

**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	)	
<b>NAME REDACTED</b> ,	)	
	)	
Charging Party,	)	
	)	HUDOHA No. _____
v.	)	
	)	FHEO No. 04-23-5173-8
Macon MF, LLC, Active Property Management,	)	
LLC, and Michael Bailey	)	
	)	
Respondents.	)	
	)	
_____	)	

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On July 12, 2023, **NAME REDACTED** (“Complainant”), timely filed a verified complaint with the U.S. Department of Housing and Urban Development (“HUD”) alleging Respondents Macon MF, LLC (“Macon”), Active Property Management, LLC (“Active”), and Michael Bailey (“Bailey”) (collectively “Respondents”), discriminated against Complainant based on disability<sup>1</sup> when they failed to grant her reasonable accommodation requests for an emotional support animal (“ESA”) and alternate bathroom accommodation, coercion, and otherwise denying or making housing unavailable in violation of the Fair Housing Act (“Act”), as amended, 42 U.S.C. §§ 3601 *et seq.*

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

The Regional Director of HUD’s Office of Fair Housing and Equal Opportunity (“FHEO”) for Region IV, on behalf of the Assistant Secretary for FHEO, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case and has

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<sup>1</sup> The term “disability” is used in place of, and has the same meaning as, the term “handicap” in the Act and its implementing regulations.

authorized the issuance of this Charge. 42 U.S.C. § 3610(g)(1) and (2)(A); 24 C.F.R. § 103.400(a)(2)(i).

## **II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE**

Based on HUD's investigation of the allegations contained in the above-mentioned complaint and the resulting Determination of Reasonable Cause, HUD hereby charges Respondents 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 (1) that buyer or renter 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 buyer or renter. 42 U.S.C. § 3604(f)(1); 24 C.F.R. §§ 100.50(b)(1), 100.60(a), and 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 (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) and 100.50(b)(2).
3. Discrimination under 42 U.S.C. § 3604(f)(1) and (f)(2) 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.
4. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 3603, 3604, 3605, or 3606 of this title. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b).
5. The Act defines an "aggrieved person" to include 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.

### **B. Parties and Subject Property**

6. Complainant **NAME REDACTED** is an individual with a disability within the meaning of the Act. 42 U.S.C. § 3602(h); 24 C.F.R. § 100.201.
7. At all times pertinent to this Charge, Respondent Macon MF, LLC ("Macon MF") owned the 20-unit apartment complex located at **ADDRESS REDACTED**, Macon, GA **ADDRESS REDACTED** ("Subject Property").

8. At all times pertinent to this Charge, Respondent Active Property Management, LLC (“Active”) was the property management company at the Subject Property.
9. At all times pertinent to this Charge, Respondent Michael Bailey (“Bailey”) was an employee of Respondent Active and was the property manager at the Subject Property.
10. From about April 24, 2015 through May 12, 2023, Complainant lived at the Subject Property.
11. Complainant is an aggrieved individual as defined by 42 U.S.C. § 3602(i) who has suffered damages as a result of Respondents’ conduct.
12. The Subject Property is a “dwelling” within the meaning of the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

**C. Factual Allegations**

13. Complainant’s tenancy at the Subject Property is documented to have begun on or about April 24, 2015.
14. Complainant holds a housing choice voucher through the Macon-Bibb Housing Authority (“Housing Authority”).
15. On January 25, 2023, Complainant hand-delivered to Respondent Bailey a letter from her healthcare provider which disclosed that she had mental disabilities and detailed her need for an ESA.
16. Respondent Bailey denied Complainant’s ESA request.
17. On January 31, 2023, Respondents began renovating Complainant’s only bathroom removing the insulation, walls, and fixtures.
18. The bathtub, shower, and toilet were removed from the dwelling on January 31, 2023.
19. From January 31, 2023, to February 14, 2023, Complainant did not have a bathtub, shower, or toilet in her unit.
20. Respondents instructed Complainant to use a bathroom in a neighboring vacant unit for her bathroom needs.
21. Complainant did not feel safe leaving her home at night to use the bathroom in another unit.
22. The bathroom renovation spread fiberglass dust throughout the unit, aggravating Complainant’s breathing and skin.

23. On February 1, 2023, Complainant hand delivered another letter to Respondents to obtain reasonable accommodations permitting her ESA and alternate housing until the bathroom renovation was complete.
24. Respondents failed to provide Complainant an alternate accommodation for the two weeks she was denied access to her bathroom.
25. On February 1, 2023, after Complainant hand delivered her letter requesting and ESA and alternate accommodations, Respondents issued Complainant a notice of lease non-renewal.
26. On February 3, 2023, Respondents notified the Housing Authority that they would not renew Complainant's lease. On February 27, 2023, the Housing Authority issued Complainant a voucher to relocate from the dwelling.
27. On March 18, 2023, in an effort to keep her housing, Complainant boarded her ESA temporarily.
28. Respondents did not allow Complainant to stay in her housing without her ESA.
29. Complainant vacated the Subject Property on May 31, 2023.
30. Respondents did not issue Complainant any lease violation notices prior to informing Complainant of their intention to not renew Complainant's lease.

#### **D. Fair Housing Act Violations**

31. As described in the paragraphs above, Respondents discriminated against Complainant in the terms, conditions, or privileges of the rental of a dwelling based on disability when they refused to grant Complainant's request for a reasonable accommodation by declining an ESA and alternate bathroom accommodation, and retaliated against Complainant for engaging in protected activity. 42 U.S.C. §§ 3604(f)(1), (f)(2) , (f)(3)(B) and 3617; 24 C.F.R. §§ 100.202(b), 100.204(a), and 400(b).

### **III. CONCLUSION**

WHEREFORE, the Secretary of HUD, through the Office of Regional Counsel in the Atlanta Regional Office, 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 the Act, and requests that an Order be issued that:


1. Declares that Respondents' discriminatory housing practices, as set forth above, violate Subsections 804(f)(1), (f)(2), and (f)(3)(B) as defined by Section 42 U.S.C. 3604(f)(1), (f)(2), and (f)(3)(B) of the Fair Housing Act, 42 U.S.C. §§ 3601-3619;

2. Enjoins Respondents and their agents, employees, and successors, and all other persons in active concert or participation with them, from further violations of the Act, pursuant to 42 U.S.C. § 3612(g)(3);
3. Requires Respondents and their agents, employees, and successors, and all persons in active concert or participation with them to attend, at Respondents' expense, training that addresses the Act's prohibitions against discrimination based on disability, pursuant to 42 U.S.C. § 3612(g)(3);
4. Awards such damages as will fully compensate Complainant for any and all damages caused by Respondents' discriminatory conduct, pursuant to 42 U.S.C. § 3612(g)(3);
5. Assesses the maximum civil penalty against each Respondent for each violation of the Act that Respondents have committed, pursuant to 42 U.S.C. § 3612(g)(3); and
6. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 30<sup>th</sup> day of September 2024.



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