



U.S. Department of Justice

Civil Rights Division

Disability Rights Section - NYA
950 Pennsylvania Ave, NW
Washington, DC 20530

November 7, 2023

By Electronic & First-Class Mail

Scott C. Baumgartner
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Re: The United States' Findings and Conclusions Based on its Investigation of the City of Anoka, Minnesota, under the Americans with Disabilities Act and the Fair Housing Act, DJ No. 204-39-198

Dear Mr. Baumgartner:

The United States Department of Justice (the Department) has completed its investigation of the City of Anoka, Minnesota (the City), under Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131–12134, and the Fair Housing Act (FHA), as amended, 42 U.S.C. §§ 3601–3619. As you are aware, the Department opened an investigation in response to complaints alleging that the policies, practices, or procedures of the City, including the enforcement of its nuisance ordinance and its Crime Free Multi-Housing Program,¹ discriminate against tenants with disabilities and those associated with them, such as their landlords. The Department also received complaints that the City sends weekly reports (Calls for Service Reports) to all landlords in the City that reveal confidential medical information of adults and children with mental health disabilities involved in calls for emergency service at rental properties.

By way of background, Title II prohibits public entities from discriminating against qualified individuals with disabilities or excluding them from participation in, or denying them the benefits of, the public entity's services, programs, or activities. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). The City is a public entity under the ADA and subject to the ADA's nondiscrimination mandate. *See* 42 U.S.C. § 12131(1); 28 C.F.R. § 35.104. Title II authorizes

¹ The City's Crime Free Multi-Housing Program is a program purportedly aimed at reducing crime, illegal drugs, and nuisance activity in rental properties and includes training that landlords must attend prior to obtaining or renewing a residential license under Anoka City Code § 50-51(c).

the United States to investigate complaints, make findings of fact and conclusions of law, attempt to secure voluntary compliance where violations are found, and commence a civil action. 42 U.S.C. § 12133; 28 C.F.R. pt. 35, subpt. F. Similarly, the FHA makes it unlawful to discriminate in housing because of the disability of an owner or renter of a dwelling or the disability of a person associated with that owner or renter. 42 U.S.C. § 3604(f)(1)-(2). The FHA authorizes the United States to file a lawsuit against any person who or entity that: (1) engages in a pattern or practice of resistance to the rights protected by the FHA; or (2) denies rights protected by the FHA to a group of persons, raising a matter of general importance. 42 U.S.C. § 3614(a).

The Department has determined that the City denies individuals with mental health disabilities and those associated with them an equal opportunity to benefit from the City's emergency response service and subjects them to discrimination, including the threat of losing their housing, in violation of the ADA and the FHA. Tenants with disabilities and those associated with them who call for emergency service, or who are the subject of a call for emergency service, risk eviction or loss of a rental license. The City has given landlords access to sensitive medical information about individuals with mental health disabilities requiring emergency service. The City deters these individuals and those caring for them from using the City's emergency response service and risking their current or future housing prospects. This letter sets forth the Department's findings of fact and conclusions of law as well as the minimum steps the City must take to meet its legal obligations and remedy the identified violations.

I. Findings of Fact

A. The City of Anoka's Nuisance Ordinance

The City adopted a rental licensing and crime free housing ordinance, or "nuisance ordinance," with the stated purpose of ensuring residential units and their neighbors (1) have a safe, secure, and sanitary environment, (2) are free from "criminal activity, noise, nuisances, or annoyances," and (3) are "free from reasonable fears about safety of persons and security of property." Anoka City Code § 50-49(a). The ordinance requires landlords to have a license to operate a rental property. *Id.* § 50-51(a). Landlords must certify that they have read the ordinance, that they conduct criminal background checks on prospective occupants, and that they include the Crime Free/Drug Free Addendum (discussed below) in any lease. *Id.* § 50-53(b).

