

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20416-3000

PCDK

P. 08/10

OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

March 9, 2001

Mr. Wayne M. Pierce, Sr.
Apartment #P-203
1007-130th Street, SW
Everett, WA 98284-9329Subject: Determination of Review and Final
Determination of Noncompliance
HUD Case Name: Pierce v. Department of Housing
Services of Washington County
HUD Section 504 Case Number: 10-96-04-019-370

Dear Mr. Pierce:

The U.S. Department of Housing and Urban Development (Department) has completed its review of the Preliminary Letter of Finding (LOF) based on the above complaint, in which Mr. Wayne M. Pierce, Sr., charged the Department of Housing Services of Washington County (DHSWC); Mr. Susan Wilson, Executive Director; Ms. Bonnie Hays, Chairperson; Ms. Margottina McPherson, Occupancy Specialist and the Office of County Counsel (Recipients), with discrimination on the basis of disability. On July 30th, and August 2, 2000, the Recipients requested that a review be made of the June 24, 1999 Preliminary LOF.

The Department has conducted a thorough review of the information provided by the Recipients, which includes the following issues:

- (1) DHSWC had a list of available Section 8 housing and that DHSWC's practice was to provide that list to everyone who was issued a certificate or voucher;
- (2) DHSWC asserts that it offered other assistance to the Complainant and processed his request for an exception to Fair Market Rents once he was eligible; and
- (3) DHSWC contends that it granted the Complainant's request for a reasonable accommodation.

DHSWC submitted documentation, including a chronology of events involving the Complainant, Mr. Wayne M. Pierce, Sr., as well as listings of properties and management companies accepting Section 8, which the Recipients contend support their position on each of the above items.

According to the chronology submitted by DHSWC, the Complainant was originally issued his Section 8 certificate on December 20, 1991, and was provided with a Section 8 briefing at that time. He subsequently leased a unit of his choice. In the discussion that follows DHSWC's chronology of events, it is asserted that Mr. Pierce was provided with a listing of available housing units on December 29, 1995, at the time in which he was provided a move certificate.

According to the HUD Investigator's interview with Ms. Margottina McPherson, the DHSWC's Occupancy Specialist stated that the Section 8 packet she gave to the Complainant on or around December 29, 1995, did not include a housing referral list, because the list "was being updated." Ms. McPherson acknowledged having conversations with the Complainant during January of 1996, in which the Complainant indicated that he was having problems finding a place to live in an area where his Section 8 certificate would be accepted. Additionally, DHSWC acknowledged in its request for review that HUD's investigators had informed them that their listing "did not properly depict those units that were known to be accessible" or "did not depict all the available accessible units." The fact that DHSWC revised its listing to include a designation of the properties with accessible units does not establish that such listings were provided to Mr. Pierce before the time he filed his complaint with HUD.

DHSWC further asserted that it had provided other assistance to the Complainant during his search for an accessible unit where he could use his Section 8 certificate. In particular, DHSWC points out the fact that it responded to a request from a landlord concerning the Complainant on two occasions and that neither landlord chose to rent to the Complainant for reasons beyond the control of DHSWC. However, there is no evidence that DHSWC offered the Complainant any assistance in locating accessible housing, despite being aware that the Complainant was having trouble locating an accessible unit. The evidence demonstrates that at the time the Complainant was attempting to locate an accessible unit, DHSWC did not provide him with location assistance.

Finally, DHSWC contended that it did approve the Complainant's request for reasonable accommodation. Specifically, DHSWC stated that it acted immediately upon the Complainant's request for an exception to the Fair Market Rent and for an accommodation in the Complainant's repayment agreement with DHSWC. DHSWC asserted that the Complainant's request to renegotiate his repayment agreement was also approved.

The investigative record confirms that DHSWC did follow up on the Complainant's request for a 120% exception to the Fair Market Rent by contacting HUD's Office of Public Housing in Portland, Oregon on March 20, 1996. DHSWC informed HUD that the Complainant required this accommodation because of his disability. However, there is no evidence that DHSWC provided the Complainant with information concerning the possibility of requesting an exception to the Fair Market Rent during the period he was having trouble in locating an accessible unit. Rather, the investigation disclosed that the Complainant requested this accommodation after he had made repeated but unsuccessful attempts to locate accessible housing without assistance from DHSWC.

For the reasons stated above, the Department has determined that the Recipients have not presented new and material evidence that would change the findings made in this complaint. Accordingly, pursuant to 24 CFR 8.56 (h) (3), the Department sustains its June 24, 1999 Preliminary Finding of Noncompliance and hereby makes a Final Determination of

Noncompliance. Specifically, the Department finds that the Department of Housing Services of Washington County acted in noncompliance with Section 504 of the Rehabilitation Act of 1973, as amended (Section 504).

Because the discrimination occurred in the State of Oregon, the Department's Northwest/Alaska Program Center will issue a Voluntary Compliance Agreement (VCA) to the Department of Housing Services of Washington County. In order for the Recipients to come into compliance with Section 504, and to avoid enforcement proceedings, the Recipients must sign and begin executing the VCA within 20 days of receipt. The Northwest/Alaska Program Center will monitor the agreement until complete compliance with Section 504 is achieved.

If you have any questions, please contact Mr. Milton Turner, Director, Disability Rights Support Division, at (202) 708-2333, or Ms. Judith Keeler, Director, Northwest/Alaska Office, Office of Fair Housing and Equal Opportunity, at (206) 220-5170.

Sincerely,


Floyd O. May
Deputy Assistant Secretary
for Operations and Management