



COPY

STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

215 PROFESSIONAL BUILDING
1036 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE: 304-348-2616

12/31/85

December 20, 1985

ARCH A. MOORE, JR.
Governor

Mike Kelly, Esquire
1116-B Kanawha Boulevard, E.
Charleston, West Virginia 25301

William Levine, Esquire
Marshall & St. Clair
717 Sixth Avenue
Huntington, West Virginia 25701

RE: Todd V Vaziri
HB-225-80

Dear Mr. Kelly and Mr. Levine:

Herewith please find the Order of the WV Human Rights Commission in the above-styled and numbered case of Todd V Vaziri.

Pursuant to Article 5, Section 4 of the WV Administrative Procedures Act [WV Code, Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, WV, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within (30) days, the Order is deemed final.

Sincerely yours,

Howard D. Kenney
Executive Director

HDK/kpv

Enclosure

CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

ROSS CLAYTON TODD,
Complainant,

v.

DOCKET NO. HB-225-80

DR. & MRS. HASSAN VAZIRI,
dba OXFORD APARTMENTS,
Respondent.

FINAL ORDER

At its regularly scheduled meeting on November 13, 1985, the Commission reviewed the record in this case and with the exception, of paragraph 6 of the conclusions of law, adopted the Hearing Examiner's findings of fact and conclusions of law as their own and do hereby incorporate the same as part of this final order.

It is, therefore, ORDERED that the Hearing Examiner's findings of fact and conclusions of law be attached hereto and made a part hereof, except for paragraph 6 of the conclusions of law which is not made a part of this order.

It is further ORDERED:

1. That the Complainant is hereby awarded as incidental damages for humiliation, inconvenience, indignation, embarrassment, emotional distress and loss of personal dignity the amount of \$500.00.

2. The Complainant is hereby awarded attorneys fees and costs in the amount of \$1,821.00.

3. The Respondent shall cease and desist from restricting the availability of housing accommodations to persons with a disability necessitating the use of guide animals.

Entered this 5 day of December, 1985.

WV HUMAN RIGHTS COMMISSION

BY ITS Deborah Ann Hamilton
CHAIR/VICE CHAIR

WEST VIRGINIA SUPREME COURT OF APPEALS
FOR THE
WEST VIRGINIA HUMAN RIGHTS COMMISSION

*Attorney General
ACF
9/25/85*

ROSS CLAYTON TODD,

RECEIVED

Complainant,

SEP 26 1985

vs.

CASE NO. HB 225-80

DR. HASSAN VAZIRI,
OXFORD APARTMENTS,

W.V. HUMAN RIGHTS COMM.

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Respondent.

THE HEARING EXAMINER'S FINDINGS OF
FACTS AND CONCLUSIONS OF LAW

INTRODUCTION

Pursuant to notice, duly served upon the respondent, this matter came for hearing on June 21, 1985, at 10:00 o'clock a.m. in the Cabell County Courthouse, Huntington, Cabell County, West Virginia, before the undersigned hearing examiner George C. Duffield. The complainant, Ross Clayton Todd, was present and in person and represented by his counsel, Mike Kelly, attorney at law, practicing in the city of Charleston, Kanawha County, West Virginia. The respondent, Dr. Hassan Vaziri, was not present at

the hearing but his wife, Eva Vaziri was present and they were represented by their counsel, James St. Clair, attorney at law, practicing in Huntington, Cabell County, West Virginia.

Both of the parties were given a full and complete opportunity to present evidence and argument in support of their respective positions. Based solely upon a review of the transcript of the witnesses' testimonies and upon the the observations which related to the relative credibility of the parties, the undersigned hereby makes the following findings of fact.

FINDING OF FACTS

1. The complainant, Ross Clayton Todd, is a legally blind male and owns a seeing-eye dog. At the time the complaint was filed, he was a student at Marshall University.

2. Dr. Hassan Vaziri and his wife, Eva Vaziri, respondents, are the owners and caretakers of Oxford Apartments, an apartment building located at 6th Avenue in Huntington, West Virginia. The respondents leased the apartments for a consideration of two hundred fifty dollars [\$250.00] plus electric per month.

3. The complainant's income consisted of five hundred dollars [\$500.00] per month of social security.

4. Prior to December of 1979, the complainant rented an apartment on 3rd Avenue, Huntington, on a month-to-month

basis. The rent at said apartment was two hundred dollars [\$200.00] per month.