The nuisance ordinance penalizes landlords for "nuisance calls" to their properties. Nuisance calls are "any instance where law enforcement officers are called to a property in response to a valid complaint related to disorderly conduct." *Id.* § 50-50. "Disorderly conduct" is broadly defined and lists 19 categories of conduct. *Id.* All categories of conduct involve violations of state or city laws or activity involving drugs, violence, and hazardous conditions except for one. The one category of disorderly conduct that does not involve such violations is listed as "[r]epeated unfounded calls to police." *Id.*

The City creates an increasing penalty schedule for nuisance calls in any consecutive twelve-month period. After the first and second nuisance calls at the property, the City may

notify the landlord.² *Id.* § 50-64(1), (2). After the third nuisance call, the property owner must respond with a written report of actions “taken to abate further nuisances on the property.” *Id.* § 50-64(3). Failure to respond to the letter may result in a nuisance fee (\$250 for the first notification and \$500 for each subsequent notification).³ If the landlord fails to pay the nuisance fee or if the landlord receives a fourth nuisance call, the City may suspend the landlord’s rental license for up to three months. *Id.* § 50-64(4). If there is another nuisance call, the City may revoke the rental license for up to one year. *Id.* § 50-64(5). No adverse license action will be imposed where the nuisance calls occurred during pending eviction proceedings or “within 30 days of notice given by the licensee to an occupant to vacate the rental dwelling unit.” *Id.* § 50-64(8). Adverse license action may proceed “when the licensee fails to diligently pursue the eviction process.” *Id.*

While the ordinance also states that no adverse license action will be imposed where the calls were placed by a “residential occupant for police or emergency assistance in response to medical calls, domestic abuse or any other conduct,” the ordinance does not prohibit designating such calls a nuisance. *See id.* The term “medical calls” is not defined and is only considered by the City when the landlord’s license is at stake, not in determining whether a call is a nuisance. *See id.* Anoka informed the Department that calls from tenants for emergency response service may be deemed a nuisance even if medical or disability-related issues are involved.

B. Crime Free/Drug Free Addendum

Anoka’s landlords must include a Crime Free/Drug Free Lease Addendum in their leases with tenants pursuant to Anoka City Code § 50-53.⁴ The City may revoke a rental license due to “[f]ailure to actively pursue the eviction of occupants who have violated the provisions of the crime free lease addendum.” *Id.* § 50-59(c). The lease addendum requires tenants to agree that they, and members of their household, guests, or other invitees, will not engage in disorderly conduct, including repeated unfounded calls to police. The addendum also states that “[t]hree nuisance police calls for service involving the same tenancy within a continuous twelve-month period shall be a substantial and material violation to the lease and good cause for termination of the tenancy.” The lease addendum makes no mention or reference to the nuisance ordinance provision that exempts medical calls by a tenant. The City marked some medical calls as nuisance calls or “NCFS” in the Calls for Service Reports, and the City requires landlords to

² Anoka has sent letters to landlords and tenants to enforce its nuisance ordinance after one or more alleged violations. The Department reviewed dozens of letters that Anoka sent to landlords and tenants. In these letters, Anoka directed the landlord to terminate the lease or abate the nuisance. Anoka notified tenants that the police responded to their unit for a “disorderly use violation” at least two times in the last year and that three such “disorderly use contacts” within a year can lead to eviction “even if you have not received a citation or been arrested for a disorderly use offense.” Anoka informed tenants that their landlord “will be asked to move forward with eviction proceedings.”

³ City of Anoka, *2023 Master Fee Schedule*, <https://www.anokaminnesota.com/DocumentCenter/View/3060/2023-Master-Fee-Schedule?bidId=https://www.anokaminnesota.com/DocumentCenter/View/5098/2023-Master-Fee-Schedule>, (last visited Sept. 27, 2023); City of Anoka, *Rental Licensing Fee & Renewal Information*, <https://www.anokaminnesota.com/724/Rental-Licensing-Fee-Renewal-Information> (last visited Sept. 27, 2023).

