

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

and

Case No. 03-CV-73034-DT

JOYCE GRAD,

Intervening Plaintiff,

HON. ANNA DIGGS TAYLOR

v.

MAGISTRATE JUDGE WILLIAM
CAPEL

ROYALWOOD COOPERATIVE APARTMENTS,
INC., SCHOSTAK BROTHERS & COMPANY,
INC., and RICHARD A. CAIL,

Defendants.

ORDER FOR INJUNCTIVE RELIEF

The United States of America (“United States”) commenced this action on behalf of Joyce Grad pursuant to the Fair Housing Act, 42 U.S.C. § 3612(o). Thereafter, Joyce Grad filed a complaint-in-intervention. The United States and Joyce Grad (together “plaintiffs”) allege that defendants Royalwood Cooperative Apartments (“Royalwood”); Schostak Brothers & Company, Inc.; and Richard A. Cail (together “defendants”) discriminated on the basis of disability and violated the Fair Housing Act, 42 U.S.C. § 3604(f), by their denial of Ms. Grad's request for a

reasonable accommodation to Royalwood's "no pets" policy. The Complaints filed by the United States and Joyce Grad detail the allegations made by them and are incorporated into this Order by reference.

On February 7-18, 2005, a trial was held in this case and the jury reached a verdict in favor of plaintiffs and against defendants. The jury awarded Ms. Grad a total of \$314,209.60 in damages. On March 17, 2005, the United States filed a motion for injunctive relief, alleging that such relief is appropriate in this case to prevent defendants from engaging in further discrimination against individuals with disabilities.

THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that:

I. PROHIBITORY INJUNCTION

1. Defendants, their agents, employees, and all other persons in active concert or participation with them, are hereby enjoined from:

A. Discriminating on the basis of disability in violation of 42 U.S.C. § 3604(f) by failing to make reasonable accommodations in rules, policies, practices, or services, when such reasonable accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling; and

B. Coercing, intimidating, threatening, or interfering with any persons on account of their having exercised their right to seek a reasonable accommodation pursuant to the Fair Housing Act.¹

¹ For purposes of this Order, "interfering" shall include, but is not limited to, any effort by Defendants to prohibit Joyce Grad from visiting acquaintances at Royalwood when she is accompanied by her dog.

II. AFFIRMATIVE RELIEF

A. MODIFICATION OF RULES

1. No later than thirty days after the date of entry of this Order Royalwood shall adopt and implement an exception to any rule or practice that restricts the keeping of animals by residents of Royalwood, which exception shall permit residents with disabilities, as defined in section 802(h) of the Act, 42 U.S.C. § 3602(h),² to keep service animals or emotional support animals.

a. For the purposes of this section,

(1) An “emotional support animal” means an animal that ameliorates through simple companionship or otherwise the effects of a mental or emotional disability,

(2) A “service animal” means an animal that does work or performs tasks for the benefit of a person with a disability, and

(3) A “licensed health professional” means a person licensed by a public regulatory authority to provide medical care, therapy or counseling to persons with mental or emotional disabilities, including, but not limited to, doctors, psychiatrists, psychologists, or social workers.

b. The exception may be conditioned upon compliance with the following requirements:

(1) That the resident have requested such an exception based on his or her

² Although the Act refers to the protected class as persons with “handicaps,” the term “disabilities” is synonymous and generally preferred. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998).

disability,

and

(2) In the case of an emotional support animal, that the need for the animal be documented by a statement from a licensed health professional indicating,

(a) that the resident has a mental or emotional disability, and

(b) that the animal ameliorates the effects of the disability.

(3) In the case of a service animal, that the resident provide information indicating,

(a) that the animal has been individually trained to do work or perform tasks for the benefit of an individual with a disability, or

(b) that the animal, despite lack of individual training, is able to do work or perform tasks for the benefit of an individual with a disability.

c. This exception may not be conditioned upon compliance with any of the following requirements:

(1) In the case of an emotional support animal, that the animal have been trained or have a certification of its efficacy, or

(2) That the resident pay any fee, deposit, or other charge for keeping the animal.

2. Defendants shall, not later than ten days after adoption, notify in writing each resident of Royalwood of the adoption and implementation of the exception referred to in Section II.A., above.

