



STATE OF NEW JERSEY  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION ON CIVIL RIGHTS  
DCR DOCKET NO.: HA12HW-60428  
HUD NO.: 02-09-0412-8

ARSINE ZUCCARI,  
and  
C. CARLOS BELLIDO, ACTING DIRECTOR,  
NEW JERSEY DIVISION ON CIVIL RIGHTS,

Complainants,

v.

MAYS LANDING VILLAGE  
CONDOMINIUM ASSOICATION,

Respondent.

**FINDING OF PROBABLE  
CAUSE**

Consistent with a Verified Complaint filed on January 29, 2009, and Amendment to the Verified Complaint, the above-named respondent have been charged with unlawful discrimination within the meaning of the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1, et seq.) and specifically within the meaning of N.J.S.A. 10:5-4, and 10:5-12(g) (2) because of her physical disability.

C. Carlos Bellido, Esq. is the Acting Director of the Division on Civil Rights and, in the public interest, has intervned as a Complainant in this matter pursuant to N.J.A.C. 13:4-2.2(e).

### **SUMMARY OF COMPLAINT**

Complainant alleged she was being discriminated against based on her physical disability (failed back fusion). Specifically, Complainant alleged Respondent issued violations against her for having a service dog, a 35-40 lb Australian Shepherd which Respondent claimed was a pet. Complainant alleged Respondent has a one pet only rule, and those pets have to be 20 lbs or less. Complainant alleged Respondent issued a violation to her after she obtained a second smaller dog for a pet. Complainant alleged

**Arsine Zuccari v. Mays Landing Village Condominium Association**

DCR DOCKET NO.: HA12HW-60428

HUD NO.: 02-09-0412-8

Respondent falsely issued a violation, because her service animal is not a pet.

**SUMMARY OF RESPONSE**

Respondent denied discriminating against Complainant for any unlawful reason including her physical disability. Respondent denied issuing violation notices to Complainant for having a service animal. Respondent asserted it has a one animal per unit rule, not a one pet rule. Respondent asserted that Complainant admitted that she and her husband have two dogs in the unit; that the second belongs to her daughter and/or her husband and is not necessary with respect to her disability. Respondent further asserted that Complainant has allowed the dogs to roam on their deck unattended, in violation of the Association's rules.

**BACKGROUND**

Complainant is a member of the protected class in that she is physically disabled. Due to failed back fusion surgery, Complainant has longstanding lower back pain which affects her mechanics and mobility. Her service animal helps her with daily activities as well as to break her fall if she loses her balance, which is something that can occur often due to her condition. Complainant has been a resident of Mays Landing Village since 1998.

Respondent is the governing body that presides over Mays Landing Village Condominiums.

**SUMMARY OF INVESTIGATION**

This investigation established sufficient evidence to support a reasonable suspicion that Respondents engaged in unlawful housing discrimination because of Complainant's physical disability. The investigation established that Complainant was differentially treated in that other non-disabled residents are allowed to have pets. The investigation established that because Complainant is physically disabled and utilizes a service animal Respondent is not permitting her to have a pet as non-disabled residents are permitted.

The investigation disclosed that Complainant purchased a service dog "Roxie" in or around January 2007. On May 17, 2007 Complainant received two violation notices from Respondent, one for having an oversized dog in violation of its 20 pound limit pet rule, and the other for the dog being loose on the deck, barking and defecating. Complainant maintained that the dog was a service animal and submitted to Respondent a doctor's note and a note from her trainer concerning her need for the service animal.

**Arsine Zuccari v. Mays Landing Village Condominium Association**

DCR DOCKET NO.: HA12HW-60428

HUD NO.: 02-09-0412-8

Respondent accepted Complainant's dog as a service animal based on the documentation submitted by Complainant and elected to dismiss the violation for having an oversized dog. During a subsequent Alternate Dispute Resolution proceeding, which the parties entered in to voluntarily, the second violation notice was upheld, but the fines were reduced from \$500 to \$100.

The investigation disclosed that in or around January 2008, Complainant purchased a second dog, a Pomapoo, which weighs less than 20 lbs, as a family pet. On March 12, 2008, Respondent issued a notice indicating that Complainant was in violation of Article X, Section (c), of the Rules and Regulations of its Master Deed in that Complainant had a "Second Animal".