5. On November 10, 1979, the complainant received a telegram from his landlord stating that he had sold the house and that the complainant must move out by the first of December, 1979. However, the telegram was not presented at the hearing as evidence.

6. On or about November 15, 1979, the complainant had a reader, Margaret Mary Gripshover, search in the Herald Dispatch for advertisements concerning houses or apartments to rent. After discussing the apartment owned by the respondent and advertised in the newspaper, the complainant had Ms. Gripshover call the respondent to inquire about said apartment.

7. According to Ms. Gripshover, the woman who answered the phone identified herself as Mrs. Vaziri and described the apartment to her. Ms. Gripshover also testified that:

- a. after discussing the apartment, the respondent asked when Ms. Gripshover would be interested in seeing the said abode; and
- b. she then informed the respondent that she was calling for the complainant, a non-sighted who had a seeing-eye dog.

8. Ms. Gripshover also testified that, in her

conversation with the respondent over the telephone, the respondent:

- a. mentioned that she felt it would be physically impractical for the seeing-eye dog to traverse a set of stairs to the second floor apartment and that she felt that the complainant could not afford the rent;
 - b. stated that no pets were allowed in the apartment;
 - c. was then informed by Ms. Gripshover that, by law, a certified seeing-eye dog is not considered a pet and is legally permitted to go any place a person would be allowed to go; and
 - d. did not change her opinion that she felt the apartment would not be available to the complainant.
9. The respondent testified that:
- a. she understood that the dog was not a pet, but did not understand that the animal was a seeing-eye dog;
 - b. she told Ms. Gripshover that she would call back later to obtain more information about the complainant and to inform her of her decision;

c. when she called, no one answered the phone;
and

d. she did not generally call prospective clients more than once, since she felt that if they were truly interested in renting from her, they would make the necessary phone calls.

10. On November 30, 1979, the respondent leased the apartment to Larry Maczik, a sighted male.

11. On or about December 1, 1979, the complainant's father bought a house on 15th Street Huntington to alleviate the difficulties of the complainant. The complainant paid rent to his father, which consisted of two hundred dollars [\$200.00] plus utilities--gas, electric, water, garbage--per month.

12. The complainant filed a complaint with the West Virginia Human Rights Commission on January 23, 1980.

CONCLUSIONS OF LAW

1. The complainant is a "person" defined by West Virginia Code 5-11-3 (a); he is "blind" as that term is defined by 5-11-3(s).

2. The respondents are "persons" and are "owners" of "housing accommodations" as those terms are defined by 5-11-3(a), (k), and (p).

3. The West Virginia Human Rights Act has jurisdiction over the subject matter of this action and of the respondents.

4. The complainant filed an administrative complaint

with the West Virginia Human Right Commission within 90 days after the alleged discriminatory act as required by West Virginia Code 5-11-10.

5. The respondents violated the right of the complainant when they refused to rent to him. See West Virginia Administrative Regulations, West Virginia Human Rights Commission, Chapter 5, Article 11, West Virginia Code Series 1, 1982 Subject: Interpretative Rules Governing Discrimination on the Handicapped 6.03 (2)

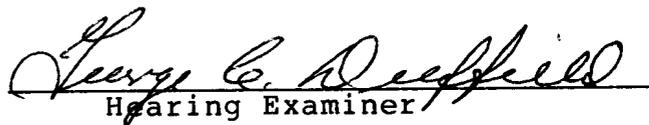
a. It is unlawful for any person to fail or refuse to show, rent, or lease any housing accommodation to a person with a disability who is required to be accompanied by (a) a guide animal, or (b) by an attendant; or to evict any person for this reason. Policies which restrict the availability of housing accommodations to persons without pets shall be void with respect to persons with a disability who require guide animals.

6. The complainant is hereby awarded as incidental damages for humiliation, inconvenience, indignation, embarrassment, emotional distress, and loss of personal dignity the amount of \$2,000.00.

7. The complainant is hereby awarded attorney fees and cost in the amount of \$1,821.00, the amount indicated in the affidavit copy of which was hereby received by respondent counsel and to which he did not object and to which amount the hearing

examiner feels is a very reasonable sum. Any other cost of their action shall be paid by the respondents.

Respectfully submitted this 16th day of September, 1985.


Hearing Examiner



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BY ITS: Dee Rosten Hamilton
CHAIR/VICE CHAIR

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