

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ONYX ASSET MANAGEMENT, LLC,
MVV, LLC, and
JONATHAN WARREN,

Defendants.

Civil Action No.

**COMPLAINT
DEMAND FOR JURY TRIAL**

The United States of America alleges as follows:

INTRODUCTION

1. The United States brings this civil action for declaratory, injunctive, and monetary relief against Onyx Asset Management, LLC; MVV, LLC; and Jonathan Warren (collectively, “the Defendants”) under Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (“Fair Housing Act” or “FHA”), 42 U.S.C. §§ 3601-3631. The action is brought on behalf of Complainant K.G. pursuant to 42 U.S.C. § 3612(o). It is based on the Defendants’ treatment of K.G., a woman with a disability, and their denial of her reasonable accommodation request to reside with an assistance animal in her home in Center Conway, New Hampshire.

2. K.G. requested to reside with Lucy, a dog that K.G. intended to adopt as an assistance animal, that exceeded the mobile home community’s 25-lb. weight limit for pet dogs. The Defendants denied this request in violation of the FHA.

3. In addition, the Defendants continued to withhold their approval of K.G.’s request

to reside with an assistance animal exempt from pet-based categorical weight limits and directed that K.G.’s choice of dog be subject to its pre-approval.

4. By refusing to make a reasonable accommodation in their rules and policies when such an accommodation was necessary to provide K.G. with an equal opportunity to use and enjoy her dwelling, the Defendants discriminated against K.G. because of her disability. *See* 42 U.S.C. §§ 3604(f)(2), (f)(3)(B).

JURISDICTION AND VENUE

5. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o).

6. Venue is proper under 28 U.S.C. § 1391(b) because the actions giving rise to this action occurred in the District of New Hampshire.

PARTIES AND PROPERTY

7. Plaintiff is the United States of America.

8. The property at issue is a mobile home lot located within the Mountainvale Village Mobile Home Park (“Mountainvale” or “the Park”) in Center Conway, New Hampshire (the “Subject Property”).

9. The Subject Property is a “dwelling” under the Fair Housing Act, 42 U.S.C. § 3602(b). *See also* Implementation of the Fair Housing Amendments Act of 1988, 54 Fed. Reg. 3232, 3238 (Jan. 23, 1989).

10. Defendant MVV, LLC is a domestic corporation organized under the laws of the state of New Hampshire. At all times relevant to this action, Defendant MVV, LLC owned Mountainvale.

11. Defendant Onyx Asset Management, LLC is a domestic corporation organized

under the laws of the state of California. At all times relevant to this action, Defendant Onyx Asset Management, LLC managed Mountainvale, and in such management and their acts alleged herein, acted as agent for MVV.

12. Defendant Jonathan Warren was, at all times relevant to this action, the offsite property manager for Mountainvale, and in such management and his acts alleged herein, acted as agent for Onyx and MVV.

FACTS

Complainant K.G.

13. K.G., age 61, is an individual with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h).¹ K.G. has been diagnosed with post-traumatic stress disorder (“PTSD”), anxiety, and depression. This disability substantially limits her major life activities; specifically, K.G. has difficulty coping with stressors and becomes easily overwhelmed such that she struggles to complete daily tasks.

14. In addition, K.G. suffers from a torn rotator cuff and chronic back pain, which limit her range of motion.

15. Prior to residing in Mountainvale, K.G. had previously owned assistance dogs that aided her by blocking others from entering her personal space; giving her confidence; helping her take care of herself; and providing deep pressure therapy, a practice in which an animal uses its weight and warmth to physically comfort its owner.

16. A larger dog is necessary to ameliorate the effects of K.G.’s disability. K.G.’s prior

¹ Throughout this Complaint, the United States uses the term “disability” instead of “handicap.” For purposes of the Fair Housing Act, the terms have the same meaning. *See Summers v. City of Fitchburg*, 940 F.3d 133, 139 n.1 (1st Cir. 2019) (stating, in reference to the FHA’s use of the term ‘handicap’ and the Americans with Disabilities Act’s use of the term ‘disability,’ that there is “no substantive difference between the two terms”).

assistance animals helped her complete daily tasks by providing physical blocking between herself and others. This act prevented others from invading K.G.'s personal space and made her feel safe. Additionally, the weight of these dogs against her provided K.G. with deep-pressure therapy, which uses tactile weight to reduce sensory overload, stress, and anxiety.

