

42 U.S.C. § 3604(f) (3) (B). In particular, the Secretary alleged that Respondent denied Complainant use of a sorely needed handicapped accessible parking space, though it had four such spaces close to her apartment that were rarely used by handicapped residents or visitors.

On September 13, 2006 Complainant requested, as a reasonable accommodation, that Respondent allow her to utilize one of the visitors' handicapped parking spaces so that she would be able to safely place her son into and safely remove him from her minivan. Prior to making her request, Complainant noted that those spaces, for the most part, were either vacant or used by persons without disabilities or occupied by garbage dumpsters and utility vehicles.

On September 26, 2006, Respondent denied Complainant's request, stating that the American with Disabilities Act of 1990 ("ADA") mandates that Respondent have a minimum of five accessible parking spaces for disabled visitors and Complainant's use of one of those spaces would render the Association in violation of the ADA. However, because Respondent has only nine visitor parking spaces, there is no requirement that the four handicapped accessible spaces be reserved solely for visitors.

Although Respondent offered two alternative means of accommodation, Complainant refused to accept those offers because they would have required her to leave her disabled son unattended either on the sidewalk or in her apartment, potentially causing him physical injury or mental distress.

The parties agreed to settle and resolve this pending Charge without the necessity of a hearing before an Administrative Law Judge and Complainant Calderon agrees for herself and on behalf of her son that the provision in Section IV, entitled Relief for Complainants will constitute Complainants' entire relief. Therefore, without a hearing or adjudication on the merits, the parties, as indicated by the signatures at the end of this document, have consented to the entry of this Consent Order

Handwritten initials: "CW" and "2/21" with a checkmark.

This Order does not constitute a decision or finding that Respondent, its agents, employees, successors or assigns have engaged in any discriminatory housing practices, and by signing this document, Respondent does not admit any violation of the Fair Housing Act or any other applicable state or local fair housing law.

II. ADMINISTRATION

This Order is entered into pursuant to section 812 (g) (3) of the Fair Housing Act and the regulations codified at 24 CFR § 180.450, and shall become final upon expiration of thirty days or affirmance by the Secretary within that time. *See* 42 U.S.C. § 3612 (h); 24 C.F.R. §§ 180.450, 180.670(b) (3), 180.675, 180.680(b) (2).

The signatures of the parties to the Consent Order constitute a waiver of any right to withdraw their consent during the thirty day Secretarial review period and a waiver of any right to challenge the validity of this Consent Order at any time. The signatures of the parties to this Consent Order further constitute a waiver of any right to apply for attorney's fees or costs pursuant to 42 U.S.C. § 3612 (p) and 24 CFR § 180.705.

This Order shall remain in effect for a period of two years following the date this Order becomes final, pursuant to 42 U.S.C. § 3612 (h) and 24 CFR § 180.680. The United States Court of Appeals has jurisdiction to enforce this Order, if necessary. See 42 U.S.C. § 3612 (j) and (m).

III. WAIVER AND RELEASE

In consideration for the execution of this Initial Decision and Consent Order, the parties hereby releases all causes of action, demands and claims, presently known or unknown, arising out of the subject matter of FHEO complaint 04-07-0253-8.

IV. RELIEF FOR COMPLAINANTS

It is ORDERED that Respondent shall pay the sum of \$17,000 to Complainants. This amount shall be paid in certified checks payable to Windy Calderon Grau as follows: \$15,000 shall be paid within 30 calendar days from the date of entry of this Order; \$2,000 shall be paid to Complainant within 90 calendar days from the date of entry of this Order. These checks shall be mailed to Diana Ortiz, Field Director of the Office of Fair Housing and Equal Opportunity, U.S. Department of HUD, Parque Las Americas I, 235 Federico Costa St., Suite 200, San Juan, P.R. 00918.

V. RELIEF IN THE PUBLIC INTEREST

It is FURTHER ORDERED that:

(1) Prohibition Against Discrimination

Respondent, its agents, employees, successors and assigns, and all other persons in active concert or participation with them, in the management or operation of their business enterprise shall not:

- (A) Refuse 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.
- (B) Discriminate in the provisions of services, or facilities against persons with disabilities or any other protected class pursuant to the provisions of the Act.
- (C) Retaliate, coerce, intimidate or interfere with any individual because of their exercise or enjoyment of any right granted or protected by the Fair Housing Act.

(2) Fair Housing Training

Within one year of the effective date of this Initial Decision and Consent Order, Respondent's Board of Directors, officers, agents, employees, assigns, as well as all other persons active with them in the management of Parques de las Flores Condominium Association, shall attend training on fair housing law and practices. Diana Ortiz, FHEO Field Director in San Juan, P.R, or her successor, shall approve the person or organization selected by Respondent to conduct this training. The training shall focus on Title VIII of the Civil Rights Act of 1968, and Fair Housing

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Amendments Act of 1988, with an emphasis on general prohibitions against discrimination based on disability, including but not limited to the requirement of providing reasonable accommodations.

Within ten days of completion of the training, Respondent shall submit a certification of compliance with this provision from the Respondent's Board President, which shall include the names and contact information of each of Respondent's attendees, as well as the fair housing training providers to Jay Golden, FHEO Regional Director, Region II, c/o Diana Ortiz, FHEO Field Director in San Juan P.R., with a copy submitted to Lorena Alvarado, Attorney Advisor, Office of Regional Counsel for New York/New Jersey, 26 Federal Plaza, Room 3500, New York, NY 10278.

