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7  
8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
9 IN AND FOR THE COUNTY OF MARICOPA

10 THE STATE OF ARIZONA *ex rel.* TERRY  
11 GODDARD, the Attorney General; and THE  
12 CIVIL RIGHTS DIVISION OF THE ARIZONA  
13 DEPARTMENT OF LAW,

14 Plaintiff,

15 vs.

16 SHOW LOW APARTMENTS, A LIMITED  
17 PARTNERSHIP, an Arizona limited partnership,  
18 and BOSLEY MANAGEMENT OF ARIZONA,  
19 INC., an Arizona corporation,

20 Defendants.

No. CV2004-018414

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

(Non-classified Civil)

21 Plaintiff, the State of Arizona *ex rel.* Terry Goddard, the Attorney General, and the Civil  
22 Rights Division of the Arizona Department of Law, alleges as follows:  
23

24 **INTRODUCTION**

25 This is an action brought under the Arizona Fair Housing Act ("AFHA"), A.R.S. § 41-  
26 1491 *et seq.*, to correct unlawful housing practices on the basis of disability discrimination, to

1 provide appropriate relief to aggrieved persons, and to vindicate the public interest.  
2 Specifically, this matter is brought to redress the injury sustained by Kara Holcombe and other  
3 disabled residents of Defendants' apartment complex because of Defendants' policy requiring  
4 that all claimed therapeutic, assistive, and/or service animals vacate the disabled individual's  
5 apartment pending approval from Defendants, without regard to the health and welfare of the  
6 disabled tenants.

### 7 JURISDICTION AND VENUE

8 1. The Civil Rights Division of the Arizona Department of Law ("the Division") is  
9 an administrative agency established by A.R.S. § 41-1401 to enforce the provisions of the  
10 Arizona Civil Rights Act, A.R.S. § 41-1401, *et seq.*

11 2. The Division brings this action on its own behalf and on behalf of Kara  
12 Holcombe, an aggrieved person.

13 3. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1492.09.

14 4. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

### 15 PARTIES

16 5. Defendant Show Low Apartments, A Limited Partnership, is an Arizona limited  
17 partnership that owns the Show Low Apartments, an apartment complex located in the City of  
18 Show Low in Navajo County, Arizona. The Show Low Apartments is referred to here as the  
19 "Complex." The Complex is a USDA Rural Development subsidized housing project.

20 6. Defendant Bosley Management of Arizona, Inc. ("Bosley Management") is an  
21 Arizona corporation with its headquarters in Sheridan, Wyoming. Defendant Bosley  
22 Management is the exclusive management company for the Complex.

23 7. Defendant Bosley Management has an identity of interest with Defendant Show  
24 Low Apartments, A Limited Partnership. Defendant Bosley Management is owned by John  
25 Bosley and Constance Bosley, who, along with Michael Ryan, manage Defendant Bosley  
26

1 Management. John Bosley and Constance Bosley are also Partners of WHG Partnership, the  
2 General Partner of Defendant Show Low Apartments, A Limited Partnership. Michael Ryan is  
3 also a Partner of WHG Partnership. Accordingly, Defendants Show Low Apartments, A  
4 Limited Partnership, and Bosley Management are referred to collectively here as "Defendants."

5 8. At all relevant times, Defendants owned and operated the Complex.

6 9. At all relevant times, Constance Bosley, a Wyoming resident, owned Defendant  
7 Bosley Management, had the primary responsibility for approving any requests from tenants of  
8 the Complex regarding therapeutic, assistive, and/or service animals as an accommodation for  
9 disabilities, and was acting within her authority as Defendants' owner and agent.

10 10. Lydia Castillo ("Castillo"), an Arizona resident, was the property manager of the  
11 Complex from approximately December 2002 to the present. At all relevant times, Castillo was  
12 acting in the course and scope of her employment and as Defendants' agent.

