

DETERMINATION OF REASONABLE CAUSE

DATE February 24, 2023

CASE NAME: Brenda Hughes v. Glen Ellen Mobile Home Park LP, Penny Garcia - Equity Lifestyle Properties Inc., Timberline Construction Group LLC, Scott Cao - Florida Department of Economic Opportunity, Tim Lagudi - IEM

CASE NUMBER: HUD NO.: 04-22-2371-8 **PCOHR NO.:** PC-22-053

I. JURISDICTION:

The Complainant alleges that she is being denied a ramp as a reasonable modification in violation of Sections 804(f)(3)(A) of the Fair Housing Act and Chapter 70 of the Pinellas County Code of County Ordinances based on disability. The Respondents are Glen Ellen Mobile Home Park LP; Penny Garcia – Equity Lifestyle Properties Inc.; and Timberline Construction Group LLC. Respondents Scott Cao and Tim Lagudi were added when the complaint was amended on October 31, 2022.

The most recent act of discrimination is alleged to have occurred on June 29, 2022; and is ongoing. The complaint was filed timely on August 5, 2022; and amended on October 31, 2022. The subject property concerns Complainant's dwelling at 2882 Gulf to Bay Boulevard, Lot 231, Clearwater, Florida 33759, a mobile home community in Pinellas County.

II. COMPLAINANT'S ALLEGATIONS:

Complainant (hereinafter referred to as CP Hughes) Brenda Hughes, an individual with a disability who resides with her son, was assigned funds from the State of Florida's 'Rebuild Florida' program to replace her mobile home in the Glen Ellen Mobile Home Park. CP Hughes alleges that after her original mobile home was removed and the replacement mobile home was placed in the lot, Respondents Timberline (builder, hereinafter referred to as RP Timberline) and Equity (property management company, hereinafter referred to as RP Equity) refused to honor the original scope of work to install a ramp as a reasonable modification in violation of Section 804(f)(3)(A) and 804(f)(3)(B) of the Fair Housing Act and Chapter 70 of the Pinellas County Code of County Ordinances. CP Hughes states that her old mobile home was removed on February 1, 2022; and the new unit was delivered on February 25, 2022. On May 12, 2022, CP Hughes alleges that she was informed by RP Glen Ellen Mobile Home Park's new community manager, Penny Garcia of RP Equity, that the wooden ramp is not being installed on the back door as agreed upon and that it would be placed at the front door. CP Hughes states that placing the ramp at the front door would take up spaced need to park her vehicle. CP states that they are also placing a storage shed in the front of the mobile home that would block the living room window, creating a fire hazard.

CP alleges that on May 12, 2022, she communicated to both Penny Garcia and RP Timberline the issues regarding the ramp and the shed, but they refused to change the plans back to the original approved plan. On June 29, 2022, CP Hughes had a second conference call with RP Garcia and RP Timberline regarding the placement of the shed and ramp. At this time, CP Hughes received a site revision placing a wheelchair lift on the side of the door, making it accessible. However, they are not placing concrete steps at both entrances. In addition, CP advised them that the platform needs to be made in concrete to make it stable due to the weight of the lift. CP Hughes states that both RP Timberline and Penny Garcia advised her to take possession of the home and then she would have to cover the costs for the reasonable modification.

III. RESPONDENTS' DEFENSES:

RP Equity asserts that it did not deny any accommodation or modification request from or on behalf of CP Hughes. RP Equity explains that CP Hughes had discussions with RP Timberline concerning construction of a wheelchair ramp and shed on her lot and the placement of same, and that local government setback, space and/or engineering issues arose. Those are issues between CP Hughes, RP Timberline, and the local governments. (E-1)

RP Timberline asserts that it did not refuse any reasonable modification requests. RP Timberline states that it has no authority or control over whether the ramp can be built, when it can be built, or where it can be built. Either Pinellas County or Glen Ellen must make an accommodation or modification to permit the ramp to be attached to CP Hughes's new unit in either the back or the front. RP Timberline asserts that it has no authority to make this accommodation or modification on behalf of any party. RP Timberline stands ready to build the ramp as soon as it is authorized by the relevant parties to do so. (E-3)

RP Lagudi asserts that CP Hughes was informed on June 14, 2022, that – due to municipality restrictions identified by the general contractor assigned to perform this project's scope of work – the Program could either install a wheelchair lift or concrete steps. However, a wheelchair ramp is not permitted due to conflicts with municipal setbacks and other covenant-restricted site improvements required by Glen Ellen Mobile Home Park. Specifically, engineer-produced drawings for the proposed ramp ultimately identified municipal requirements that restrict the ability to situate a ramp on this lot. The only option based on Program and HUD guidelines is to replace the ramp with a wheelchair lift. RP Lagudi states that this was communicated to CP Hughes in an email dated June 14, 2022. (E-6)

IV. FINDINGS:

CP Hughes has been a resident of Glen Ellen Mobile Home Park since August 1, 2015 (D-2).