17. In addition, K.G.'s physical limitations make bending difficult such that she would experience physical pain if she were to bend to reach a small dog.

Denial of K.G.'s Request for a Reasonable Accommodation

18. Since September 15, 2022, K.G. has been a resident of Mountainvale, an age-restricted (55+) community of approximately 300 residents. K.G. owns her two-bedroom home and rents the lot on which her home is located.

19. On November 9, 2022, K.G. informed Mountainvale's onsite office manager that she had found a dog named Lucy that she wished to adopt and asked whether she should arrange for the manager to meet Lucy before or after the adoption process.

20. On November 10, 2022, the office manager responded that she would need to meet Lucy before the adoption, to which K.G. replied that the office manager would need to visit the Conway Area Humane Society because the shelter would not allow her to take the dog from its premises.

21. On November 11, 2022, in response to an email from the office manager asking for the breed and weight of Lucy, K.G. reported that Lucy was a German Shepherd-Huskie mix that weighed 58 lbs.

22. On November 14, 2022, the office manager told K.G. that the Park required residents' dogs to be 25 lbs. or less.

23. Mountainvale's pet policy states that each household may have one pet, provided

that prior written approval from management is sought and obtained. The policy further states that if the desired pet is a dog, management must first meet the dog and that only dogs “25 pounds or less at maturity” will be permitted. Residents who violate these rules are subject to “removal of the offending dog without replacement” or “asked to leave Mountainvale.” The policy contains no mention of the Fair Housing Act or any provisions describing a process for requesting a reasonable accommodation.

24. Later that day on November 14, 2022, K.G. clarified that the dog was an emotional support animal and requested a reasonable accommodation form so that she could submit an accommodation request and a letter from her doctor. In the same email, K.G. noted that that she had seen multiple dogs in Mountainvale that weighed more than 25 lbs.

25. On November 17, 2022, Defendant Warren sent K.G. a letter stating that Mountainvale “support[ed] [her] request for an emotional support animal” but requested that she “keep the [Park’s] policy in mind when selecting the size and breed” of the dog. Defendant Warren attached to the letter the Park’s Pet Policy and advised that K.G. had “signed and agreed to [the policy] upon entering the community.” He closed the letter by thanking K.G. for her “understanding of our rules.” K.G. received this letter in mid-December.

26. On November 21, 2022, having not received a response, K.G. emailed to the office manager a letter from her medical provider, Katelyn Buchholz, Advanced Practice Registered Nurse (“APRN”), in support of her request for a reasonable accommodation. The letter, dated November 15, 2022, states that it is APRN Buchholz’s “professional opinion that [K.G.] would benefit from an emotional support animal” for her “anxiety and depressive disorder” and additionally recommends that K.G. be permitted to have an animal larger than 25 lbs. to accommodate her “physical limitations secondary to shoulder and back pain.”

27. On November 23, 2022, the office manager forwarded the letter to Defendant Warren.

28. On November 29, 2022, K.G. sent the same letter to the office manager a second time and asked for confirmation that the letter had been received.

29. On December 1, 2022, the office manager confirmed that she had received the letter and “passed it along to corporate.”

30. In late November and early December 2022, Defendant Warren had conversations with the office of K.G.’s medical provider, allegedly because he “wanted to understand why there was a need for a larger dog.”

31. In mid-December 2022, K.G. received the November 17, 2022 letter previously sent by Defendant Warren.

32. Also in mid-December 2022, K.G. called Defendant Warren to discuss her accommodation request. K.G. recalls Defendant Warren accusing her of using an assistance animal to get a larger dog “in through the back door,” and avers that Defendant Warren did not express any concerns about her physical ability to handle a large dog or about behavioral problems specific to Lucy during this phone call. Rather, K.G. recalls that Defendant Warren focused on Lucy’s weight and breed and whether K.G. needed a dog of that size.

33. On January 23, 2023, K.G.’s new medical provider, Josephine Lamb, APRN, sent a letter to Defendant Warren, dated December 30, 2022, that recommended that K.G. “be permitted to have a well-trained therapy dog greater than 25 lbs. to best accommodate her mental health and physical disability.”

