

December 09 2021 3:20 PM

CONSTANCE R. WHITE
COUNTY CLERK
NO: 21-2-08654-5

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY**

WASHINGTON STATE HUMAN
RIGHTS COMMISSION, presenting
the case in support of the complaint
filed by JODI MARKS-COOK,

Plaintiff,

v.

CEDARS MM, LLC, and SHELTER
PROPERTY MANAGEMENT, LLC

Defendants.

NO.

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES UNDER
THE WASHINGTON LAW AGAINST
DISCRIMINATION

I. INTRODUCTION

1.1 Plaintiff Washington State Human Rights Commission (Commission), by and through its attorney, Emily C. Nelson, Assistant Attorney General, files this action against Defendants Cedars MM, LLC, and Shelter Property Management, LLC (collectively, Cedars), to remedy unlawful discrimination in the rental of residential housing.

1.2 This is an action under the Washington Law Against Discrimination (WLAD) to correct unlawful and discriminatory housing practices, and to provide appropriate relief to manufactured housing community resident and Complainant, Jodi Marks-Cook, who was adversely affected by such practices. The Commission alleges that Defendant Cedars unlawfully discriminated against Ms. Marks-Cook, a member of a protected class, when Cedars refused to make a reasonable accommodation in the rules, policies, and practices of Cedars Mobile Manor,

1 a manufactured housing community, to afford Ms. Marks-Cook an equal opportunity to use and
2 enjoy her residence, in violation of RCW 49.60.222(2)(b). The Commission also alleges that
3 Defendant Cedars violated RCW 49.60.222(1)(g) by making statements that, directly or
4 indirectly, express a preference or limitation based on Ms. Marks-Cook's protected class.

5 **II. JURISDICTION**

6 2.1 The Commission has jurisdiction to prosecute this case. RCW 49.60.030(2),
7 RCW 49.60.340. RCW 49.60.240(1)(c) requires the Commission to investigate complaints of
8 housing discrimination and, if it makes a finding of reasonable cause to believe discrimination
9 has occurred, to seek relief for such discrimination. If an agreement to eliminate the unfair
10 practice is not reached, the Complainant or Defendant may elect to have the claims on which
11 reasonable cause was found decided in a civil action under RCW 49.60.030(2),
12 RCW 49.60.340(1)-(2). After the Commission's reasonable cause finding, Complainant
13 Marks-Cook made such an election.

14 2.2 This Court has jurisdiction over this matter pursuant to RCW 49.60.340(2), as the
15 Commission has commenced this action within thirty days of Complainant's election to have the
16 claims herein decided in a civil action under RCW 49.60.030(2).

17 2.3 The violations alleged in this Complaint were committed in whole or in part in
18 Pierce County, and Defendant Cedars transacts business in Pierce County. Venue is thus proper in
19 Pierce County pursuant to RCW 4.12.020 and RCW 4.12.025.

20 **III. FACTUAL ALLEGATIONS**

21 3.1 Plaintiff is the Washington State Human Rights Commission.

22 3.2 Defendant Cedars MM, LLC owns Cedars Mobile Manor, a 41-unit
23 manufactured housing community located at 6402 154th Street NW, in Gig Harbor, Washington.
24 Defendant Shelter Property Management, LLC, operates Cedars Mobile Manor, by and through
25 its managers and employees, including managing brokers Mike Simonitch and Ed Andera, and
26

1 property manager Joe D’Attilio. Defendants Cedars MM, LLC, and Shelter Property
2 Management, LLC, are both Washington corporations.

3 3.3 In 2004, Complainant Jodi Marks-Cook purchased the manufactured home
4 located in space #1 at Cedars Mobile Manor. That same year, Ms. Marks-Cook and Cedars
5 entered into a one-year lease agreement for the rental of space #1. Under the state
6 Manufactured/Mobile Home Landlord-Tenant Act, the lease term automatically renews
7 annually. RCW 59.20.090(1). Since 2004, Ms. Marks-Cook has resided in her home in space #1
8 with her partner, Richard Hogan, who is an authorized resident of Cedars Mobile Manor.

9 3.4 Ms. Marks-Cook has physical disabilities that limit her mobility, and possesses a
10 state-issued, permanent disability parking placard. Mr. Hogan also has a permanent disability
11 parking placard.

