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STATE OF NEW JERSEY
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO.: HC38HW-65639
HUD DOCKET NO.: 02-16-0050-8

A. H.

Complainant,

v.

The Avery Apartments,

Respondents.

Civil Action

**ADMINISTRATIVE
CONSENT ORDER**

WHEREAS, this matter was commenced on October 28, 2015, when Complainant A. H. (“Complainant”) filed a verified complaint (“Verified Complaint”) with the New Jersey Division on Civil Rights (“DCR” or “Division”) against The Avery Apartments, (“Respondent”), alleging that Respondent discriminated against her based on her disability in violation of the New Jersey

Law Against Discrimination, N.J.S.A. 10:5 – 1 et seq. (“LAD”), when it imposed a \$100 monthly surcharge for a designated parking space requested as an accommodation for her disability; and

WHEREAS, Respondent is a 450-unit townhome-style apartment complex located in Willingboro, New Jersey, owned by Willingboro Associates, LLC; and

WHEREAS, Respondent denied the allegations of the Verified Complaint; and

WHEREAS, the Division’s investigation credited the allegations in the Complaint against Respondent and, on April 29, 2016, the Director of the New Jersey Division on Civil Rights (“Director”) issued a Finding of Probable Cause on the Verified Complaint; and

WHEREAS, the parties engaged in conciliation efforts and reached agreement on the terms of settlement; and

WHEREAS, it is now the intention of the parties to amicably resolve the differences and disputes that exist or may exist between them, and the parties desire to avoid the time and expense of a public hearing;

NOW, THEREFORE, it is on this 4th day of JAN, 2017, 2016,

ORDERED and AGREED as follows:

LAD COMPLIANCE

1. Respondent will refrain from doing any act that violates the LAD, including but not limited to discriminating against any person because of familial status, race, creed, color, national origin, ancestry, marital status, domestic partnership status, civil union status, gender, sexual orientation, gender identity or expression, disability, pregnancy, or source of lawful

income to be used for rental or mortgage payments in the sale, rental, advertisement, assignment, lease, or sublease of any real property under his ownership or control, or to print, publish, circulate, issue, display, post or mail any statement or advertisement in connection with the rental or sale of real property that expresses any limitation or discrimination based on familial status, race, creed, color, national origin, ancestry, marital status, domestic partnership status, civil union status, gender, sexual orientation, gender identity or expression, disability, pregnancy, or source of lawful income to be used for rental or mortgage payments.

2. Respondent will refrain from engaging in any retaliatory conduct against Complainant, Complainant's family, or against any witness or participant in these proceedings, or allow any of its employees or agents to engage in any such conduct.

3. Respondent agrees to comply with all posting and notice requirements for landlords pursuant to N.J.S.A. 10:5-12j and N.J.A.C. 13:8-1.3. The required notices shall be displayed in public areas visible to prospective tenants in both English and Spanish. The notices to be displayed pursuant to this paragraph may be obtained from the Division's Website, www.NJCivilRights.gov.

4. Respondent will not charge any fee or surcharge, or impose an increase in monthly rent, related to the provision of any reasonable accommodation for a resident or applicant with a disability. However, consistent with N.J.A.C. 13:13-3.4(f), Respondent shall not be required to bear the expense of reasonable modifications of existing premises occupied or to be occupied by the person with a disability when the modifications may be necessary to afford the person with a disability full enjoyment of the premises.

MONETARY AND OTHER RELIEF

5. Respondent shall pay the total sum of fifteen thousand dollars (\$15,000) to Complainant in settlement of all claims and damages arising from the allegations set forth in the Verified Complaint and Finding of Probable Cause.

6. The Settlement Amount shall be remitted by Respondent within forty five (45) days of the complete execution of this agreement. The check shall be made payable to Complainant and mailed to the attention of Housing Manager Elizabeth Russian, New Jersey Division on Civil Rights, 140 E. Front Street, 6th Floor, Trenton, New Jersey 08625-0090, email address Elizabeth.russian@njcivilrights.gov ("Housing Manager Russian"), for delivery to Complainant.

7. Respondent shall reimburse all tenants the total sum of any surcharges or increases in monthly rent that pertain to the provision of a reasonable accommodation for a disability, including but not limited to a designated accessible parking spot. Within forty-five (45) days of the complete execution of this agreement, Respondent shall provide the Division with a list of all tenants charged for a designated accessible parking spot and the amount assessed against each tenant.

8. With the exception of A.H., who has been compensated for all damages sustained in accordance with paragraph 5 above, Respondent agrees that within sixty (60) of the complete execution of this agreement the other tenants charged for a designated disabled parking space as identified in paragraph 7 shall receive a letter advising them of the reimbursement which encloses a check and/or money order reimbursing the tenant. Respondent shall copy Housing Manager Russian on the letter sent to each tenant reflecting the reimbursement.

9. Respondent agrees to terminate A. H.'s lease at her request, without penalty, upon thirty (30) days written notice to Respondent.

