

1 JAMIE CROOK, Chief Counsel (#245757)
NADIA AZIZ, Associate Chief Counsel (#252966)
2 MIRIAM ROFAEL, Staff Counsel (#328821)
CECILIA AGUILERA, Staff Counsel (#347770)
3 California Civil Rights Department
320 West 4th Street, 10th Floor, Suite #1000
4 Los Angeles, California 90013
Telephone: (916) 964-1925
5 Facsimile: (888) 382-5293

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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By I. Irizarry ,Deputy Clerk

6 Attorneys for Plaintiff
California Civil Rights Department
7 (Fee Exempt, Gov. Code, § 6103)

8
9 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF SAN DIEGO**

11
12 CALIFORNIA CIVIL RIGHTS
DEPARTMENT, an agency of the State of
13 California,
14 Plaintiff,
15 v.
16 DALE APODACA,
17 Defendant.

Case No. 24CU006843C

Dept:
Hon.

**CIVIL RIGHTS COMPLAINT FOR
INJUNCTIVE RELIEF AND DAMAGES**

JURY TRIAL DEMANDED

1 **INTRODUCTION**

2 1. Plaintiff California Civil Rights Department (“CRD”), an agency of the State of
3 California, brings this action in its own name against Defendant Dale Apodaca (“Defendant”) to remedy
4 violations of the California Fair Employment and Housing Act (“FEHA”), Government Code section
5 12900 *et seq.* As detailed below, CRD alleges Defendant unlawfully discriminated against real parties in
6 interest Samantha Sotomayor and Manuel Lizalde by failing to provide a reasonable accommodation for
7 Sotomayor’s disability, as required by Government Code section 12940, subdivision (a) and Government
8 Code section 12927, subdivision (c)(1); refusing to rent to Lizalde because of his association with a
9 person with a disability, as prohibited by Government Code section 12927; and by otherwise making
10 unavailable housing because of disability. CRD also seeks to prevent future violations of these civil rights
11 statutes by Defendant. Accordingly, CRD seeks injunctive and declaratory relief to correct Defendant’s
12 unlawful practices which will otherwise continue to harm others seeking reasonable accommodations, as
13 well as compensatory damages on behalf of Lizalde and Sotomayor.

14 **PARTIES**

15 2. Plaintiff CRD is a state agency tasked with investigating and prosecuting civil rights
16 actions. (Gov. Code, § 12930, subd. (f)(1)-(5)). Government Code section 12930 confers on CRD
17 authority to bring litigation on behalf of itself in the public interest pursuant to the prohibitions on housing
18 discrimination under FEHA. (*Id.*, § 12930, subd. (h).)

19 3. California’s legislature exercised its police power in enacting FEHA and investing
20 authority in CRD to eliminate “the practice of discrimination . . . in housing accommodations . . .” (*Id.*,
21 § 12920; see also *Dept. Fair Empl. & Hous. v. Cathy’s Creations, Inc.* (2020) 54 Cal.App.5th 404, 410
22 [“CRD’s task is to represent the interests of the state and to effectuate the declared public policy of the
23 state to protect and safeguard the rights and opportunities of all persons from unlawful discrimination.”].)
24 In furtherance of these goals, CRD has authority to initiate, conciliate, and prosecute complaints on behalf
25 of itself in the public interest and persons alleged to be aggrieved by discriminatory housing practices.
26 (Gov. Code, §§ 12930, 12981).

27 4. Plaintiff CRD brings this action on behalf of real parties in interest Samantha Sotomayor
28 and Manuel Lizalde, who are now and were at all times relevant to this complaint residents of San Diego

1 County. Samantha Sotomayor is a person with a disability as defined by Government Code section
2 12955.3.

3 5. Defendant Apodaca is now and was at all times relevant to this complaint a resident of
4 San Diego County. At all times relevant to this complaint, Defendant has owned and operated the subject
5 property at 6202 Friars Road, Unit 307, in San Diego, as well as three other condominium units in San
6 Diego, each at a separate property, and is and has been the “owner of a housing accommodation” subject
7 to FEHA.

8 **JURISDICTION AND VENUE**

9 6. This Court has jurisdiction under Article VI, section 10 of the California Constitution and
10 California Code of Civil Procedure section 410.10.

