

**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)
Complainants [REDACTED])
[REDACTED],)
)
Charging Party,)
) ALJ No. _____
v.)
) FHEO Nos. 06-12-1130-8; 06-12-1363-8
George Toone and In Toone Services LLC,)
)
Respondents)
_____)

CHARGE OF DISCRIMINATION

I. JURISDICTION

On June 21, 2012, Complainant [REDACTED] [REDACTED] [REDACTED] filed a complaint with the U.S. Department of Housing and Urban Development (“HUD”) alleging that Respondent George Toone discriminated against her based on sex, in violation of the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19. On February 1, 2013, Complainant [REDACTED] amended the complaint to add, *inter alia*, Respondent In Toone Services LLC.

On August 30, 2012, Complainant [REDACTED] filed a complaint with HUD alleging that Respondent George Toone discriminated against her based on sex, in violation of the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19. She amended her complaint on September 11, 2012, and February 1, 2013, to add, *inter alia*, Respondent In Toone Services LLC.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination 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) and (2). The Secretary has delegated that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405), who has re-delegated the authority to the Associate General Counsel for Fair Housing

¹ Complainant [REDACTED] was born [REDACTED]. On June 5, 2013, her name was legally changed from [REDACTED] to [REDACTED]. Complainant [REDACTED] has also previously used the name [REDACTED].

and the Assistant General Counsel for Fair Housing Enforcement. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

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

II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaints and the Determinations of Reasonable Cause, Respondents George Toone and In Toone Services LLC 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 sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sex. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.65(a), 100.65(b)(4).
2. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 804 of the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b).

B. Parties and Subject Property

3. Complainant [REDACTED] is a transgender female. Complainant [REDACTED] is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i).
4. Complainant [REDACTED] is Complainant's [REDACTED] roommate. Complainant [REDACTED] is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i).
5. Respondent In Toone Services LLC owns the subject property, a 43-site recreational vehicle ("RV") park located at 9024 US Highway 175 West, Athens, TX. The subject property is known as the Texan RV Park ("the Park"). Respondent In Toone Services LLC's principal place of business is 4757 Pamela Dr., Abilene, TX 79606.
6. The Park offers daily, weekly, and monthly rental rates and Respondents advertise it as available to long-term residents. The Park offers utilities and services including electricity, water hookup, sewer hookup, and Internet access. It also has a pool, fishing ponds, and a club house.
7. The Park is a dwelling, as defined by the Act. 42 U.S.C. § 3602(b).

8. Respondent George Toone (“Respondent Toone”) manages and resides at the Park. He is also an owner of Respondent In Toone Services.

C. Factual Allegations

9. Complainants moved into the Park in April of 2011. They resided in their own recreational vehicle (“RV”) on lot 36 of the Park on a month-to-month basis pursuant to an RV site service agreement. At the time they moved into the Park, it was owned by BG Williams and Delia Williams.
10. On or about May 3, 2012, Complainants paid rent through June 11, 2012 to the Williamses.
11. On or about May 8, 2012, Respondent In Toone took ownership and control of the Park from the Williamses.
12. Soon after Respondent In Toone Services LLC took ownership of the Park, Complainant ██████ approached Respondent Toone, informed him that she is transgender, and asked him if she could wear female clothing in the common areas of the Park. Respondent Toone denied Complainant ██████ request. Thereafter, Complainant ██████ did not wear female clothing in the Park.
13. Respondent Toone did not want Complainant ██████ to wear female clothing in the Park because there are children around the pool and it is “not the type of atmosphere we want to promote on private property.” Mr. Toone would rather not have transgender persons in the common areas of the Park.
14. Respondents do not maintain a dress code at the Park.
15. On or about May 16, 2012, Respondents distributed new copies of Park rules to all existing residents and required them to sign the rules and new RV site service agreements.
16. The Park rules included a rule that “Management reserves the right to refuse entrance to the R.V. park to any person for any reason other than for reasons based on race, religion, handicapped, color or national origin.” This rule did not include sex or familial status, protected classes under the Fair Housing Act.
17. On or about May 19, 2012, Respondent Toone visited Complainants at their RV and asked them to sign the new rules and site service agreements. Complainant ██████ refused to sign the rules document because the rule described in the preceding paragraph did include sex among the protected classes.
18. Complainant ██████ requested that the Park rules be amended to include protections against sex discrimination, but Respondent Toone refused to do so.