⁴ City of Anoka, *Crime-Free/Drug-Free Lease Addendum*, <https://www.anokaminnesota.com/DocumentCenter/View/3650/Crime-Free-Drug-Free-Addendum> (last visited Sept. 27, 2023).

pursue eviction of tenants who violate the lease addendum by making three nuisance calls within a year or face potential revocation of their license. *See* Anoka City Code § 50-59(c)(1)(h). Individuals with mental health disabilities who make three medical calls in a year can potentially face eviction.

C. Anoka’s Disclosure of Individuals’ Mental Health Disabilities in Calls for Service Reports

From at least 2018 through mid-2023, the City sent weekly reports to all landlords in the City detailing all calls for emergency service from all rental properties.⁵ Landlords have access to these entire Calls for Service Reports, not just descriptions of calls arising from incidents at their property. The City marked in yellow calls for service that are a “nuisance call for service” or “NCFS.” Along with a general description, each Calls for Service Report includes the address of the incident, and the name, address, age, and for some reports, mugshot of those involved.

The Department reviewed over 180 weekly Calls for Service Reports sent to landlords. The Calls for Service Reports often detail medical and mental health information of adults and children involved in calls for emergency service.⁶ At least 780 of the cases in these reports revealed information about individuals’ mental health disabilities, such as their diagnoses, medications, and names of psychiatric or medical providers.

The reports even share intimate details about individuals’ suicide attempts, such as the specific method used for the attempt. They often explain whether a resident was transported by ambulance, identify the specific hospital where the resident was transported, and even provide specific identifying information about the person who called for emergency services for someone else in crisis.

The City used these Calls for Service Reports to notify landlords of potential issues and encourage them to evict tenants. One landlord in Anoka said that, when she sees the NCFS code in relation to one of her tenants, she believes that the City is encouraging her to either evict that tenant or risk losing her rental license. Based on communications with the City, she believes that if she does not evict tenants associated with the NCFS code, then she could lose her entire rental license and all her tenants would have to move out of her building. Evidence also suggests that the City used the Calls for Service Reports to encourage landlords to screen potential tenants. By sharing detailed information about residents’ medical and mental health information, the City is providing landlords with information that they would likely otherwise be prohibited from seeking from applicants.⁷ A landlord may be able to learn about an applicant’s medical or

⁵ The City has potentially changed its practice so that landlords can request these reports rather than the City emailing them to all landlords at the same time. The City has not announced any permanent changes to its nuisance ordinance enforcement program.

⁶ State law requires that the City withhold public access to calls for emergency service data to protect the identity of individuals when “the object of the call is to receive help in a mental health emergency.” Minn. Stat. § 13.82 subd. 17(f).

⁷ The Fair Housing Act prohibits landlords from making “an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is so sold, rented or made available, or any person

mental health issues by searching for the applicant's name in the City's Calls for Service Reports.

D. Anoka's Enforcement of its Nuisance Ordinance

The Department reviewed Calls for Service Reports that covered 15,135 calls for service. The City was more likely to mark a call as NCFS when the City identified that the call involved mental health issues even after controlling for whether the call involved variables such as noise complaints, violence, or illegal drugs.

Many calls in the reports show that the City often did not enforce its nuisance ordinance against individuals without mental health disabilities who engaged in similar activity as individuals with mental health disabilities. Although Anoka's ordinance prohibits "repeated unfounded calls to police," Anoka often did not penalize individuals who repeatedly called for "unfounded" reasons but did not exhibit mental health issues. In general, the weekly reports show that Anoka residents frequently and routinely called 9-1-1 to alert police about complaints, disturbances, or criminal activity, such as suspicious individuals, vehicles, and noises. While there may have been valid reasons for these calls, for many of them, the police did not find evidence to support the claims. Yet, Anoka often responded to repeated "unfounded" calls from the same individuals and units and did not mark them as NCFS when such individuals did not have obvious mental health disabilities. For example, Anoka police responded to 17 calls from an elderly tenant between November 2018 and February 2020 (with 14 calls in the first year).⁸ Most of these calls related to the tenant's accidental use of a medical alarm and requests for assistance with tasks like finding glasses and using the bathroom. Anoka police never marked any of these calls as NCFS in the reports, and Anoka never sent the landlord or tenant a letter notifying them of any nuisance ordinance or Crime-Free/Drug-Free Lease Addendum violations. In contrast, the City penalized a tenant with a mental health disability for calling because of his delusions. According to the Calls for Service Report, Anoka police were dispatched to his apartment three times after he claimed that his phone had been hacked. Anoka police told dispatch that this person "has mental health issues" but was not a danger to himself or others. The City flagged this call as NCFS and as violating the nuisance ordinance.