11 7. After Sotomayor and Lizalde filed an administrative complaint with CRD pursuant to
12 Government Code section 12980, CRD conducted an investigation of their allegations.

13 8. At the conclusion of CRD’s investigation, CRD referred this matter for mediation with its
14 Dispute Resolution Division, consistent with Government Code section 12965, subdivision (a)(2) and
15 section 12981, subdivision (a)(2), but the matter did not settle as Defendant failed to attend the mediation.
16 All administrative procedures precedent to the initiation of this lawsuit in Government Code sections
17 12965, subdivision (a), and 12981 have been fulfilled.

18 9. The amount of damages sought by this complaint exceeds the minimum jurisdictional
19 limits of this Court pursuant to Code of Civil Procedure section 116.221, subdivision (a).

20 10. The Court also has jurisdiction over this unlimited civil case because CRD seeks
21 injunctive and declaratory relief. (Civ. Proc. Code, §§ 86, subd. (a), 88.)

22 11. This Complaint is timely pursuant to Government Code section 12965, subdivisions
23 (a)(5)(C) and (D) and section 1298.

24 12. Venue is proper in San Diego County under Government Code section 12965, subdivision
25 (a)(4) and section 12981, subdivision (a)(4) because Defendant owns and operates four properties,
26 including the Subject Property, in this County.

FACTUAL ALLEGATIONS

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2 13. On or before April 24, 2023, Defendant placed an advertisement on Zillow.com for his
3 one-bedroom condominium located at 6202 Friars Road, Unit 307, in San Diego, for \$2,100 per month.

4 14. Real Party in Interest Lizalde visited the property on April 27, 2023, and submitted his
5 rental application via Zillow on April 28, 2023. Real Party in Interest Sotomayor submitted their rental
6 application via Zillow on April 29, 2023. Each received an automated message from Zillow on April 28
7 and April 29, respectively, confirming that they had successfully submitted their applications.

8 15. Real Party in Interest Sotomayor is a person with a disability as defined by Government
9 Code section 12955.3. As part of their treatment plan, Sotomayor’s healthcare provider recommended
10 they obtain an emotional support animal (“ESA”) and approved a mixed-breed dog as an ESA for
11 Sotomayor.

12 16. The application form for Unit 307 asked applicants whether they have any pets.
13 Sotomayor checked the box stating “Yes” and wrote that she had a 50-pound mixed-breed emotional
14 support dog trained to help her with her emotional distress. In his application, Lizalde also answered
15 “Yes” to the pet question and stated that his partner had a 50-pound mixed-breed emotional support dog
16 trained to help his partner with her emotional distress.

17 17. On April 29, 2023, Defendant contacted Lizalde on Zillow, told Lizalde his credit score
18 was good, asked if he would be satisfied with having only one dedicated parking space, and asked about
19 the size of the dog. Lizalde responded that the dog was his girlfriend’s emotional support dog and that it
20 was 50 pounds.

21 18. On April 30, 2023, Defendant replied that the homeowners’ association (“HOA”) for the
22 subject property would only permit a dog that had a maximum weight of 25 pounds. In response, Lizalde
23 reiterated that the dog was an ESA prescribed by a healthcare professional and noted that the Fair Housing
24 Act required landlords to make reasonable accommodations to pet weight restrictions for tenants with
25 ESAs. He also offered to provide Defendant with supporting documentation showing that Sotomayor’s
26 dog was an ESA. Defendant did not reply.

27 19. On or around April 30, 2023, Defendant told Sotomayor “sorry” and that the HOA had a
28 25-pound weight limit for dogs.

1 20. While the HOA does have a weight restriction for animals on the property, the HOA provides
2 exceptions as reasonable accommodations for service animals and emotional support animals.

3 21. On or around May 1, 2023, Lizalde requested a reasonable accommodation to the weight
4 limit for dogs, supported by an ESA license and registration certificate for the dog and a letter from
5 Sotomayor's healthcare provider. The healthcare provider's letter stated that Sotomayor had a mental
6 disability and that the provider had approved the dog as an ESA as part of Sotomayor's treatment plan.
7 The reasonable accommodation request letter asked Defendant to reply by May 5, 2023.

8 22. Defendant never replied to the request and failed to engage in any interactive process.
9 Real Parties in Interest were forced to find housing at another property that was further away from the
10 University that Lizalde attended and that had a higher security deposit. Real Parties in Interest suffered
11 emotional distress as a result of Defendant's denial of a reasonable accommodation.