19. On or about June 6, 2012, Respondent Toone placed a notice on Complainants' door stating that Complainants' RV site service agreement would not be renewed. The notice stated that Complainants had five remaining days of paid stay which would be refunded provided Complainants immediately vacated the Park.
20. On or about June 7, 2012, Complainants' attorney sent a letter to Respondent Toone indicating that she had spoken to him on June 6th. The lawyer wrote that Mr. Toone could not legally require Complainants to immediately leave the Park, and that any action to evict must be in compliance with state and federal law.
21. By letter that same day to Complainants' attorney, Respondents' counsel reiterated Respondents' demand that Complainant [REDACTED] vacate the Park. The letter stated "I have been informed that Mr. [REDACTED] is a transgender who goes by the name [REDACTED]. Mr. [REDACTED] refused to leave the Park despite being asked to do so." The letter further stated, "Curiously, I have been unable to locate any official record indicating that [REDACTED] is a resident of the State of Texas, or anywhere else. . . . [REDACTED] has never paid rent and has never paid for her use of the Park facilities or utilities. The Texan RV Park is well within its rights to demand that [REDACTED] leave the Park immediately."
22. On or about June 8, 2012, Complainants' attorney sent a letter to Respondents' counsel stating that Respondents could not force Complainants to vacate the property early because they had a month-to-month lease under Texas state law and that prohibiting Complainant [REDACTED] from dressing as a female in the Park violated federal fair housing laws.
23. On or about June 11, 2012, Complainant [REDACTED] and her attorney went to the Park office and attempted to give Marvin and Suzanne Corsbie, managers of the Park, a signed copy of the Park rules and pay the rent. Complainant [REDACTED] wrote on the offered copy of the rules that she was not waiving any rights guaranteed by state and federal law.
24. Mr. and Mrs. Corsbie refused to accept both the signed rules and the rent payment and stated that Respondent Toone had directed them not to accept them.
25. On or about June 11, 2012, Respondents initiated eviction proceedings against Complainants.
26. On July 2, 2012, HUD contacted Respondent Toone and asked whether he would stay the eviction proceedings while HUD conducted its investigation of Complainant [REDACTED] fair housing complaint. Mr. Toone declined, stating that he would "do everything legally and morally possible" to remove Complainant [REDACTED] from the Park.
27. On July 5, 2012, an eviction hearing was held at the Precinct 1 Justice of the Peace Court of Henderson County. The court ruled in favor of Respondents, awarding possession of lot 36 of the Park, \$2,500 in attorneys' fees and \$116.00 in court costs.
28. On August 18, 2012, Complainants were evicted from the subject property. They moved

their RV out of the Park.

D. Legal Allegations

29. As described above, Respondents George Toone and In Toone Services LLC discriminated against Complainants in the terms, conditions or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sex, in violation of subsection 804(b) of the Act when they refused to permit Complainant [REDACTED] to have full access to the common areas of the Park. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.65(a), 100.65(b)(4).
30. As described above, Respondents George Toone and In Toone Services LLC coerced, intimidate or interfered with Complainants on account of their having exercised or enjoyed, or aided or encouraged another in exercising or enjoying, rights granted or protected by section 804 of the Act, in violation of section 818 of the Act, when they retaliated against Complainants by evicting them for exercising their fair housing rights. 42 U.S.C. § 3617. 24 C.F.R. § 100.400(b).
31. As a result of Respondents' discriminatory conduct, Complainants suffered actual damages, including moving expenses and emotional distress.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, 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 3617, and requests that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate sections 804(b) and 818 of the Act, 42 U.S.C. § 3604(b) and 3617;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from discriminating because of sex against any person in any aspect of the sale or rental of a dwelling;
3. Awards such monetary damages as will fully compensate Complainants;
4. Assesses a civil penalty of \$16,000 against each Respondent for its/his violation of the Act, 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 on this 15th day of August, 2013.



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