(3) Adopt Reasonable Accommodation Policy and Procedure

Within 30 days of the effective date of this Initial Decision and Consent Order, Respondent shall submit a reasonable accommodation policy for Parques de las Flores Condominium Association to HUD for approval, which addresses reasonable accommodation requests made on account of disability, to include, but not limited to, requests from residents for the use of handicapped accessible visitor parking spaces. Respondent can modify the sample reasonable accommodation policy, attached to this Initial Decision and Consent Order as Appendix "A", to make it applicable to the Association. Respondent shall submit the policy for approval by Jay Golden, FHEO Regional Director, Region II, c/o Diana Ortiz, FHEO Field Director, with a copy submitted to Lorena Alvarado, Attorney Advisor, Office of Regional Counsel for New York/New Jersey.

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Following approval of the policy by HUD, Respondent shall within 30 days adopt and implement the policy, post the policy in the administrative office and disseminate a copy of the policy to all unit owners and, if applicable, their tenants.

VI. CIVIL PENALTY

In consideration of the provisions made in the public interest at Section IV, HUD shall waive all civil penalties against Parques de las Flores Condominium Association, subject to Respondent's compliance with said provisions.

VII. REMEDIES FOR BREACH

HUD shall determine compliance with the terms of this Consent Order. Upon a breach of any provision of this Consent Order, the United States may petition the United States Court of Appeals for the First Circuit for the enforcement of the final decision and for appropriate temporary relief or restraining order in accordance with 42 U.S.C. §3612(j). In the event the breach involves the provisions made in the public interest, HUD may seek civil penalties be imposed in the maximum amount allowed by law.

SIGNED THIS 18th DAY OF August 2008


Susan Biro
Chief Administrative Law Judge

Complainants Windy Calderon-Grau and Natanael Aybar have been represented by the Office of Regional Counsel, New York/New Jersey Office for the Secretary of the United States Department of Housing and Urban Development and had the benefit of Counsel. Respondent, Parques De Las Flores Condominium Association, has had the benefit of private Counsel. All parties have read this Consent Order and willingly sign it with a full understanding of the rights it confers and responsibilities it imposes on them.

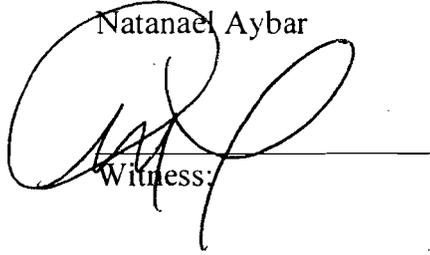
Approved:

Complainant:



Windy Calderon-Grau
for herself and on behalf of her son,
Natanael Aybar

Jul 31, 08
Date


Witness:

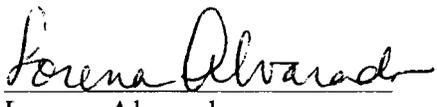
Regional Counsel:



John J. Cahill
Regional Counsel
New York/New Jersey Office
U.S. Department of Housing
and Urban Development
26 Federal Plaza, New York, NY 10278

8/6/08
Date

HUD Trial Attorney:



Lorena Alvarado

8/6/08
Date

Respondent:

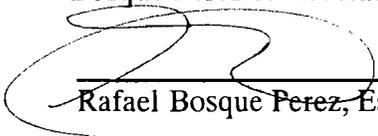
Parques De Las Flores Condominium Association


By: Jose Orama

Aug. 01, 2008
Date

For the Respondent:

Bosque Perez & Asociados, CSP


Rafael Bosque Perez, Esq.

Aug. 1, 2008
Date

APPENDIX "A"

Parques De Las Flores Condominium Association
5 Blvd. De La Media Luna
Carolina, Puerto Rico 00987-4811

REASONABLE ACCOMMODATION POLICY

Parques De Las Flores Condominium Association endeavors to comply with all laws without discrimination or bias, including, without limitation, the Fair Housing Act. Upon receipt of a request for a reasonable accommodation made pursuant to the Fair Housing Act, Parques De Las Flores Condominium Association and its management shall endeavor to provide a reasonable accommodation.

A reasonable accommodation is a modification to a rule, policy, practice or service that is necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.

In the event a resident believes that he/she is in need of a reasonable accommodation then a request should be made to administration office in writing. The request shall contain the name and apartment number of the resident, with a specification as to the accommodation requested. Any additional supporting documentation to be considered in support of said request can be submitted with the written request. All information submitted will remain confidential and will be used for the sole purpose of considering the request. The administration will inform the resident in writing when the request has been received. The administration will promptly provide approvals or denials of such request to the resident in writing. The administration will also provide a copy of the request and its decision to the Association Board.

In the event of a denial, the resident requesting the reasonable accommodation may appeal for reconsideration to the Association Board in writing. Additional supporting documentation to be considered in support of said reconsideration can be submitted with the written request. All information submitted will remain confidential and will be used for the sole purpose of considering the request. The Association Board will inform the resident in writing when the request has been received. The Board will also promptly provide approvals or denials of such request to the resident in writing.

*QNR
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