13 11. Kara Holcombe ("Holcombe") began renting an apartment at the Complex in  
14 October 2002 and currently resides at the Complex. Holcombe has mental disabilities,  
15 including depression, anxiety, and bipolar disorder, and as a result is assisted by living with  
16 one or more therapeutic animals. Holcombe is a person with a disability within the meaning of  
17 A.R.S. § 41-1491(5).

#### 18 STATEMENT OF FACTS

19 12. At all relevant times, the Complex was a USDA Rural Development subsidized  
20 housing project. At all relevant times, the Complex had a "no pet" policy.

21 13. Holcombe moved into the Complex in October 2002.

22 14. Holcombe testified in the administrative investigation that when she moved into  
23 the Complex, she notified the property manager of the Complex at that time, Charlene Childers,  
24 that she had a mental disability and had therapeutic animals. Holcombe indicated on her rental  
25 application that she was receiving Social Security Disability Income.  
26

1           15. Holcombe also testified that in October 2002 she told Ms. Childers that she  
2 needed her two therapeutic cats to live with her, and that she provided Ms. Childers with a letter  
3 dated February 22, 2000. The February 22, 2000 letter, which is from a doctor, states that that it  
4 would be beneficial for Holcombe's treatment to have one or more therapeutic animals.

5           16. Holcombe testified that she submitted the February 22, 2000 letter to Ms. Childers  
6 in support of her request that she receive an accommodation for her disability in the form of  
7 Defendants' allowing Holcombe to keep Holcombe's therapeutic cats in her apartment despite  
8 Defendants' "no pets" policy.

9           17. Holcombe testified that Ms. Childers granted Holcombe's disability  
10 accommodation request and that Ms. Childers retained a copy of the February 22, 2000 letter for  
11 Defendants' files.

12           18. In December 2002, Defendants hired Castillo to act as the Complex's new  
13 property manager.

14           19. Castillo testified in the administrative investigation that she reviewed all of the  
15 tenant files for the Complex when she became the property manager. Castillo could not recall  
16 whether she had seen a copy of the February 22, 2000 letter when she reviewed Holcombe's  
17 file. Defendants produced the February 22, 2000 letter to the Division during the Division's  
18 investigation.

19           20. Castillo testified in the administrative investigation that Castillo was told by  
20 Holcombe's neighbor that Holcombe had cats living in her apartment and, based on that  
21 information, Castillo issued a notice dated July 7, 2003, indicating that Holcombe was in breach  
22 of her lease agreement because she had cats living in the apartment in violation of the "no pet"  
23 rule.

24           21. Castillo testified in the administrative investigation that it is Defendants' practice  
25 that when Defendants learn that a tenant has an animal living in an apartment, Defendants  
26

1 require removal of the animal within twenty-four hours of the tenant's receipt of a lease  
2 violation notice.

3 22. Constance Bosley testified in the administrative investigation that it is  
4 Defendants' practice that when Defendants learn that a tenant has an animal living in an  
5 apartment, Defendants require removal of the animal upon receipt of a lease violation notice.

6 23. Constance Bosley testified in the administrative investigation that the animal may  
7 not return to the Complex, whether or not the tenant claims the animal is a therapeutic animal,  
8 unless and until Defendants authorize or certify that the animal is a therapeutic, assistive, or  
9 service animal and the tenant completes Defendants' "Reasonable Accommodation Process."

10 24. Castillo testified that Defendants do not make exceptions to Defendants' policy  
11 that putative therapeutic animals must remain off of the property until all documents required  
12 under Defendants' "Reasonable Accommodation Process" are received, reviewed, and  
13 approved, regardless of whether the individual has documentation in his or her rental file  
14 indicating that the individual has a disability.

15 25. Constance Bosley testified in the administrative investigation that she understands  
16 that there are non-traditional therapeutic animals, and that most of the therapeutic animals living  
17 at the Complex are not traditional service animals, such as seeing eye dogs.