CP Hughes submitted a form entitled 'Reconstruction or Replacement Reasonable Accommodation Request Form', signed by her physician on June 18, 2020; to the Rebuild Florida

Program (hereinafter referred to as Rebuild FL). In this form, CP Hughes' physician states that "patient requires a cane for ambulation, would benefit from repairs on house for safety." (D-2)

Rebuild FL sent a letter to CP Hughes (the author of the letter was not identified) dated October 2, 2020. In this letter, Rebuild FL states that it approves CP Hughes' accessibility accommodations offered by the program. The letter states that CP Hughes will receive: (1) One wheelchair accessible bathroom including: (a) Low threshold shower with one grab bar; (b) Comfort height toilet with one grab bar; (c) 36" door with outward swing pattern; (2) One bedroom with 36" door with outward swing pattern; (3) Exterior ramp up to six feet in vertical height; and (4) Exterior lift when elevation height is required above six feet. (D-2)

The reasonable accommodations were not memorialized in the initial Scope of Work, so CP Hughes submitted an informal appeal on November 3, 2020 (D-2). In a Reconsideration Determination Letter from Rebuild FL dated December 7, 2020, the Scope of Work was amended to include a ramp, low threshold shower, comfort height toilet, and 36" doors with outward swing patterns. (D-2)

In correspondence from Rebuild FL dated February 8, 2021, CP Hughes was informed that her Reconsideration Request was reviewed, and it was found that per policy, double wide is being provided and is also allowed in community. A shed and carport will also be included, per covenants requirement. (D-2)

CP Hughes signed a Letter of Commencement on July 16, 2021 (D-8).

CP Hughes was placed in Temporary Housing on November 10, 2021, and she moved out of the prior home completely on November 24, 2021 (D-8).

CP Hughes' original mobile home was removed and demolished on February 5, 2022 (D-10).

On February 21, 2022, the replacement home was delivered to the property. The front door was on the north side of the unit, and all parties agree that it should have been facing south. (D-10)

In an email of February 25, 2022, Erika Romero of RP Timberline emailed the City of Clearwater and requested the minimum setback requirement for the proposed ramp to the neighboring mobile home. That same day, Melissa Hauck-Baker informed Ms. Romero that the code requires a minimum of a 10-foot separation between the structures, and that the proposed layout showing the ramp and the ten feet of spacing to the neighboring home is acceptable. (E-4, E-7)

CP Hughes provided a copy of a site plan that she received from Rebuild FL dated March 11, 2022.

On March 30, 2022, CP Hughes requests that RP Timberline and RP Lagudi be removed from the project, claiming that the home was left unattended, unlocked, and with the keys in the open door.

A telephone conference call was held on May 11, 2022. CP Hughes, RP Garcia, RP Lagudi, RP Cao, and Samantha Stirling of Timberline attended the call.

On May 12, 2022, RP Lagudi provided CP Hughes with a site plan. RP Lagudi informed CP Hughes via text message that she needed to provide her acceptance of this site plan in writing by 8:00 AM on May 13, 2022, or he would be recommending her removal from temporary housing (D-10).

In an email dated June 14, 2022, RP Cao informed CP Hughes that the ramp design will not work with the approved floor plan. If a ramp is installed, the utility shed would have to be placed in front of the only egress window in the living room. RP Lagudi wrote that per HUD code, an egress window must not be blocked for safety reasons. RP Lagudi stated that the only option is to eliminate the ramp and install a wheelchair lift with stairs. This would allow the utility shed to be placed in the rear of the carport without obstructing any egress windows. RP Lagudi states that RP Garcia has already cleared the new site plan including the lift. CP Hughes is informed that she would need to approve the installation of the lift with the stairs to proceed (E-6).

Another telephone conference call was held on June 29, 2022. CP Hughes, RP Garcia, RP Lagudi, RP Cao, and Samantha Stirling of Timberline attended the call.

On July 14, 2022, CP Hughes sent an email to RP Cao requesting information regarding the proposed wheelchair lift (E-8).