34. On or around that date, Defendant Warren spoke with APRN Lamb over the phone. APRN Lamb recalls that she told Defendant Warren that the dog should be trained, but she did not

communicate that it needed to be formally trained as a service animal; nor did she and Defendant Warren discuss Lucy or any other specific dog.

35. The Defendants did not engage in further conversations with K.G. about Lucy at this time.

36. The Defendants did not conduct an individualized assessment of Lucy or meet her.

37. Upon information and belief, the Defendants did not inquire with the Humane Society about Lucy.

38. The Defendants denied K.G.'s request to reside with Lucy as her assistance animal based on a six-sentence post on the Humane Society's website and general observations about Huskies, German Shepherds, and large dogs.

39. On April 21, 2023, Lucy was adopted by someone other than K.G.

Complaint, Investigation, and Continued Denial

40. On March 9, 2023, K.G. filed a timely fair housing discrimination complaint with U.S. Department of Housing and Urban Development ("HUD").

41. On June 26, 2023, K.G. provided the Park with a third letter, dated May 11, 2023, from medical provider Kira Longgwood, Psychiatric-Mental Health Nurse Practitioner ("PMHNP"), that "endorse[s]" K.G. obtaining an emotional support animal. The letter states that "[d]ue to her PTSD and emotional disability, [K.G.] has certain limitations coping with stress, in what would otherwise be considered normal but significant day to day situations" and that an assistance animal is "necessary for the emotional/mental health of [K.G.] because its presence will mitigate the symptoms she is currently experiencing." The letter further advises against a small animal because it could "be a tripping hazard or worsen her chronic physical pain from bending over."

42. In a July 12, 2023 interview with HUD, Defendant Warren stated that the Park still had not issued an official decision on K.G.'s November 2022 reasonable accommodation request.

43. In that interview with HUD, Defendant Warren also stated that he offered in his December 2022 phone conversation with K.G. to allow her a dog up to 30-35 lbs. but that K.G. wanted Lucy. When asked by HUD whether the Park would consider a request by K.G. for a dog over 35 lbs., Defendant Warren answered, "it depends," and stated that he would want to speak to her medical team and would also want to see "the type of breed to see if it was a calm breed."

44. On July 21, 2023, Defendant Warren sent an email to K.G. stating that the Park had "received [her] re-submitted request for an emotional support animal." Warren said that the Park was "happy to review any new dog request you would like to submit to community management" and "open to making reasonable accommodation by potentially allowing a support animal that is larger than what our standard pet policy weight limit allows for." The email also asked that she submit with her new request "any information regarding the breed, the dog's history, and any certifications or training that the dog has received."

45. On July 28, 2023, K.G. responded to Defendant Warren's email stating that she "did not resubmit [her] request" and that she "merely wanted to give [the Defendants] updated medical documentation from [her] current provider proving [her] medical necessity for a support dog that is larger than what's listed in the pet policy."

46. On August 3, 2023, Defendant Warren responded that "[the Defendants'] position has been quite clear throughout this process" and that they are "still willing to discuss and review any dog requests we receive." Defendant Warren wrote that: "we are open to reasonable accommodation which could potentially approve a dog that is outside of our current rules and regulations. The only dog that you have submitted for park approval was not deemed to be

reasonable for reasons we have clearly laid out.” He concluded the email by stating that he hopes that she will “keep in mind” that the Park’s rules are “an important part of maintaining the environment that allows our residents to feel safe and enjoy their home and community.”

47. Throughout HUD’s investigation, K.G. took pictures and videos of other dogs in the Park that were larger than 25 lbs. and reported them to the Defendants. The Defendants declined to state whether they had taken or would be taking action on those reports “due to [the] privacy” of other residents.

48. On September 18, 2023, because Lucy was no longer available, K.G. sent Defendants photos of a Chow-Chow dog that she wished to adopt as an assistance animal. By the time the Defendants responded on September 29, 2023, that dog had been adopted by someone other than K.G.

HUD Administrative Process and Relevant Guidance

49. On or about March 9, 2023, K.G. timely filed a complaint of housing discrimination with HUD, pursuant to 42 U.S.C. § 3610(a), naming Defendant Warren as the respondent. The complaint was subsequently amended to include Defendants Onyx and MVV.