18 26. On or about July 7, 2003, Holcombe received the notice indicating that she was in  
19 breach of her lease agreement because she had two cats living at her apartment. The notice  
20 demanded that Holcombe remove both animals from the Complex within twenty-four hours.  
21 Castillo testified in the administrative investigation that she prepared the July 7 lease violation  
22 notice.

23 27. Holcombe complied with the July 7 lease violation notice by removing her cats  
24 from the Complex within twenty-four hours.

25 28. Holcombe euthanized one cat because, based on the cat's behavior when it was  
26

1 evacuated during the Rodeo-Chedeski fire, Holcombe believed that the cat could not prosper  
2 outside of the Complex.

3 29. Holcombe moved the other cat, "Nutmeg," to her mother's house pending  
4 Constance Bosley's approval of Nutmeg as a therapeutic animal.

5 30. On or about July 15, 2003, Holcombe informed Defendants that her cat Nutmeg  
6 was a therapeutic animal. Castillo informed Holcombe that she could not bring Nutmeg back  
7 into the Complex until Holcombe did the following: (1) provide evidence that she had a  
8 disability and a doctor's certification that Holcombe needed Nutmeg; and (2) provide licensing,  
9 spaying, and vaccination records for Nutmeg.

10 31. On August 18, 2003, Defendants informed Holcombe that Bosley had approved  
11 Nutmeg as a therapeutic animal and, therefore, Nutmeg could return to the property. However,  
12 Nutmeg had been killed while living out of the Complex during the approval process.

13 32. Because of Nutmeg's death and the expense involved in obtaining a new cat and  
14 having it spayed/neutered and vaccinated, Holcombe was without an assistive animal from  
15 approximately July 7, 2003 through October 17, 2003.

16 33. Holcombe is still a tenant at the Complex, and is living with a therapeutic animal  
17 that Defendants approved, with conditions, as a "substitute" for Nutmeg.

18 **STATEMENT OF CLAIM**

19 **(Discrimination in Violation of the Arizona Fair Housing Act)**

20 34. Plaintiff realleges and incorporates by reference the allegations contained in  
21 paragraphs 1 through 33 of this Complaint.

22 35. Holcombe is a person with a mental disability within the meaning of A.R.S. § 41-  
23 1491(5) and an "aggrieved person" for purposes of A.R.S. § 41-1491(1).

24 36. On or about September 9, 2003, Holcombe filed a timely administrative complaint  
25 of housing discrimination with the Division, alleging that Defendants discriminated against her  
26

1 and other persons with disabilities by refusing to make a reasonable accommodation in their  
2 rules, policies, practices or services necessary to afford them an equal opportunity to use and  
3 enjoy a dwelling.

4 37. The Division investigated Holcombe's administrative complaint of housing  
5 discrimination pursuant to A.R.S. § 41-1491.22.

6 38. On or about August 19, 2004, the Division issued a finding of reasonable cause to  
7 believe that discrimination has occurred.

8 39. Since the issuance of the reasonable cause finding by the Division, the parties to  
9 the above-referenced administrative complaint have not entered into a Conciliation Agreement.

10 40. The AFHA states that a person may not discriminate in the rental or otherwise  
11 make unavailable or deny a dwelling to any renter because of the disability of that renter.  
12 Discrimination includes a refusal to make reasonable accommodations in rules, policies,  
13 practices or services if the accommodations may be necessary to afford the person equal  
14 opportunity to use and enjoy a dwelling. A.R.S. §§ 41-1491.19(A) and (E)(2).

15 41. Defendants unlawfully discriminated against Holcombe by refusing to provide her  
16 with a reasonable accommodation for her disability to the extent that Defendants – which had  
17 actual and/or constructive knowledge that Holcombe was a person with a disability and that  
18 Holcombe's cats were therapeutic animals that assisted her disability – required that Holcombe  
19 remove her therapeutic animals until they were re-"approved" by Constance Bosley, in violation  
20 of A.R.S. § 41-1491.19 (E)(2).