On July 24, 2022, CP re-sent her email of July 14, 2022, requesting answers to her questions about the wheelchair lift (E-8).

On July 25, 2022, RP Cao informed CP Hughes via email that he is awaiting a model number for the wheelchair lift. Once he has received this information from RP Timberline, he will relay it to CP Hughes. In this email, RP Cao informs CP Hughes that the Rebuild FL program will not be providing a wheelchair (E-8).

In an email of August 14, 2022, CP Hughes asked RP Cao for the model number of the wheelchair lift (E-8).

In response, RP Cao wrote to CP Hughes that RP Timberline cannot provide the model number until she approves the site plans. RP Timberline will reach out to lift company to move forward and at that time they will be able to get the model of the lift being used (E-8).

In an email of August 22, 2022, CP Hughes informed RP Cao that when she has the model number, then she will be in a position to actually do the research on the wheelchair lift. In response to this email, RP Cao asked CP Hughes if she could get on a call with RP Timberline, RP Garcia, and the Rebuild FL team that week to discuss the site plans again (E-8).

In an email of August 29, 2022, CP Hughes states that the phone call is not going to be an option because their telephone conference calls are not being recorded (E-8). RP Cao responded to CP Hughes later that day. RP Cao attached a site plan and stated that revisions were made after their conference call of June 29, 2022. RP Cao stated in the email that there has been no change since as all requirements have been met per the mobile home park prospectus, HUD, and municipal

setbacks. RP Cao states that once CP Hughes approves the site plan, they can move forward with Engineer drawings and permitting. (E-10)

On September 6, 2022, CP Hughes exchanged emails with RP Lagudi and RP Cao. CP Hughes reiterates that she wasn't being provided with the ramp, while RPs Lagudi and RP Cao reiterate what RP Cao stated in his August 29, 2022, email. (D-10)

V. ANALYSIS:

Section 804(f)(3)(A) – Denial of Reasonable Modification based on Disability; Section 804(f)(3)(B) – Denial of Reasonable Accommodation based on Disability

The case at hand concerns a physical modification to CP Hughes' new mobile home. Therefore, it will be analyzed pursuant to Section 804(f)(3)(A), which covers reasonable modifications based on disability.

The following *prima facie* elements for a reasonable modification complaint must be met: (1) The Complainant is a person with a disability; (2) The Respondents knew or reasonably should have known that the Complainant is a person with a disability; (3) The Complainant requested permission to modify their dwelling or the common areas of the housing; (4) The requested modification may be necessary to afford the Complainant an equal opportunity to use and enjoy the dwelling; (5) The Respondents refused the Complainant's request to make such modification or failed to respond or delayed responding to the request such that it amounted to a denial; and (6) The Respondents' refusal or delay made housing unavailable to the Complainant.

CP Hughes submitted documentation, signed by her primary care physician on June 18, 2020, to the Rebuild FL program. This documentation informed Rebuild FL that CP Hughes is limited in her ability to walk. She walks with a cane. The first two elements have been met. CP Hughes is disabled as defined by the Fair Housing Act and Chapter 70 of the Pinellas County Code, and the Respondents were aware of her disability.

CP Hughes submitted the above documentation from her doctor to supplement her "Reconstruction or Replacement Reasonable Accommodation Request Form". The Rebuild FL program approved CP Hughes' request, and she was informed on October 2, 2020; that she will receive: (1) One wheelchair accessible bathroom including: (a) Low threshold shower with one grab bar; (b) Comfort height toilet with one grab bar; (c) 36" door with outward swing pattern; (2) One bedroom with 36" door with outward swing pattern; (3) Exterior ramp up to six feet in vertical height; and (4) Exterior lift when elevation height is required above six feet (D-2).

The third and fourth elements have been satisfied. CP Hughes requested modifications in 2020, and her requests were approved by the Rebuild FL program on October 2, 2020.

Turning to the fifth and sixth elements, to analyze whether Respondents refused and/or delayed CP Hughes' requests in the approval and construction process, and if such refusals/delays made housing unavailable to CP Hughes.

CP Hughes was placed in Temporary Housing on November 10, 2021 (D-8). She states that she fully moved out of the old mobile home two weeks later, on November 24, 2021 (D-8). CP Hughes has been residing in motels (plural) for the past fifteen (15) months. She states that her housing is renewed on a weekly basis (D-9).