10. Respondent agrees that if any prospective landlord should contact Respondent regarding A.H., Respondent will advise the caller that it will only verify dates of residence and that she left in good standing with regards to rent payments.

POLICIES AND PROCEDURES

11. Respondent shall review, and revise as necessary, its policies and procedures pertaining to discrimination against residents or applicants with disabilities, to ensure compliance with State and Federal law. In conducting this review, Respondent shall ensure its policies and procedures include specific procedures by which a resident or applicant may request a reasonable accommodation for a disability and/or a reasonable modification of the housing unit occupied or to be occupied. Among other things, Respondent's policy should distinguish between a request for a reasonable accommodation and a request for a modification, recognizing that a tenant should not be charged for a reasonable accommodation, such as a designated accessible parking spot. The policy should include the name and title of the person or persons designated to receive, process, and coordinate such requests for Respondent. Respondent's review and revision of its policies pursuant to this paragraph shall be completed within sixty (60) days from the execution of the agreement.

12. Respondent shall forward a copy of the revised policy referenced in paragraph 11 to Housing Manager Russian within ten days of the completion of the review, but at least ten days prior to dissemination to tenants as provided in paragraph 13.

13. The policy referenced in paragraph 11 shall be made readily available to tenants and/or applicants for tenancy. Respondent shall notify residents of the policies and procedures adopted by either disseminating them to each resident or by including the policy with each lease renewal or acceptance. Respondent also agrees to post the policy in the place(s) where Respondent generally posts public notices for tenants. Respondent shall also maintain a copy of the policy in a readily accessible location in each of its offices. The above noted policy shall be implemented and disseminated or posted within ninety (90) days from the execution of this agreement.

TRAINING AND MONITORING OF HOUSING PRACTICES

14. Respondent agrees to train employees, managers and/or agents who routinely interact with tenants on the LAD and other fair housing laws. The training should include but not be limited to the following:

- a. An understanding of the LAD, including the general purpose of the legislation and types of discrimination covered by the LAD;
- b. An understanding of Respondent's obligations with regard to addressing requests for reasonable accommodation and/or modification;
- c. An understanding of what is meant by engaging in the interactive process in connection with a request for a reasonable accommodation and/or modification;
- d. An understanding of the distinction between a request for a reasonable accommodation and a reasonable modification, and an understanding that a tenant should not be charged for a reasonable accommodation;

e. An understanding of what may constitute an undue burden with respect to a request for a reasonable accommodation;

f. An understanding of the distinction between a service animal and a support/assistance animal, and that service animals are to be permitted at Respondent's complex, and that tenants or applicants for tenancy may request a support/assistance animal as a reasonable accommodation; and

g. An understanding that Respondent should maintain the confidentiality of any information and/or documentation related to an individual's disability and need for reasonable modifications or accommodations.

15. If Respondent's training is conducted by Respondent or a private firm, Respondent shall submit an outline of the subject matter being covered and provide a copy of any materials used in these sessions, including but not limited to handouts and any Power Point slides, to Housing Manager Russian, prior to training. Respondent will notify DCR when training is to occur and will also permit one or more representatives of the Division to attend any or all sessions. Alternatively, Respondent may arrange for DCR to conduct the required training.

16. For a period of two years following the execution of this Consent Order by all parties (hereafter referred to as the "Monitoring Time Period"), the Division will monitor Respondent's practices concerning reasonable accommodation to ensure compliance with fair housing laws. Within sixty (60) days after the effective date of this Agreement, Respondent shall establish a system to maintain records of all tenants or applicants requesting a reasonable accommodation/modification. These records should include the name and contact information

of the tenant or applicant making the request, whether Respondent granted the request and/or the reason for any rejection. During the two-year Monitoring Time Period, Respondent shall provide the Division with four reports, one every six months, reflecting (1) how many requests for reasonable accommodation/modification, if any, were received by Respondent during that time period, and (2) whether Respondent granted or denied the request, or proposed an alternative accommodation. The reports shall be mailed to the attention of Housing Manager Russian. Respondent shall make records concerning reasonable accommodation requests available to the Division upon request.

17. Respondent shall advise the DCR in writing if, at any point during the Monitoring Time Period, Respondent no longer owns, operates or manages rental property in the State of New Jersey. If Respondent utilizes a third party for the purpose of managing or renting available units during the Monitoring Time Period, Respondent is responsible for ensuring that the third party is appropriately trained on the law and acts in compliance with the terms of this Agreement.

DEFAULT AND GENERAL PROVISIONS

18. In the event of a default by Respondent, the Director and/or Complainant shall provide Respondent with written notice of the specific details of Respondent's alleged noncompliance and Respondent shall be afforded a fifteen-day period within which to cure any such noncompliance. In the event of Respondent's failure to cure any such noncompliance, Complainant and/or the Director may move on notice or by Order to Show Cause to have the Judgment entered for the entire Settlement Amount. Respondent shall have the right to submit

opposition to any such motion or Order to Show Cause application filed by Complainant and/or the Director and to contest same on any return date.