Similarly, while Anoka's nuisance ordinance states that one of its purposes is to ensure that residential properties are free from criminal activity, noise, or "annoyances," the City often did not mark these types of calls as NCFS when they did not involve mental health issues. For example, Anoka police were dispatched for a noise complaint, and when they arrived, the police confirmed that there were two intoxicated men in the apartment laundry room hitting the walls and door. Likewise, Anoka police arrested an individual for stealing another person's phone at the residence, and the individual became combative with police. The police needed to "use physical strength" to get this individual into their car and then the individual "kicked the rear passenger side door numerous times." Anoka did not mark these calls as NCFS in the reports.

associated with that person, has a handicap or to make inquiry as to the nature or severity of a handicap of such a person." 24 C.F.R. § 100.202(c).

⁸ To be clear, the Department does not suggest that the City should have taken any action against the tenant's landlord or the tenant pursuant to its nuisance ordinance.

In contrast, when an individual with a mental health disability resisted transport to a hospital, Anoka marked the call for service as NCFS. According to the Calls for Service Report, Anoka police arrived to check the welfare of a woman who was allegedly suicidal, and since she was unconscious upon their arrival, the police called for paramedics. Anoka wrote in the report that police believed that she was in danger of harming herself since there was an empty pill bottle. The paramedics prepared to transport her to the hospital, but she tried to flee. The report details her restraint to a gurney, paramedics' attempt to have a doctor authorize giving her a sedative, and her transport to a hospital. Her full name, age, address, and sex are included in the report.

E. Aggrieved Persons

The Department received complaints about Anoka's nuisance ordinance and Calls for Service Reports from multiple individuals with mental health disabilities, including Ms. Johnson.⁹

Ms. Johnson, who has lived in the same apartment in Anoka for years, has a mental health disability and Post-Traumatic Stress Disorder. Because of mental health crises, Ms. Johnson called for emergency services twice. Both times that Anoka police came to Ms. Johnson's apartment, they included in Calls for Service Reports extremely sensitive information about Ms. Johnson, such as the fact that Ms. Johnson said she planned to die by suicide, the hospital she was transported to, and the name and assessment of her therapist. Ms. Johnson is concerned about the effect of the Calls for Service Reports on her current and future housing prospects. As a result, she hesitates to call for emergency help again, even if she experiences another crisis.

Besides receiving complaints from individuals with mental health disabilities about Anoka's nuisance ordinance and Calls for Service Reports, the Department received complaints from landlords and housing providers, such as Ms. Williams. Ms. Williams operates several assisted living facilities in Anoka that serve people with disabilities. The City pressured Ms. Williams to evict one of her residents with schizophrenia and other mental health disabilities who, during a period of transition, often called for emergency services because she had delusions about people coming to hurt her. Anoka police knew that this resident had mental health disabilities and that her calls were related to her disabilities. Yet Anoka police told Ms. Williams, her staff, and the resident several times that additional calls would result in fines or other penalties. This led Ms. Williams and her staff to discourage the resident from calling the police, and the resident grew fearful of calling for emergency help. Ms. Williams refused to evict this resident, and the resident's symptoms are now better controlled. Along with her concerns about nuisance ordinance enforcement, Ms. Williams also expressed distress about the City's sharing of medical and disability-related information about her residents with landlords in Anoka through Calls for Service Reports.

