

CHARGE OF REAL PROPERTY TRANSACTION DISCRIMINATION

HUD Number: (pending)

State Agency: HAWAII CIVIL RIGHTS COMMISSION **Charge Number:** RE-M-1136

Complainants' name: Brian J. Murphy and Mary Overbay

street address P.O. Box 322 **home phone** (808) 344-2991/344-8895

city, state, zip code Puunene, HI 96784 **County** Maui

Named is the owner, real estate broker or salesman, bank or other lender, legal representative, partnership, receiver, trust, trustee, trustee in bankruptcy, government entity, or agency who discriminated against me (if more than two, list in space below this box.):

1) Name Katherine Leigh Hilsinger

street address W5160 South Osprey Drive **phone** (608) 408-6100

city, state, zip code New Lisbon, WI 53950 **County** Not applicable

2) Name Kathy R. Ross

street address 201 Makahiki Street **phone** (808) 283-1487

city, state, zip code Paia, HI 96779 **County** Maui

Cause of discrimination based on (Check appropriate box[es]):

- | | | | | | | |
|---|--|---|--|---|--|---|
| <input type="checkbox"/> race | <input type="checkbox"/> color | <input type="checkbox"/> age | <input type="checkbox"/> sex | <input type="checkbox"/> religion | <input checked="" type="checkbox"/> disability | <input checked="" type="checkbox"/> retaliation |
| <input type="checkbox"/> marital status | <input type="checkbox"/> familial status | <input type="checkbox"/> sexual orientation | <input type="checkbox"/> HIV infection | <input type="checkbox"/> ancestry/national origin | | |

Date of most recent or continuing discrimination (month, day, year): April 21, 2017

Additional Respondent: L.P.E., LLC
 W5160 South Osprey Drive
 New Lisbon, WI 54950
 (608) 408-6100

The particulars are:

Complainant Brian J. Murphy (hereinafter, "Complainant Murphy") and Complainant Mary Overbay aka Mary Whispering Wind (hereinafter, "Complainant Overbay") are individuals with disabilities as defined by the federal Fair Housing Act (hereinafter, "FHA") and the Hawai'i Revised Statutes (hereinafter, "HRS"), Chapter 515. Collectively, Complainants Murphy and Overbay are hereinafter, "Complainants". Complainants resided in the cottage located at 188 B Haulani Street in Makawao, HI 96768 (hereinafter, "subject property") since 2012 and through the constructive eviction on April 21, 2017.

I want this charge filed with both the Department of Housing and Urban Development (HUD) and the State of Hawaii. I Will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing and any attached pages are true and correct.

Brian J. Murphy 6-29-17
 Signature of Complainant Brian J. Murphy Date

Mary Overbay 6-29-17
 Signature of Complainant Mary Overbay Date

HCRC No. RE-M-1136
HUD No. (pending)

Continuation of particulars:

D. On April 3, 2017, Complainants receive a 45-day notice to vacate from Respondent Hilsinger. The reasons given is that Complainants violated the agreement by having a pet in their cottage and smoking.

With threats of calling "DEA", trumped up threats to other tenants, violation of lease, threats to evict, threat to seizing their medicine, and their medical condition worsening due to the housing discrimination practices that they encountered by Respondents, they had no choice but to leave their home. On April 21, 2017, the Complainants were forced to vacate their home of over four years.

E. Respondents retaliated against Complainants for exercising their fair housing rights, to continue to be accommodated by allowing them to grow, posses, and vaporize medicinal marijuana based on their disabilities.

F. Since vacating the subject property, the Complainants are still looking for suitable place to live.

G. Complainant believe that they would not have been subjected to the discriminatory housing practices by Respondents if they had not asked that their accommodation continue.

Initials PM Date 6-29-17

Initials M.O. Date 6-29-17

HCRC No. RE-M-1136
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Continuation of particulars:

The subject property is owned by Katherine Leigh Hilsinger (hereinafter, "Respondent Hilsinger") who had John McCollum (hereinafter, "Mr. McCollum") manage, to include but not limited to collecting and depositing the rental payments to L.P.E., LLC aka LPE LLC (hereinafter, "Respondent LPE"), since their occupancy in 2012 up to March 2017. From about March 2017, Respondent Hilsinger's representative is Kathy R. Ross, a broker and owner Maui Home and Life (hereinafter, "Respondent Ross") to manage the subject property. In April 2017, Leah Leong aka Halley, Leah Ohia (hereafter, "Ms. Leong") becomes the onsite manager for the other two rentals at the subject property. Collectively, Respondent Hilsinger, LPE, and Ross are hereinafter "Respondents".

Complainants allege that they have been subjected to discriminatory housing practices, to include but not limited to 1) refusal to make a reasonable accommodation in rules, policies, practices, or services, necessary for Complainants equal opportunity to use and enjoy their housing accommodation; 2) discrimination in terms, conditions, or privileges of a real estate transaction; and 3) retaliation against Complainants for their exercise of their rights under HRS Chapter 515. The last date of harm occurring on April 21, 2017. Complainants believe that the discriminatory practices are violations of the Fair Housing Act and HRS, Chapter 368, §§ 515-3 (2) and (9), and § 515-16 . Complainants' beliefs are based on the following:

- A. Respondents are aware of Complainants disabilities and their need to grow, possess and use marijuana for medicinal purposes under the State of Hawaii laws. From the onset of their tenancy and up through March 2017, Complainants had been accommodated to grow, possess, and use marijuana for medical purposes until Respondent Hilsinger physically came to the subject property in March 2017.
- B. Complainants have been good tenants living at the subject property for over 4 years and in March 2017 they have their first ever encounter (or finally meet) with the mainland owner Respondent Hilsinger. Respondent Hilsinger tells Complainants that she is okay with medicinal marijuana but shortly thereafter, she tells them that they are in violation of the lease, the lease is void, orders them to immediately stop growing medicinal marijuana, and she is going to seize their medicine if they don't vacate.
- C. On March 3, 2017, Respondent Hilsinger reminds Complainants that they are in violation of the February 2017 lease agreement, on multiple accounts and that it is her legal right to evict them as they have violated the lease by smoking, and growing marijuana without her knowledge or consent.

Initials BM Date 6-29-17

Initials MO Date 6-29-17

DATE FILED: June 29, 2017