19. Should Respondent be found in default or fail to timely pay the sum set forth in this agreement, it shall pay, in addition to the sums outlined in paragraph 4, any interest on the award, as well as all reasonable costs, expenses and attorney fees incurred in any further proceedings or steps necessary to collect or enforce this Consent Order.

20. In the event that Respondent defaults with respect to any provision herein, Respondent hereby consents to the entry of this consent order and decree in the Chancery Division of the Superior Court of New Jersey, thereby making this Consent Order and Decree an Order of the Court for purposes of enforcement therein.

21. New Jersey law shall govern the terms and provisions of this Consent Order.

22. As used in this Consent Order, the plural shall include the singular and the singular shall include the plural. In addition, "or" and "and" shall be interpreted conjunctively.

23. The parties to this Consent Order represent that a person authorized to sign a document legally binding on each party to its terms has signed this Consent Order with full knowledge, understanding, and acceptance of its terms.

24. This Consent Order constitutes the entire agreement between the parties with respect to its subject matter. Any addition, deletion, or change to this Consent Order must be in writing and signed by all parties.

25. The parties to this Consent Order have negotiated and fully reviewed its terms. Uncertainty or ambiguity shall not, therefore, be construed against the drafter.

26. This Consent Order is executed in settlement of the allegations made against Respondent in the above-captioned matter, and shall not be construed to otherwise limit the authority of the New Jersey Attorney General or the Director of the New Jersey Division on Civil Rights to protect the interests of the State of New Jersey or the people of the State of New Jersey.

27. Nothing in this Consent Order shall in any manner be construed to limit or affect the rights of any persons, other than the parties to this Consent Order, who may have a claim against Respondent or any individual or entity involved in this matter.

28. If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

29. This Consent Order shall be binding upon the parties to this agreement and their successors. In no event shall assignment of any right, power or authority avoid compliance with the terms of this Consent Order.

30. This Agreement contains the sole and entire Agreement between the parties hereto. Each party represents and acknowledges that, prior to executing this Agreement, they have had ample time to consult with legal counsel prior to making the decision to execute this agreement, and that no party has relied upon any representation or statement not set forth in this Agreement, made by any other party hereto, or their counsel or representatives, with regard to the subject matter of this Agreement. No other promises or agreements shall be binding unless in writing, signed by the parties hereto, and expressly stated to represent an amendment to this agreement. Complainant expressly recognizes and understands that Deputy Attorney General, Beverley A. Lapsley (DAG Lapsley) represents the Director of the Division on Civil Rights in

this matter and does not represent her. Complainant acknowledges that she has not relied upon any advice from Respondent or DAG Lapsley concerning this matter including but not limited to the taxability of the amounts to be paid under this Consent Order and the impact the award may have any other issue concerning Complainant. Complainant acknowledges that she had the opportunity to retain counsel to review this Agreement prior to its execution but has chosen not to do so.

31. Any signature required for the entry of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same Consent Order.

32. Complainant, for and in consideration of the undertakings set forth herein, and intending to be legally bound, does hereby remise, release and discharge the Respondent and Respondent's employees, agents and predecessor, its successors and assigns, heirs, executors and administrators, of and from any and all manner of actions and causes of action, suits, debts, claims and demands, whatsoever in law or in equity, arising from the allegations of unlawful discrimination as set forth in the Verified Complaint filed in this matter on October 28, 2015, and assigned DCR Docket No.: HC38HW-65639.

33. It is acknowledged that Complainant and Respondent have entered into a separate General Release Agreement as part of the resolution of this matter. DCR is not a party to the separate agreement, and makes no representations with respect to that agreement.

34. Upon execution by all the parties, which includes the Director of the Division on Civil Rights, this Agreement shall operate as a complete and final disposition of the charges contained in the above noted Verified Complaint filed against the Respondent with the Division

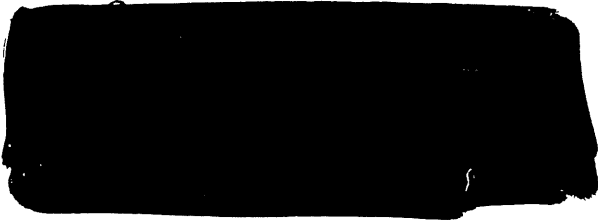
on Civil Rights, subject only to the fulfillment of all of the provisions of this Agreement. Upon the fulfillment of these conditions, the complaint shall be dismissed with prejudice and the Division on Civil Rights shall deem the issues raised within the Verified Complaint to have been fairly remediated to its satisfaction.



CRAIG SASHIHARA, DIRECTOR
NEW JERSEY DIVISION ON CIVIL RIGHTS

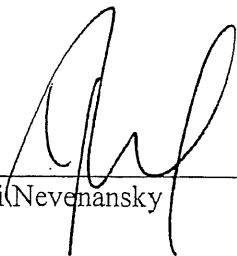
THE PARTIES CONSENT TO THE FORM, CONTENT,
AND ENTRY OF THIS CONSENT ORDER:

For Complainant 



Dated: 11/11/16

For Respondent The Avery Apartments:



Yoni Nevenansky

Dated: 12/21/16