12 3.5 Space #1 is located in a corner of Cedars Mobile Manor, adjacent to an area
13 designated as visitor parking. The visitor parking area does not have stalls outlined, and has room
14 for approximately 4-5 vehicles. Cars park perpendicular to a chain link fence, which connects to
15 a two-panel-long, brown wooden fence that runs from the parking area to another section of
16 fence in front of Ms. Marks-Cook’s home. Visitor signs hang on the chain link fence, but not on
17 the wooden fence. A large boulder sits in front of the wooden fence.

18 3.6 For approximately 16 years, Ms. Marks-Cook parked her vehicle on a strip of
19 pavement in front of her home, in line with the wooden fence and large boulder. Her partner,
20 Mr. Hogan, parked his vehicle in a carport space next to the home, within the boundaries of
21 space #1, due to his limited mobility and need to be closer to the home’s entrance.

22 3.7 In 2016, Defendant Shelter Property Management began managing Cedars
23 Mobile Manor.

24 3.8 On or about July 21, 2020, Ms. Marks-Cook filed a complaint with the
25 Washington State Attorney General’s Office’s Manufactured Housing Dispute Resolution
26

1 Program (MHDRP). Ms. Marks-Cook alleged vermin infestation, garbage in common areas, and
2 unequal enforcement of park rules at Cedars Mobile Manor.

3 3.9 The MHDRP is administered by the Attorney General's Office, in accordance
4 with RCW 59.30. Owners of manufactured homes and landlords may file a complaint with the
5 MHDRP if they believe their rights under the Manufactured/Mobile Home Landlord Tenant Act
6 (MHLTA) have been violated. The Attorney General's Office will attempt to assist the parties
7 in reaching an agreement that complies with the MHLTA. This includes transmitting
8 communications from one party to another, in the form they are received.

9 3.10 Thereafter, on or about September 25, 2020, Complainant Marks-Cook received
10 a notice from Cedars that she was parked in visitor parking, and needed to move her vehicle on
11 or before October 1, 2020. The notice stated individuals who did not move their vehicles by that
12 date would have their vehicles towed, at the owner's expense.

13 3.11 On or about September 27, 2020, Ms. Marks-Cook emailed Cedars to clarify
14 whether she would be required to move her car. Ms. Marks-Cook explained she had been parking
15 in the spot since 2004, which she understood had been assigned to her due to the location of
16 space #1.

17 3.12 On or about September 29, 2020, Ms. Marks-Cook emailed Cedars again,
18 requesting approval to continue parking in the same spot. Ms. Marks-Cook informed Cedars that
19 both she and her partner, Mr. Hudson, are permanently disabled, and asked to continue to use
20 the spot as an accommodation. Ms. Marks-Cook informed Cedars she had begun paying another
21 resident \$30 per month to park in a space on their lot.

22 3.13 On or about September 30, 2020, Cedars emailed Ms. Marks-Cook, stating that
23 neither the lease, nor park rules, allowed her to park in visitor parking. Cedars told
24 Ms. Marks-Cook that she could park two vehicles in her driveway, if she removed "clutter" from
25 her carport.
26

1 3.14 Ms. Marks-Cook responded to Cedars via email, explaining again that she was
2 requesting to continue parking in front of the brown wooden fence, and not to appropriate a space
3 out of visitor parking. She informed Cedars that she had attempted to make room for two cars in
4 her carport, but that it was not possible to do so.

5 3.15 Cedars did not respond further to Ms. Marks-Cook's request for a parking space
6 to accommodate her disability.

7 3.16 On or about September 29, 2020, Ms. Marks-Cook filed another complaint with
8 the MHDRP, this time regarding Cedars's lack of response to her request to continue parking in
9 her space.

10 3.17 On or about October 1, 2020, Ms. Marks-Cook began paying another resident
11 \$30 per month to park in a lot adjacent to her home. Instead of being able to park in front of her
12 home, Ms. Marks-Cook now must walk a block or more to reach her home after parking.

13 3.18 On or about November 11, 2020, Mike Simonitch, managing broker for Shelter
14 Property Management, responded to Ms. Marks-Cook's complaints to MHDRP on behalf of
15 Cedars, stating: "We have received from your office a series of letters from Ms. Marks-Cook
16 which would most accurately be described as hysterical ravings of a mentally unbalanced
17 person."

18 3.19 On or about November 17, 2020, MHDRP staff transmitted Cedars's response to
19 Ms. Marks-Cook, in accordance with MHDRP's procedure for addressing and attempting to
20 resolve complaints.