The Department has substantiated multiple other complaints from tenants with mental health disabilities and their landlords alleging that the City used its nuisance ordinance enforcement efforts to target them. Many individuals reported that the City sent landlords Calls

⁹ The names of all individuals have been changed to protect their privacy.

for Service Reports that contain sensitive medical and disability-related information about tenants, including information about their mental health. Multiple tenants have reported being evicted because of calls for emergency service related to their mental health disabilities. Tenants and landlords have reported being deterred from making calls for emergency service because of fears that they will be evicted, fined, or otherwise punished. Tenants also expressed concerns that their confidential medical and disability-related information was widely shared, which led to barriers securing new housing in the City. And landlords have reported pressure from the City to evict residents because of emergency calls for service, even though such calls related to the residents' mental health disabilities, and the landlords did not want to evict them.

II. Conclusions of Law

Title II of the ADA prohibits discrimination against individuals with disabilities by public entities:

[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

See 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). This provision protects individuals with disabilities from discrimination in all programs, services, or activities of the City, including the City's emergency response service. The FHA makes it unlawful to:

- (f)(1)[t]o discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a [disability] of—
 - (A) that buyer or renter,
 - (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - (C) any person associated with that buyer or renter [or]
- (2)[t]o 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 with such dwelling, because of a [disability] of—
 - (A) that person; or
 - (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - (C) any person associated with that person.

42 U.S.C. § 3604(f)(1)-(2).

The regulation implementing Title II of the ADA prohibits public entities from, directly or through contractual, licensing, or other arrangements, on the basis of disability, (1) affording a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others or (2) otherwise limiting a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others. 28 C.F.R. § 35.130(b)(1)(ii), (vii). Public entities must not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the

known disability of an individual with whom the individual or entity is known to have a relationship or association. *Id.* § 35.130(g).

The Department finds that Anoka denies qualified individuals with mental health disabilities and those associated with them an equal opportunity to benefit from Anoka’s emergency response service on the basis of disability. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a), (b)(1)(ii), (g). While the nuisance ordinance states that no adverse license action will be imposed when the calls were placed by a “residential occupant for police or emergency assistance in response to medical calls,” the ordinance improperly permits calls for emergency service involving mental health crises or disability-related conduct to be designated as a nuisance. Anoka informed the Department that calls from tenants for emergency response service may be found a nuisance even if medical or disability-related issues are involved. Designation of a medical or disability-related call as a nuisance limits the availability, usefulness, and effectiveness of the City’s emergency response service, denying people with mental health disabilities equal access to this service. *See* 28 C.F.R. § 35.130(a), (b)(1)(ii), (vii). The City was also more likely to mark a call as a nuisance when the City identified that the call involved mental health issues. And the City often did not enforce its ordinance against individuals without mental health disabilities who engaged in similar activity as individuals with mental health disabilities. This includes individuals without mental health disabilities who made repeated unfounded calls to police or were the subject of calls that involved criminal activity, noise, or annoyances. Yet Anoka marked calls for service involving individuals with mental health disabilities who engaged in similar conduct as violating its nuisance ordinance. *See id.* § 35.130(b)(1)(ii), (vii).

The City also seeks to hinder or deter individuals with mental health disabilities and those associated with them from seeking emergency response service for disability-related issues. Ms. Williams alleged that the City threatened her and her staff at least three times with penalties, because her resident called the police during mental health episodes. *See id.* § 35.130(g). Because of these threats, the resident grew too scared to call the police, and Ms. Williams and her staff worked to reduce any calls for emergency assistance. Likewise, tenants with mental health disabilities refrained from seeking emergency assistance even during crises that threatened their health and safety out of fear that they would face eviction or penalties for seeking such assistance. *See id.* § 35.130(a), (b)(1)(ii), (vii). The City discouraged and prevented individuals with mental health disabilities and those associated with them from using its emergency response service.

