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## **INVESTIGATIVE REPORT**

HRC Case No.: PA20-0010

**COMPLAINANT:** Sissy Bradford

**RESPONDENT:** 84 South Park Hospitality, LLC d/b/a Quality Inn Colchester-Burlington

**CHARGE:** Discrimination in public accommodations based on disability

## **SUMMARY OF COMPLAINT**

Ms. Bradford alleges that Quality Inn refused to allow her to stay at the hotel by placing her on their Do-Not-Rent list. Ms. Bradford believes that Quality Inn placed her on the Do-Not-Rent list because she has a service dog.

## **SUMMARY OF RESPONSE**

Quality Inn allowed Ms. Bradford and her dog to stay at the hotel. Quality Inn placed Ms. Bradford on the Do-Not-Rent list during her stay because of her rude behavior.

## **PRELIMINARY RECOMMENDATIONS**

This investigation makes a preliminary recommendation to the Human Rights Commission to find there are **reasonable grounds** to believe that Quality Inn discriminated against Ms. Bradford on the basis of her disability.

## **Documents, Recordings & Photo:**

- Reservation Record – 11/13/2019
- Vermont Department for Children and Families Emergency Housing Authorization and Billing Form – 11/13/2019
- Quality Inn Guest Record for Ms. Bradford – 11/21/2019
- Receipt from Humane Society of Chittenden County – 12/13/2019
- Reservation Record – 12/20/2019
- Quality Inn Guest Record for Ms. Bradford – 12/20/2019
- Vermont Department for Children and Families Emergency Housing Authorization and Billing Form – 12/20/2019
- Notes from Ms. Bradford – 12/20/2019
- Quality Inn Pet Policy Form for Ms. Bradford – 12/20/2019
- Email from Ms. Bradford to Quality Inn – 12/21/2019
- Complaint – 3/9/2020

- Response – 3/25/2020
- Email from Ms. Bradford to Vermont Human Rights Commission – 4/23/2020

**Interviews:**

- Sisyphus Bradford, Complainant – 2/18/2020
- Deanna Jones, Policy Advisor for VT Department for Children and Families – 3/11/2020
- Ross Gruber, Dog Trainer – 3/11/2020
- Alec Benoit, former Quality Inn Employee – 5/8/2020
- Julie LaCroix, Manager for Quality Inn – 5/14/2020
- Shellie Spaulding, Eligibility Supervisor for VT Department for Children and Families – 5/18/2020
- Eve Dolkart, Program Specialist for VT Department for Children and Families – 5/19/2020
- Travis Simpson, former Quality Inn Employee – 5/26/2020

**FACTUAL HISTORY**

Ms. Bradford was diagnosed with post-traumatic stress disorder (PTSD) in 2016.<sup>1</sup> She has nightmares and panic attacks, and she is mistrustful of people.<sup>2</sup> She has a difficult time interacting with people, which limits her ability to be in public.<sup>3</sup> She has migraines that can last for several weeks.<sup>4</sup> These issues led to her losing several jobs and eventually becoming homeless.<sup>5</sup>

At the time of this complaint, Ms. Bradford was receiving assistance from Vermont’s Department for Children and Families (DCF), which provides assistance to individuals to meet their emergency basic needs, such as temporary housing.<sup>6</sup> Quality Inn is one of the hotels that works with the state to temporarily house people during especially cold weather.<sup>7</sup> With support from DCF’s assistance program, Ms. Bradford stayed at the Quality Inn for several nights in November and December of 2019.<sup>8</sup>

At the time that the complaint was filed, Ms. Bradford lived in her vehicle with her service dog, Mack.<sup>9</sup> Ms. Bradford adopted Mack from the Humane Society on December 13, 2019, in order to train him for use as a service dog.<sup>10</sup> She has had two service dogs in the past, including one who passed away in 2018.<sup>11</sup> When Ms. Bradford adopted Mack, she had been looking for a dog

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<sup>1</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Vermont Department for Children and Families, <https://dcf.vermont.gov/benefits/EA-GA> (last visited 3/5/2020).

