means one or more individuals (who have not attained the age of 18 years) being domiciled with a parent. 42 U.S.C. § 3602(k)(1); 24 C.F.R. § 100.20.
4. 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)(1); 24 C.F.R. § 100.20.
5. Pursuant to the Act, “dwelling” means any building, structure, or portion thereof which is occupied as, or designated or intended for occupancy as a residence by one or more families. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

### B. Parties and Subject Property

6. The property that is the subject of the discriminatory housing practices is a recreational vehicle (“RV”) resort located at **ADDRESS REDACTED**, Pahrump, Nevada 89048 (“subject property”).
7. Preferred RV Resort (“PRVR”) is comprised of 270 sites for RVs. All sites include 50-amp electrical service. PRVR also offers ten cabins that include separate bedrooms and full kitchens with a refrigerator, stove, oven, microwave, and cable television.
8. Additional amenities at PRVR include wireless internet, a heated swimming pool with a retractable enclosure for year-round use, an indoor spa, an exercise room, laundry facilities, and planned daily activities that include poker, pinochle, bingo, and billiards tournaments. PRVR also offers a wood shop, a craft room, a stained-glass shop, a billiards room, picnic and barbeque areas, and a playground.

9. There is also a mailroom at PRVR for each RV space to receive their mail.
10. At all times relevant to the Charge, Respondent Preferred RV Resort Owners Association (“PRVROA”), a Nevada domestic nonprofit cooperative corporation without stock, was the owner’s association responsible for managing and maintaining PRVR in accordance with its governing documents. Respondent Horton served as the General Manager.
11. According to its website, PRVR is a member-owned Recreational Vehicle park. Members pay a one-time membership fee of \$4,995, and then annual assessments thereafter (currently \$325 per year for 2023). Each member of PRVR owns a deeded fractional interest in PRVROA, a model that PRVROA describes as “similar to a timeshare,” and PRVROA is regulated by the Nevada Real Estate Division. PRVR has more than 1,000 member-owners. According to PRVR’s website, “many of [the members] have stayed with [PRVR] continually for years, and most others come ... every year to escape the frigid winters up north.” The website further states that as of January 2021, new members can stay up to nine months in any given calendar year. According to Respondents, members who joined before January 2021 may stay year-round, but must move sites at least every nine months, subject to availability.
12. PRVR also offers RV sites to non-member guests. Non-members pay a monthly fee of \$600 and can stay for up to four months. Non-member guests have the same access to the subject property’s facilities as members.
13. The subject property is a dwelling as defined by the Act. 42 U.S.C. § 3602(b).
14. At all times during Complainants’ stay at PRVR, Complainants had their three children ages three, eight and nine living with them, and thus they are protected by the Act based on their familial status. 42 U.S.C. § 3602(k)(1).
15. Complainants and their three minor children are aggrieved persons as defined by the Act. 42 U.S.C. § 3602(i)(1).

### C. Factual Allegations

16. Complainants own a duplex in Washington state, which they rented out in July 2017 in order to live in their RV as their primary residence. Since July 2017, Complainants have traveled in their 36-foot long fifth wheel RV throughout the United States staying at national and state parks and RV parks.
17. Complainants did not maintain another residence during the two and a half years the family lived in their RV. Complainants’ children were homeschooled, and Complainants used a P.O. Box address located near a family member who would check the mail and take pictures of important mail and text the pictures to Complainants.
18. From January 16, 2019, to on or around March 16, 2019, Complainants resided at PRVR as non-members, and paid PRVR in advance for a monthly rate. At the end of the first month,

they paid in advance for a second month.

19. Complainants chose to move to the subject property because of its many amenities and because it felt safe and secure for their children to play on the grounds. However, due to Respondents' explicit rules and policies, Complainants' children were barred from accessing multiple amenities offered at the subject property by virtue of their age.
20. Complainants stated they may have stayed one additional month but for Respondents' discriminatory policies. Complainants moved out of PRVR in mid-March 2019 because they no longer felt welcome at PRVR.
21. At all times relevant to the Charge, Respondents imposed age restrictions on use of the following amenities: a heated outdoor swimming pool; an indoor spa that contains a large hot tub; an exercise room that includes treadmills, stationary bikes and weights; a billiards room that contains pool tables; a woodworking room that contains electric saws, sanders and other woodworking tools; and a stained glass shop where stained glass classes are taught.