50. Pursuant to 42 U.S.C. § 3610, the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report.

51. On September 19, 2024, pursuant to 42 U.S.C. § 3610(g)(1), the Secretary of HUD determined that reasonable cause existed to believe that Defendants violated the Fair Housing Act based on the information gathered in the investigation

52. Accordingly, on September 20, 2024, pursuant to 42 U.S.C. § 3610(g)(2)(A), the Secretary of HUD issued a charge of discrimination.

53. On October 4, 2024, the Defendants elected to have the charge resolved in a federal civil action, pursuant to 42 U.S.C. § 3612(a).

54. The Secretary of HUD subsequently authorized the Attorney General to file this action on behalf of K.G. pursuant to 42 U.S.C. § 3612(o).

55. The United States and Defendants entered into a written tolling agreement extending the deadline for the United States to file a civil action in this matter until January 6, 2025.

56. Guidance issued by the United States Department of Housing and Urban Development (HUD) that was operative in 2022—and continues to remain operative—states that “[p]et rules do not apply” to assistance animals, and therefore “housing providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed.” HUD OFFICE OF FAIR HOUSING & EQUAL OPPORTUNITY, FHEO-2020-01, NOTICE ON ASSESSING A PERSON’S REQUEST TO HAVE AN ANIMAL AS A REASONABLE ACCOMMODATION UNDER THE FAIR HOUSING ACT (“Notice”) (Jan. 28, 2020) at 14.

Effects on K.G.

57. K.G. experienced emotional distress during the two-year period that she was without an assistance animal because of Defendants’ conduct.

58. She experienced hopelessness, emptiness, and insomnia. She had a difficult time getting out of bed, working, and taking care of herself.

59. K.G. continues to suffer from lasting emotional distress and financial stress as a result of the Defendants’ denial of her reasonable accommodation.

CLAIM FOR RELIEF

60. Plaintiff re-alleges and incorporates by reference the allegations set forth above.

61. By the actions and statements referred to in the foregoing paragraphs, all Defendants have:

- a. Discriminated in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of disability, in violation of 42 U.S.C. § 3604(f)(2), and
- b. Refused to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

62. As a result of the Defendants' conduct, K.G. has been injured, suffered damages, and is an "aggrieved person" within the meaning of 42 U.S.C. § 3602(i).

63. The Defendants' discriminatory actions were intentional, willful, and taken in reckless disregard of the rights of K.G.

PRAYER FOR RELIEF

WHEREFORE, the United States requests relief as follows:

1. A declaration that the Defendants' actions, policies and practices, as alleged above, violate the Fair Housing Act;
2. A declaration that the discriminatory conduct of Defendants as set forth above violates the Fair Housing Act;
3. An injunction prohibiting Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from:
 - a. Discriminating on the basis of disability, in violation of the Fair Housing Act;

- b. Discriminating in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of disability;
 - c. Refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling;
 - d. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, K.G. to the positions she would have been in but for the discriminatory conduct; and
 - e. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future.
4. An award of monetary damages to K.G. pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).
5. The United States further requests such additional relief as the interests of justice may require.

A Jury Trial is Requested.

Dated: January 6, 2025

JANE E. YOUNG
United States Attorney

/s/ Matthew Vicinanzo
MATTHEW VICINANZO
NH Bar. No. 277123
Assistant United States Attorney
53 Pleasant Street, 4th Floor
Concord, NH 03301
Tel: (603)-225-1552
matt.vicinanzo@usdoj.gov

Respectfully Submitted,

MERRICK B. GARLAND
Attorney General

KRISTEN CLARKE
Assistant Attorney General Civil
Rights Division

CARRIE PAGNUCCO
Chief Housing and Civil Enforcement
Section

/s/ Callie Bruzzone
MEGAN K. WHYTE VASQUEZ
Deputy Chief
CALLIE BRUZZONE
District of Columbia Bar No. 90017780
Trial Attorney
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
4 Constitution Square
150 M St., NE, Suite 800
Washington, D.C. 20530
Tel: (202) 957-1997
callie.bruzzone@usdoj.gov

Attorneys for Plaintiff United States of
America