12 23. As a result of Defendant's denial of a reasonable accommodation for Sotomayor's ESA,
13 Real Parties in Interest suffered a violation of their civil rights.

14 **FIRST CAUSE OF ACTION**
15 **Violation of FEHA: Refusal to Make a Reasonable Accommodation**
16 **on Behalf of Real Party in Interest Sotomayor**
17 **(Gov. Code, § 12955, subd. (a))**

18 24. CRD incorporates and realleges all previous allegations as if fully set forth herein.

19 25. FEHA prohibits the owner of a housing accommodation from discriminating against any
20 person because of their disability. (Gov. Code, § 12955, subd. (a).) Under FEHA, discrimination includes
21 the refusal to make reasonable accommodations in rules, policies, practices, or services that were
22 necessary to afford an individual with a disability equal opportunity to use and enjoy the premises. (*Id.*, §
23 12927, subd. (c)(1).)

24 26. Individuals with disabilities "may request a reasonable accommodation related to the
25 individual's need for the support animal in dwellings (including common use and public use areas) and
26 residential real estate, and other buildings involved in residential real estate transactions." (Cal. Code
27 Regs., tit. 2, § 12185, subd. (b).) Landlords cannot apply breed, size, and weight limitations to assistance
28 animals. (*Id.*, subd. (d)(5).)

29 27. Because of his denial of Real Party in Interest Sotomayor's request for a reasonable

1 accommodation to the HOA’s weight-limit for dogs, Defendant discriminated against Sotomayor because
2 of her disability, in violation of Government Code section 12955, subdivision (a). Plaintiff CRD requests
3 relief as described herein.

4 **SECOND CAUSE OF ACTION**

5 **Violation of FEHA: Discrimination Based on Association with Someone with a Disability**
6 **on Behalf of Real Party in Interest Lizalde**
7 **(Gov. Code, § 12955, subds. (a), (m))**

8 28. CRD incorporates and realleges all previous allegations as if fully set forth herein.

9 29. FEHA prohibits the owner of a housing accommodation from discriminating against any
10 person because of their disability. (Gov. Code, § 12955, subd. (a).) Under FEHA, discrimination on the
11 basis of disability includes that the “person is associated with” someone who has a disability. (*Id.*, subd.
12 (m).)

13 30. Because of his refusal to rent to Real Party in Interest Lizalde because of Lizalde’s
14 association with Sotomayor, who has a disability, Defendant discriminated against Lizalde, in violation
15 of Government Code section 12955, subdivision (a).

16 31. Plaintiff CRD requests relief as described herein.

17 **THIRD CAUSE OF ACTION**

18 **Violation of FEHA: Housing Discrimination Because of Disability**
19 **On Behalf of Real Parties in Interest Sotomayor and Lizalde**
20 **(Gov. Code, § 12955, subd. (k))**

21 32. FEHA prohibits the owner of a housing accommodation from otherwise making
22 unavailable a dwelling by discriminating against any person because of their disability. (Gov. Code, §
23 12955, subd. (k).)

24 33. Because of his refusal to rent to Real Parties in Interest Sotomayor and Lizalde because
25 of Sotomayor’s disability, Defendant discriminated against Sotomayor and Lizalde, in violation of Gov.
26 Code section 12955, subdivision (k).

27 34. Plaintiff CRD requests relief as described herein.

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, CRD prays that this Court issues judgment in favor of CRD, and against
3 Defendant, ordering:

- 4 A. Compensatory damages, including but not limited to out-of-pocket costs, damages for
5 emotional distress, and lost housing opportunity;
- 6 B. Prejudgment interest, as required by law;
- 7 C. Attorneys’ fees and costs to the Civil Rights Department; and
- 8 D. Other relief the Court deems to be just and proper.
- 9

10 DATED: August 19, 2024

CALIFORNIA CIVIL RIGHTS DEPARTMENT

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13 *Miriam Rofael*

14 _____
15 MIRIAM ROFAEL, Staff Counsel

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DEMAND FOR JURY TRIAL

Plaintiff CRD hereby demands a trial by jury on all claims.

DATED: August 19, 2024

CALIFORNIA CIVIL RIGHTS DEPARTMENT



MIRIAM ROFAEL, Staff Counsel

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