#### **AGE RESTRICTIONS ON AMENITIES**

22. The subject property brochure, which Respondent Horton provided to the Department on April 17, 2019, contained "Pool and Spa Guidelines," which stated in pertinent part that "[a]n adult must accompany children under age 18. Children age 14 and under are not permitted to use the spa at any time...."
23. At all times relevant to the Charge, the Subject Property's Rules and Regulations pertaining to the swimming pool stated, in relevant part: "Children under 18 must be accompanied and supervised by an adult when using the pool."
24. A sign posted at the swimming pool titled "Pool Rules" stated in pertinent part: "Children under the age of 18 must be attended by an adult and within sight at all times. When the pool enclosure is closed, the supervising adult must also be inside the enclosure at all times."
25. In an email dated September 5, 2019, in response to a request for justification for their swimming pool age restrictions, Respondent Horton stated:

Nevada state law requires adult supervision for children under the age of 14 (Nevada Administrative Code (NAC) 444.276 (Citing Board of Health Regulations Article 38 § 38.5)). Due to the tremendous liability associated with any commercial swimming pool, industry practice varies greatly. Different properties manage that risk differently with higher or lower age thresholds. Sample equivalent properties within our local market reveal the same nondiscriminatory, liability-conscious policies designed to mitigate that risk. Nevada Treasure RV Resort, also located in Pahrump, Nevada, for example, also requires adult supervision for those under the age of 18. The Best Western Pahrump Oasis hotel and RV park requires supervision for those over the age of 12 (contrary to state law). In short, the laws vary by county and state, but adult supervision is a consistent theme throughout the entire country. A Google

search of "pool signs" reveals numerous signs many of which are pre-printed with the standards such as no glass allowed, showering required, and adult supervision required. Even the fill-in-the-blank signs presume some sort of age restriction.

26. However, NAC 444.276 prohibits children under 14 years old from being in a pool only if unattended by an adult. Specifically, NAC 444.276 states that if no lifeguard service is provided, a warning sign must be placed in plain view for all bathers and must state "Warning - No Lifeguard on Duty." In addition, the sign must state "Children Under 14 Years Old Should Not Use Facility Without An Adult in Attendance."
27. At all times relevant to the Charge, the Rules and Regulations regarding the indoor spa stated: "[n]o children under 14 years of age are permitted to get into the spa .... Those between the ages of 14 and 18 may do either when accompanied and supervised by an adult..."
28. Two signs posted at the indoor spa indicate age restrictions for use. One sign stated: "NO CHILDREN UNDER 14 WILL BE ALLOWED IN THE SPA AND AN ADULT MUST ACCOMPANY AGES 14-17." Another sign titled "SPA RULES" stated: "NO CHILDREN UNDER 14 WILL BE ALLOWED IN THE SPA" and "ADULTS MUST ACCOMPANY CHILDREN AGES 14-17."
29. In an email dated September 5, 2019, in response to a request for justification for the indoor spa age restrictions, Respondent Horton pointed to NAC 444.526 and stated "The basis for that law, and similar laws throughout the country, along with recommendations by the CDC, is the impact of high water temperatures on developing, young bodies (mainly internal organs). Once again, with liability issues and risk management in mind, different properties approach the issue differently. Our policy is less restrictive than Nevada Treasure RV Resort, which restricts anyone under the age of 18."
30. However, NAC 444.526 does not set forth a minimum age requirement and only prohibits children who are 12 and younger from using a spa unsupervised. Specifically, NAC 444.526 states: "No children 12 years of age or younger who are not supervised by an adult may use a spa." Further, the Nevada Revised Statute (NRS) at 444.070 states that rules and regulations regarding public swimming pools and bathhouses "must not deny the use of a public spa to a child who is under 12 years of age and has adult supervision."
31. A sign posted outside the wood shop titled "WOOD SHOP AGE RULES" stated: "To use the wood shop facilities or equipment, you must be age 21 or older, or ages 18-21 with ADULT supervision. Everyone using the facilities must also sign a release form. Thank You! Management, Preferred RV Resort." The rule does not clarify how old an "adult" must be in order to supervise people 18-21 years old.

32. In an email dated September 5, 2019, in response to a request for justification for the wood shop age restrictions, Respondent Horton stated, “The use of such equipment is an ‘inherently dangerous activity,’ and age restrictions are the only feasible way we have found to help manage that risk. The wood shop features large saws and drills, some industrial grade, and is undeniably a dangerous environment for unsupervised children.”
33. A sign posted outside the exercise room states: “NO CHILDREN UNDER 14 ALLOWED ON EXERCISE EQUIPMENT. BETWEEN 14 AND 18, MUST BE ACCOMPANIED BY AN ADULT.”
34. In an email dated September 5, 2019, in response to a request for justification for the exercise room age restrictions, Respondent Horton stated, “The use of such poses health and injury hazards, as well as the risk of damage to the equipment when not used properly. Industry practice supports our policy on this matter. Referring once again to Nevada Treasure RV Resort, as one example of many, guests must be 18 and older to even enter their exercise room.”
35. A sign posted outside the stained glass shop titled “STAINED GLASS SHOP AGE RULES” states: “To use the stained glass shop facilities, equipment, or to participate in classes, you must be age 18 or older, or age 14 and older with a PARENT present. Everyone using the facilities must also sign a release form. Thank You! Management Preferred RV Resort.”
36. In an email dated September 5, 2019, in response to a request for justification for the stained glass shop age restrictions, Respondent Horton stated, “The rule stems from the preference and recommendation of the volunteer instructors, based on available time, desired skill levels and distraction from the program.”
37. At all times relevant to the Charge, the subject property’s Rules and Regulations regarding the billiards room stated: “No children under 14 years of age are permitted to ... play pool. Those between the ages of 14 and 18 may do either when accompanied and supervised by an adult...”
38. A sign posted outside the billiards room titled “POOL HALL RULES” stated in relevant part: “NO CHILDREN UNDER 14 YRS. OLD. 14 – 17 YRS. OLD MUST BE ACCOMPANIED BY AN ADULT.”
39. In an email dated September 5, 2019, in response to a request for justification for the billiards room age restrictions, Respondent Horton stated, “The member/owners have an active pool shooting community, with regular weekly tournaments at most times, and preservation of the tables and their coverings is of significance [sic] importance to them. Our policy supports the desire of that large group to reserve the table for older (and likely more experienced and capable) pool shooters.”