Furthermore, individuals with mental health disabilities are denied an equal opportunity to benefit from Anoka’s emergency response service because the City disclosed and continues to make available confidential information about their mental health disabilities to all licensed landlords. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a), (b)(1)(ii), (vii), (g). Sharing the Calls for Service Reports with landlords in Anoka harms individuals with mental health disabilities.¹⁰ The Calls for Service Reports reveal private information about individuals with mental health disabilities who are not engaging in activities that violate the law or lease. The disclosure of

¹⁰ As previously noted, state law acknowledges that such information must be kept confidential to protect individuals experiencing a mental health emergency. *See* Minn. Stat. § 13.82 subd. 17(f).

medical and disability-related information about mental health crises and suicide attempts or threats is unnecessary for the safe operation of rental properties. The disclosure of personal information and disability status could result in future discrimination, either from landlords or other members of the community. To avoid such disclosures, individuals with mental health disabilities and those caring for them are deterred from calling the police and risking their current housing or future housing prospects. Tenants with mental health disabilities can either use the service and have their mental health information shared publicly or not use the service at all—so ultimately, they are provided no real choice or meaningful opportunity to seek emergency response services.

The contact described above also violates the Fair Housing Act. Specifically, it threatens people with disabilities with the loss of their housing, either through eviction or through revoking the rental license of the landlords who rent to them, if they exercise their right to use the City’s emergency services. Such conduct subjects persons to discrimination because their disability or, in the case of landlords, because of the disability of their tenants.

III. Remediation

To remedy the deficiencies discussed above and protect the civil rights of individuals with mental health disabilities who reside, or seek to live, in the City, the City should promptly implement the following minimum remedial measures:

- 1) Adopt or revise written policies to explicitly state that the City may not discriminate against, exclude from participation, or deny the benefits of its emergency response service to qualified individuals with mental health disabilities and those associated with them. In particular, the City should adopt or revise policies relating to its nuisance ordinance, Crime Free/Drug Free Lease Addendum, Crime Free Multi-Housing Program, and Calls for Service Reports that prohibit discrimination against people with mental health disabilities and those associated with them.
- 2) Notify landlords and tenants of these adopted or revised policies.
- 3) Make reasonable modifications to its nuisance program policies, practices, or procedures when necessary to avoid discriminating against individuals with mental health disabilities and those associated with them, unless it can show that doing so would fundamentally alter the nature of the service, program, or activity. The City should respond promptly to disability-related requests for modifications to its nuisance program policies, practices, or procedures to ensure equal opportunity for individuals with mental health disabilities.
- 4) Exclude all medical and disability-related information of individuals with disabilities from Calls for Service Reports.
- 5) Train all City personnel, volunteers, administrators, and officials involved in the City’s nuisance ordinance and enforcement efforts on the requirements of the ADA and the rights of individuals with disabilities, including the affirmative obligation of public

entities to provide equal services, programs, and activities to entities that serve individuals with disabilities.

- 6) Identify an ADA Coordinator to coordinate the City's efforts to comply with and carry out its responsibilities under Title II and oversee investigations and resolutions of ADA complaints or grievances.
- 7) Provide the United States with written status reports delineating all steps taken to comply with these requirements, including the date(s) on which each step was taken, and, where applicable, information sufficient to demonstrate compliance.

IV. Conclusion

We hope to work cooperatively with you to resolve the Department's findings. If we cannot reach such a resolution, the Attorney General may initiate a lawsuit under the ADA and the FHA. 42 U.S.C. § 12133; 28 C.F.R § 35.174; 42 U.S.C. § 3614(a). Please contact Christine Kim at christine.kim@usdoj.gov and Sarah Golabek-Goldman at sarah.golabek-goldman@usdoj.gov within two weeks of the date of this letter if you are willing to resolve this matter voluntarily or if you have any questions.¹¹

The City shall not discriminate or retaliate against any persons or entity because of their participation in this matter. *See* 42 U.S.C. § 12203; 42 U.S.C. § 3617.

Sincerely,



Rebecca B. Bond
Chief
Disability Rights Section

cc: Bahram Samie
Assistant U.S. Attorney
United States Attorney's Office
District of Minnesota

¹¹ This Letter of Findings is a public document and will be posted on the Civil Rights Division's website.