21 3.20 On or about December 17, 2020, Mr. Simonitch contacted the MHDRP to provide
22 an additional response to Ms. Marks-Cook's complaints, again on behalf of Cedars. This time,
23 Mr. Simonitch stated, among other things: "We deny her allegations and think she should seek
24 counseling Ms. Marks-Cook in her many long writings, has complained frequently about
25 unequal treatment, but it is actually her that is seeking such preferential treatment."
26

1 3.21 Cedars is directly liable for the acts and omissions of its managers, employees,
2 and/or vendors, and additionally is liable for the acts and omissions of its managers, employees,
3 and/or vendors because it knew or should have known about them and failed to take prompt and
4 effective corrective action to remedy the discrimination, which continues.

5 3.22 As a proximate result of Cedars's actions, Ms. Marks-Cook has suffered and will
6 continue to suffer damages, including lost opportunity to use and enjoy the full benefits of her
7 housing, emotional distress and injury, pain and suffering, embarrassment, humiliation,
8 economic and financial hardship, and other damages to be proven at trial.

9 3.23 Cedars's discrimination against Ms. Marks-Cook is continuing. Accordingly, the
10 Commission requests an order that will eliminate and prevent recurrence of the above-described
11 discriminatory practices.

12 **IV. CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION** 14 **(Violation of the Washington Law Against Discrimination—Discriminatory Housing** 15 **Statements)**

16 4.1 The Commission re-alleges and incorporates by reference the allegations set
17 forth in each of the preceding paragraphs of this Complaint.

18 4.2 It is an unfair housing practice for a housing provider to make, print, circulate,
19 post, mail, or cause to be so made or published a statement that indicates or expresses a
20 preference or limitation on the basis of disability. RCW 49.60.222(1)(g).

21 4.3 Defendant Cedars unlawfully discriminated against Ms. Marks-Cook by making
22 verbal statements that purported to indicate or express a preference or limitation based on
23 Ms. Marks-Cook perceived or actual disability, in violation of RCW 49.60.222(1)(g).

24 **SECOND CAUSE OF ACTION** 25 **(Violation of the Washington Law Against Discrimination—Failure to Provide a** 26 **Reasonable Accommodation in Housing)**

 4.4 The Commission re-alleges and incorporates by reference the allegations set forth
in each of the preceding paragraphs of this Complaint.

4.5 It is an unfair housing practice for a housing provider to refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory, mental, or physical disability equal opportunity to use and enjoy a dwelling. RCW 49.60.222(2)(b).

4.6 Defendant Cedars unlawfully discriminated against Ms. Marks-Cook, a person with physical disabilities that limit her mobility, by refusing to make a reasonable accommodation that would allow her to continue parking her vehicle in an area overlapping visitor parking, in the space nearest to her mobile home, in violation of RCW 49.60.222(2)(b).

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Washington State Human Rights Commission prays that the Court:

5.1 Adjudge and decree that Cedars has engaged in the conduct complained of herein.

5.2 Adjudge and decree that Cedars’s conduct violates the Washington Law Against Discrimination, RCW 49.60.222(1)(g) and .222(2)(b).

5.3 Enjoin Cedars from discriminating against persons based on disability, refusing to provide reasonable accommodations to persons with disabilities, and making statements that indicate an intention to make a limitation, specification or discrimination with respect to disability.

5.4 Order other equitable relief that the Court finds necessary to eliminate the effects of past discrimination, to prevent future discrimination, and to position Complainant Marks-Cook as close as possible to the situation she would have been in but for the discrimination. This includes retaining jurisdiction if necessary to fulfill the Court's order.

5.5 Award damages or other appropriate monetary relief to Complainant Marks-Cook in an amount to be proven at trial.

5.6 Assess a civil penalty against Defendants in an amount up to \$10,000 pursuant to RCW 49.60.225(1)(a).

5.7 Award such other relief as the Court may deem just and proper.

1 DATED this 9th day of December, 2021.

2
3 ROBERT W. FERGUSON
Attorney General

4 

5 EMILY C. NELSON, WSBA #48440
6 Assistant Attorney General
7 Office of the Attorney General
8 Wing Luke Civil Rights Division
9 800 5th Avenue, Suite 2000
Seattle, WA 98104
(206) 342-6405
Emily.Nelson@atg.wa.gov

10 *Attorney for Plaintiff Washington State Human*
11 *Rights Commission*