*"No bird, reptile or animal of any kind shall be raised, bred or kept in any Unit or anywhere else upon the Property except that dogs, cats or other household pets of less than twenty (20) pounds are permitted in Units, not to exceed one in the aggregate, provided that they are not kept bred or maintained for any commercial purpose, are housed in the Unit and abide by all applicable Rules and Regulations."*

In a letter to Respondent, dated March 17, 2008, Complainant disputed the issued violation notice and requested to enter into its Alternative Dispute Resolution process. The investigation revealed that the Alternative Committee consists of residents whose purpose is to uphold the rules and regulations of the Master Deed.

The Investigation showed that Complainant received no further contact from Respondent until December 30, 2008, when Respondent issued a second notice to Complainant for having a "second animal" and "two dogs" in violation of its Master Deed and imposing a \$150 fine. In a letter to the Mays Landing Village Board of Directors, ADR Committee, dated January 8, 2009, Complainant's husband, Richard Zuccari writes:

*"We hereby once more dispute the above violation (as we did when you issued a violation of this same nature last year in March 2008 to which we replied March 17, 2008 with no further contact from you or the office) regarding 2 pet dogs being in our unit."*

During the Investigation an ADR hearing regarding the above mentioned second violation was subsequently scheduled for February 11, 2009. In a letter dated March 2, 2009, the ADR Committee rendered the following decision:

*"... the Homeowners may keep the second dog due to the unreasonable response time to a written request for an ADR Meeting on the part of the*

**Arsine Zuccari v. Mays Landing Village Condominium Association**

DCR DOCKET NO.: HA12HW-60428

HUD NO.: 02-09-0412-8

*Board of Directors of Mays Landing Village. The Zuccari's requested an ADR Meeting on March 17, 2008 and the Mays Landing Board of Directors did not respond until January 2009. The committee finds that it is unreasonable to mandate that the Homeowners give up their second dog when more than a year has lapsed."*

During the Investigation, Respondent advised the Complainant that it disputed the ADR Committee's decision. A letter dated April 6, 2009 from the Board of Directors of Mays Landing Village reads in part as follows:

*"... the Committee had no authority to allow you to keep the second animal. The Master Deed prohibits a second animal, and the Committee has no authority to negate the Master Deed."*

*"... the Association does not accept and will not abide by the Committee's determination that you may keep the second dog."*

Respondent further advised Complainant to remove the second dog from the unit within ten (10) days receipt of the letter or a new violation imposing a new fine would be charged for keeping more than one animal.

Based upon Respondent's interpretation that Complainant's service animal is a pet, there is a reasonable suspicion that she is subject to differential treatment as a result of her disability.

**ANALYSIS**

At the conclusion of the investigation, the Division is required to make a determination whether "probable cause" exists to credit a complainant's allegation of discrimination. Probable cause has been described under the New Jersey Law Against Discrimination (LAD) as a reasonable ground for suspicion supported by facts and circumstances strong enough to warrant a cautious person to believe that the law was violated and that the matter should proceed to hearing. Frank v. Ivy Club, 228 N.J. Super. 40,56 (App. Div.1988), rev'd on other grounds, 120 N.J. 73 (1990), cert.den., 111 S.Ct. 799. A finding of probable cause is not an adjudication on the merits but, rather, an "initial culling-out process" whereby the Division makes a preliminary determination of whether further Division action is warranted. Sprague v. Glassboro State College, 161 N.J. Super. 218,226 (App.Div.1978). See also Frank v. Ivy Club, supra, 228 N.J. Super. at 56. In making this decision, the Division must consider whether, after applying the applicable legal standard, sufficient evidence exists to support a colorable claim of discrimination

**Arsine Zuccari v. Mays Landing Village Condominium Association**  
DCR DOCKET NO.: HA12HW-60428  
HUD NO.: 02-09-0412-8

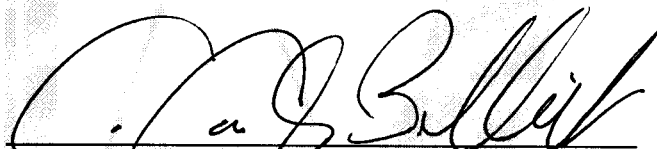
under the LAD.

**FINDING OF PROBABLE CAUSE**

It is, therefore, determined and found that Probable Cause exists to credit the allegations of the complaint.

7/20/09

Date



C. Carlos Bellido, Esq., Acting Director  
New Jersey Division on Civil Rights