The original home was destroyed on February 5, 2022; and the replacement home was delivered to the property on February 21, 2022. Erika Romero of RP Timberline (builder) was in communication with the City of Clearwater via email. In an email of February 25, 2022, Melissa Hauck-Baker of the City of Clearwater informed Ms. Romero that the proposed layout of the ramp showing the ramp and ten feet of spacing between the neighboring home was acceptable. This email from Ms. Hauck-Baker demonstrates that the ramp was feasible. The problems transpired when the mobile home park communicated the park requirement that there be a storage shed. The placement of the storage shed became problematic. Respondents proposed to place the shed in a place that would block a window. CP Hughes pointed out that this would result in a safety issue, and this plan ultimately was not approved. (E-8)

The investigation concluded that RP Lagudi's stated reason for scrapping the ramp plan – namely, his assertion that it conflicted with municipal setbacks – is incorrect. The email from Ms. Hauck-Baker supports CP Hughes' position that the ramp could have been built within the City of Clearwater's setback requirements. The real barrier involves the mobile home park requirement that there be a storage shed.

RP Garcia (park manager and employee of Equity Services) maintains that CP Hughes did not request any reasonable modifications and that it did not deny any requests. RP Equity Services maintains that this was an issue between CP Hughes, the builder, and the municipality. Our office disagrees that RP Garcia and the mobile home park were mere bystanders with no decision-making authority. Penny Garcia participated in both conference calls. Ms. Garcia communicated to the other Respondents that a storage shed was required. In a response to a Request for Information of March 16, 2023, RP Timberline explains that RP Garcia provided a park prospectus. According to RP Timberline, RP Garcia communicated that all park requirements and all setbacks must be met before installing the ramp.

The investigation revealed that the municipal setback was not a barrier to the ramp's construction. The City of Clearwater communicated that the spacing between the proposed ramp and the neighboring home was acceptable. The park's requirements concerning the storage unit was the barrier that ultimately led to Respondents exploring the lift. CP asserts that during the conference calls, she proposed to relocate the storage unit to the side of the home. She also suggested that the storage unit not be attached to the home, which was another park requirement. If the storage unit was placed on the side of the home, it would not have blocked the living room window. CP asserts that when she pointed out to RP Garcia that some of the newer units have storage units on the side or are unattached. CP states that she was told by RP Garcia, "we're not talking about those units."

Our office concludes that there were no physical or legal barriers to the installation of a ramp, and that the ramp could have been built with accommodations to park prospectus requirements.

Nonetheless, Respondents continued the interactive process by offering an alternative modification. Namely, Respondents offered CP Hughes a wheelchair lift instead of an exterior ramp (E-6). This was an alternative physical modification, and the matter could have been resolved if the parties could have agreed upon a plan to install a lift, *and* if the lift could have been installed with no unnecessary delays. Unfortunately, there were delays in the discussions surrounding the lift. These delays are discussed below.

CP Hughes states that she informed Respondents during a June 29, 2022, conference call that she did not own a wheelchair (D-9). CP Hughes asserts that she was told during this call that a wheelchair could be provided to her (D-9). CP Hughes also states that during this call, she expressed concern about the ability of the lift to bear the weight of her and her ESA dog. She expressed during the interview that it was embarrassing to discuss her weight on this conference call involving the park manager, project manager, and the builder representative (D-9).

Approximately two weeks after the June 29, 2022, conference call, CP sent an email to RP Cao. In this July 14, 2022, email she requested information about the proposed wheelchair lift. CP Hughes states that she wanted to research the lift to see if it would be effective. Additionally, CP Hughes wanted to know if there would be a warranty (E-8).

This is where the delays became amplified. In a response to CP Hughes on July 25, 2022, RP Cao informed CP Hughes that he would provide her with the model number after he obtained it from RP Timberline. Then after a status request from CP Hughes on August 14, 2022, RP Cao informed her that he would *not* provide her with the model number until she signs off on the site plan. RP Cao attempted to schedule another conference call with CP Hughes, but she rejected this attempt because Respondents have not been recording the conference calls (E-8).

The parties have been at a stalemate since. CP Hughes has been living in motels for fifteen months since she was approved for temporary housing. Her old mobile home has been destroyed, and she is unable to access the replacement home. The new home was placed on cement blocks on February 21, 2022, and a little over a year later it *still* sits on blocks (Tab H).

The construction and permitting process is not always easy. Approval can sometimes be delayed. However, the delays with this project have been excessive. CP Hughes was originally approved for an exterior ramp in a communication from Rebuild FL dated October 2, 2020. This was approved almost 2 ½ years ago. CP Hughes moved into temporary housing about a year later, then was informed by RP Lagudi on May 12, 2022, to sign off on a site plan by 8 am the next day or he would recommend her removal from temporary housing. CP Hughes complied with RP Lagudi's request only to be informed about a month later that a ramp was not feasible, and that they would be installing a wheelchair lift.