40. The investigation found that Respondents' age restrictions for the swimming pool and indoor spa are more restrictive than those set forth in the NAC and the NRS.
41. The investigation found that pursuant to Respondents' explicit rules and policies, Complainants' children were barred from accessing multiple amenities offered at the subject property by virtue of their age including the indoor spa, wood shop, exercise room, stained glass shop and billiards room.

### **AGE REFERENCES IN MARKETING MATERIALS**

42. The Respondents' "Guest Guide," available online at all times relevant to this charge, states in relevant part: "WHILE ON PROPERTY...Parents or guardians are responsible for their children's supervision and conduct at all times, with greater supervision for children of a lower level of maturity."
43. The investigation found that Respondents' website contains numerous depictions of people staying at the subject property and using the provided amenities. In every depiction, the person appears to be an adult, and most people appear to be above the age of 60. Notably absent from the PRVR online materials are any depictions of children at the subject property.

### **ADULT SUPERVISION RULE**

44. On or around February 27, 2019, Complainants received a letter from Respondent Horton that was issued to them as well as to other parents of young children who were residing in the RV Resort. The purpose of the letter was to make parents aware of Respondents' concerns about young children biking and running on the property unsupervised, or "roaming the buildings with no adult supervision." The letter cautioned that, even though Respondents had recently rescinded a rule that required adult supervision at all times for those under the age of 18, "we still have the right to exercise sanctions against any particular children who pose a danger to themselves, anyone else lawfully occupying the property, or any of the Resort's property and/or equipment. If necessary, that particular child will require adult supervision at all times."
45. In an interview on April 16, 2019, Respondent Horton confirmed with the Department that the subject property formerly maintained a policy that adult supervision was required for anyone under 18 years of age. He stated in the interview that the policy was rescinded two years ago.
46. On or around February 27, 2019, the same day Complainants received the letter from Respondent Horton, **NAME REDACTED** met with Respondent Horton in his office to discuss it. Complainant said Respondent Horton told him that his children had not done anything wrong, rather the issue was the lack of supervision of children by the negligent parents at the subject property.

47. After receiving the letter, Complainants did not allow their children outside of their RV without supervising them, due to fear of verbal attacks. Complainants also said they limited their interactions with other guests, and use of the PRVR facilities, for the same reasons.
48. Complainants' children were precluded from using the indoor spa, wood shop, exercise room, stained glass shop and billiards room, because Respondents restricted those under 14 years of age from using them, even with supervision.
49. As a result of Respondents' discriminatory conduct Complainants no longer felt welcome at the Subject Property because they had children. Respondents' conduct ultimately caused Complainants to vacate the Subject Property, as they felt unwelcome and scrutinized because they had children.
50. As a result of Respondents' discriminatory conduct, Complainants suffered actual damages, including a lost housing opportunity, emotional distress, and inconvenience.

#### D. Fair Housing Act Violations

51. As described above, Respondents violated Subsection 3604(b) of the Act when Respondents discriminated against Complainants in the terms, conditions, or privileges of the rental of a dwelling because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.50(b)(2), 100.65(a) and (b)(3).
52. As described above, Respondents violated Section 3604(c) of the Act when Respondents made statements to Complainants with respect to the rental of a dwelling that indicated a preference, limitation, or discrimination because of familial status. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a), (c)(1) and (c)(2).

### III. 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(b) and 3604(c) and requests an Order be issued that:

1. Declares Respondents' discriminatory housing practices, as set forth above, violate the Act, Subsections 3604(b) and 3604(c);
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating because of familial status towards any person in any aspect to the sale or rental of a dwelling pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.670(b)(3)(ii);
3. Awards such monetary damages as will fully compensate Complainants and their aggrieved minor children for all 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. 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
5. Awards such additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 12<sup>th</sup> day of September 2023.



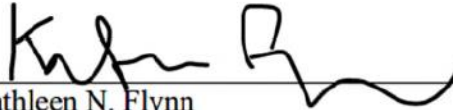
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