21 42. As a result of Defendants' discrimination against her, Holcombe suffered actual  
22 and monetary damages, including damages for mental anguish, pain, suffering, emotional  
23 distress, humiliation, embarrassment, inconvenience, loss of the right to an equal opportunity to  
24 enjoy her dwelling, and loss of her rights under the AFHA, and is entitled to and should be  
25 compensated pursuant to A.R.S. §§ 41-1491.34 (C) and 41-1491.35(B).

26 43. As a result of Defendants' actions, Holcombe was denied the right to an equal

1 opportunity to use and enjoy a dwelling based on her disability. The right is protected by the  
2 AFHA. The denial of the right raises an issue of general public importance and, therefore,  
3 Plaintiff brings this action to vindicate the public interest.

4 44. Plaintiff is also entitled to injunctive relief against Defendants' actions.

5 45. Defendants did not make a good faith effort to comply with the AFHA.

6 46. Defendants acted in reckless disregard of the protected rights of a disabled person,  
7 and Plaintiff contends that Defendants are engaged in a pattern and practice of discriminating  
8 against the disabled in violation of the AFHA.

9 47. Defendants are subject to a statutory civil penalty in an amount of not more than  
10 fifty thousand dollars (\$50,000.00) for a first violation and one hundred thousand dollars  
11 (\$100,000.00) for any subsequent violation under A.R.S. § 41-1491.35(B)(3)(C).

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff requests that this Court:

14 A. Enter judgment on behalf of Plaintiff, finding that Defendants Show Low  
15 Apartments, A Limited Partnership, and Bosley Management of Arizona, Inc., unlawfully  
16 discriminated against Holcombe based on her disability, in violation of the AFHA.

17 B. Grant a permanent injunction prohibiting Defendants, their successors, assigns  
18 and all persons in active concert or participation with Defendants, from engaging in any  
19 housing practice that discriminates on the basis of disability in violation of the AFHA.

20 C. Order that Defendants make reasonable accommodations in rules, policies,  
21 practices and services necessary to afford persons with disabilities equal use and enjoyment of  
22 their dwellings, including that Defendants alter their existing rules, policies, and practices to  
23 comply with the AFHA.

24 D. Order that Defendants provide training to all staff regarding state and federal fair  
25 housing laws requiring reasonable accommodations in rules, policies, practices and services  
26 necessary to afford persons with disabilities equal use and enjoyment of their dwellings.

1 E. Order that Defendants institute and carry out policies, practices and programs that  
2 provide equal housing opportunities for disabled persons and that eradicate the effects of their  
3 unlawful housing practices.

4 F. Assess a statutory civil penalty against each Defendant to vindicate the public  
5 interest in an amount that does not exceed fifty thousand dollars (\$50,000.00) for the first  
6 violation and one hundred thousand dollars (\$100,000.00) for the second or subsequent  
7 violation, pursuant to A.R.S. § 41-1491.35(B).

8 G. Order Defendants to make Holcombe whole and award Holcombe actual and  
9 punitive damages in amounts to be determined at trial, including prejudgment interest.

10 H. Order Plaintiff to monitor Defendants' compliance with the AFHA.

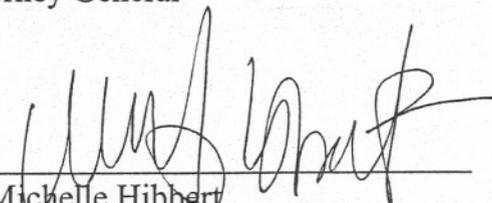
11 I. Grant judgment and award payment to Plaintiff for its costs incurred in bringing  
12 this action and its costs in monitoring Defendants' future compliance with the AFHA.

13 J. Grant judgment and award payment to Plaintiff its taxable costs.

14 K. Grant such other and further relief as this Court may deem just and proper in the  
15 public interest.

16 Dated this 21<sup>st</sup> day of September, 2004.

17 TERRY GODDARD  
18 Attorney General

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20  
21 By   
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