B. NOTICE TO EMPLOYEES AND EDUCATION

1. Defendants shall, not later than ten days after the adoption of the exception referred to in Section II.A., above, apprise each of their employees, agents, or any other persons who have responsibility for the management of dwellings at Royalwood of such persons' obligations under this Order and under the Fair Housing Act, 42 U.S.C. §§ 3601-19. Defendants shall furnish each such employee, agent, or other person covered by this paragraph with a copy of this Order. Each employee, agent, or other person covered by this paragraph shall sign a statement in the form of Attachment A acknowledging that he or she has received, read, and understood this Order, and declaring that he or she will perform his or her duties in accordance with this Order and the Fair Housing Act, 42 U.S.C. §§ 3601-19.

2. New employees or new agents who have responsibility for the management of dwellings at Royalwood shall (a) be apprised of the contents of this Order and of their obligations under the Fair Housing Act, 42 U.S.C. §§ 3601-19, when their employment or agency commences; (b) be provided copies of this Order and the policy required by Section II.A. of this Order; and (c) execute the statement appended hereto as Attachment A no later than five days following their first day of employment or agency.

3. Within ninety days of the entry of this Order, members of the current board of Royalwood and defendant Cail (or his replacement as property manager at Royalwood should he no longer be employed by Schostak Brothers & Company, Inc. in that capacity) shall attend, at defendants' expense, a training program conducted by a person(s) or entity approved by the United States regarding the disability provisions of federal, state, and local fair housing laws.

C. NOTIFICATIONS TO THE UNITED STATES

1. Defendants shall, no later than ten days after occurrence, provide to the United States³ notification and documentation of the following events:

a. The adoption and implementation of the exception referred to in Section II.A , above, to be documented by a complete statement of the rules and regulations of Royalwood showing the exception in context;

b. The written notification of Royalwood residents required in Section II.A., above;

c. Any change in Royalwood's rules or practices affecting the keeping of animals by residents of Royalwood; or

d. Any denial by defendants of a request by a resident to keep an animal at Royalwood pursuant to the exception referred to in Section II.A., above, including the resident's name, address, and telephone number and details of the request and the reason(s) for its denial.

2. Defendants shall submit annually on the anniversary date of the entry of this Order a written report that includes the following information:

a. Copies of or details about any complaints against Royalwood or its agents or employees of discrimination in housing on the basis of disability, including the complainant's name, address, and telephone number, and any resolutions of any such complaints reached during the preceding year; and

³ All notifications required by this Order to be sent to the United States or counsel for the United States shall be addressed as follows: Judith E. Levy, Assistant U.S. Attorney, 211 West Fort Street, Suite 2001, Detroit, MI 48226-3211.

b. For every request made to keep an animal pursuant to the exception referred to in Section II.A., above, during the preceding year:

- (1) The name and address of the requester;
- (2) The date of the request;
- (3) The kind of animal requested and whether it was a service animal or an emotional support animal; and
- (4) The disposition of the request.

D. PRESERVATION OF AND ACCESS TO RECORDS

For the duration of this Order Royalwood shall preserve all records relating to the following:

1. Complaints against it or its agents or employees of discrimination in housing on the basis of handicap; and
2. The receipt and processing of requests for reasonable accommodation of animals by residents of Royalwood. Upon reasonable notice to defendants, the United States Department of Justice shall be permitted to inspect and copy any of defendants' records relating to Royalwood's compliance with the terms of this Order, provided, however, that the United States Department of Justice shall endeavor to minimize any inconvenience and administrative burden to the defendants from such inspections.

III. TERM OF ORDER AND OTHER PROVISIONS

- A. This Order shall remain in effect for three years after the date of its entry.
- B. The Court shall retain jurisdiction for the duration of this Order to enforce its terms, after which time the case shall be dismissed with prejudice. The United States may move the

Court to extend the duration of the Order in the interests of justice.

C. The parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event of a failure by defendants to perform in a timely manner any act required by this Order or otherwise to act in conformance with any provision thereof, plaintiff United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorney's fees which may have been occasioned by the violation or failure to perform.

D. The United States and the defendants shall bear their own costs and attorney's fees associated with this litigation.

IT IS SO ORDERED:

This _____ day of _____, 2005.

HON. ANNA DIGGS TAYLOR
United States District Judge

Attachment A

CERTIFICATION OF RECEIPT OF ORDER

I have been given and I have read a copy of the Order entered in *United States and Joyce Grad v. Royalwood Cooperative Apartments, Inc.*, C.A. No. 03-CV-73034-DT (E.D. Mich.). I understand my legal responsibilities and will comply with those responsibilities. I further understand that the Court may impose sanctions on me if I violate any provision of this Order.

Signature

Name (Please Print)

Home Address

Home Telephone Number

Date