CP Hughes expressed her frustration to the Respondents in emails, and her frustrations were justified. Further, there is no evidence that Respondents have moved forward to prepare CP Hughes' home for occupation. It sits on cement blocks, and Respondents have denied accountability for the unnecessary delays. RP Equity asserts that it did not deny any modification or accommodation, and that the issues with the municipal setbacks, etc., are between CP Hughes, RP Timberline, and the local government (E-1). RP Timberline asserts that it has no authority to

approve or deny modifications. It simply carries out Rebuild FL's scope of work in accordance with municipal and covenant requirements (E-3). RP Lagudi asserts that CP Hughes is to blame for the delays because she was informed on June 14, 2022, that the ramp was not workable and that a wheelchair lift would be installed. RP Lagudi asserts that CP Hughes has rejected this reasonable accommodation (E-6).

Based on the information submitted, the investigation does not support RP Lagudi's assertion that CP Hughes has rejected the alternative modification of a wheelchair lift. The email communications between CP Hughes and RP Cao demonstrate that CP Hughes was actively engaged in the interactive process. She was seeking information on the wheelchair lift so she could research and determine if it would be workable (It is noted that RP Lagudi is the Senior Project Manager and RP Cao is a Project Manager). CP Hughes requested the model number, didn't receive it, and when she re-requested this information, RP Cao informed her that it would not be provided to her unless she signed off on the site plan.

The evidence demonstrates that RP Equity is liable as it failed to accommodate CP Hughes' request to move the storage unit to a location that would allow a ramp to be installed. The evidence also demonstrates that RP Timberline is liable as it failed to provide information about the lift to CP Hughes, which would have allowed CP to evaluate whether such lift would be effective.

The evidence also demonstrates that RP Lagudi, the Senior Project Manager contracted by the State of Florida to administer this project, is liable as he pressured CP Hughes to approve a site plan in less than 24 hours by threatening to remove her from the temporary housing program.

The evidence also demonstrates that RP Cao, Project Manager for the Florida Department of Economic Opportunity, is liable for further delays by initially informing CP Hughes that she would be provided with lift information, but later telling her that she needed to sign off on the site plans before receiving such information. Collectively, the above Respondents engaged in denials and delays that resulted in CP Hughes living in motels as temporary housing for approximately one year and five months.

The evidence demonstrates that the fifth *prima facie* element has been fulfilled. There were no barriers to the installation of a ramp, and when the plans changed from a ramp to a lift, Respondents' delays have amounted to a denial.

The sixth element has also been met. Respondents' delays have made housing unavailable to CP Hughes. She has resided in motels for fifteen (15) months as she awaits construction to be completed on her home.

VI. CONCLUSION:

Based on the foregoing analysis, the Office of Human Rights concludes that there is REASONABLE CAUSE to believe that all named Respondents denied a reasonable modification in violation of Section 804(f)(3)(A) of the Fair Housing Act and Chapter 70 of the Pinellas County Code of County Ordinances. Additionally, the Office of Human Rights concludes that there is REASONABLE CAUSE to believe that RP Equity denied a reasonable accommodation in

violation of Section 804(f)(3)(B) of the Fair Housing Act and Chapter 70 of the Pinellas County Code of County Ordinances.

VII. ADDITIONAL INFORMATION:

Notwithstanding this determination by the Pinellas County Office of Human Rights, the Fair Housing Act provides that the complainant may file a civil action in an appropriate federal district court or state court within two years after the occurrence or termination of the alleged discriminatory housing practice. The computation of this two-year period does not include the time during which this administrative proceeding was pending. In addition, upon the application of either party to such civil action, the court may appoint an attorney, or may authorize the commencement of or continuation of the civil action without the payment of fees, costs, or security, if the court determines that such party is financially unable to bear the costs of the lawsuit.

The Department's regulations implementing the Act require that a dismissal, if any, be publicly disclosed, unless the respondent requests that no such release be made. Such request must be made by the respondent within thirty (30) days of receipt of the determination to the Field Office of Fair Housing and Equal Opportunity at the address contained in the enclosed summary. Notwithstanding such request by the respondent, the fact of a dismissal, including the names of all parties, is public information and is available upon request.

A copy of the final investigative report can be obtained from the Pinellas County Office of Human Rights.

Betina Baron
Betina Baron, Compliance Manager

04/07/23
Date