<sup>7</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>8</sup> Vermont Department for Children and Families Emergency Housing Authorization and Billing Form, 11/13/2019; Vermont Department for Children and Families Emergency Housing Authorization and Billing Form, 12/20/2019.

<sup>9</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>10</sup> Receipt from Humane Society of Chittenden County, 12/13/2019.

<sup>11</sup> Interview with Ms. Bradford, 2/18/2020.

for several months.<sup>12</sup> She chose Mack because he responded well to her, which she knew would help her to train him.<sup>13</sup>

Ms. Bradford trained Mack herself, but they also worked with a professional trainer, Ross Gruber.<sup>14</sup> Mr. Gruber started working with Ms. Bradford and Mack in February, 2020.<sup>15</sup> Ms. Bradford uses positive reinforcement to shape Mack's behavior by pairing the desired behavior with a stimulus.<sup>16</sup> Ms. Bradford stated that she trained Mack to be well-mannered in order to be able to have him in public.<sup>17</sup> Ms. Bradford also trained Mack to be a service animal to assist her with her disability.<sup>18</sup> Mack sleeps with her and will wake her up when she has nightmares.<sup>19</sup> Mack lays across her body, which helps Ms. Bradford focus on her breathing and become calm when she has panic attacks.<sup>20</sup> Ms. Bradford also trained Mack to alert her by barking when people are near her.<sup>21</sup> With Mack's help, Ms. Bradford has fewer panic attacks and is able to go out in public more often.<sup>22</sup> She can accomplish outings such as getting groceries.<sup>23</sup>

On December 20, 2019, a program specialist for DCF, Eve Dolkart, arranged for Ms. Bradford to stay at Quality Inn.<sup>24</sup> When Ms. Dolkart called Quality Inn to arrange Ms. Bradford's stay, she told Quality Inn staff that Ms. Bradford would have a service dog.<sup>25</sup> Ms. Dolkart did not remember which staff person she talked to.<sup>26</sup> DCF also sent Quality Inn a form to confirm the dates and pricing for Ms. Bradford's stay.<sup>27</sup> The form does not mention Ms. Bradford's service dog.<sup>28</sup>

Ms. Bradford arrived at Quality Inn on December 20<sup>th</sup> between 3:00pm and 4:00pm and went to the front desk to check in.<sup>29</sup> On the day Ms. Bradford checked in to the hotel, she carried her dog, Mack, with her because the dog did not feel well after being neutered earlier in the day.<sup>30</sup> The employee at the front desk, Alec Benoit, asked Ms. Bradford if she had any children or pets with her, which is a question the hotel employees ask each guest.<sup>31</sup> Ms. Bradford told Mr. Benoit that she had a service dog.<sup>32</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Interview with Mr. Gruber, 3/11/2020.

<sup>16</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Vermont Department for Children and Families Emergency Housing Authorization and Billing Form, 12/20/2019.

<sup>25</sup> Interview with Ms. Dolkart, 5/19/2020; Interview with Ms. Bradford, 2/18/2020.

<sup>26</sup> Interview with Ms. Dolkart, 5/19/2020.

<sup>27</sup> Vermont Department for Children and Families Emergency Housing Authorization and Billing Form, 12/20/2019; Interview with Ms. Dolkart, 5/19/2020.

<sup>28</sup> Vermont Department for Children and Families Emergency Housing Authorization and Billing Form, 12/20/2019; interview with Ms. LaCroix, 5/14/2020.

<sup>29</sup> Interview with Ms. Bradford, 2/18/2020; interview with Ms. LaCroix, 5/14/2020.

<sup>30</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>31</sup> Interview with Mr. Benoit, 5/8/2020.

<sup>32</sup> Interview with Ms. Bradford, 2/18/2020.

Ms. Bradford remembered another employee, Travis Simpson, also being at the front desk at the time she checked in.<sup>33</sup> In his interview, Mr. Simpson stated that Ms. Bradford's name was familiar but that he did not remember the details of any interaction with Ms. Bradford or her dog.<sup>34</sup>

Mr. Benoit remembered Ms. Bradford from her previous stay at Quality Inn and knew that she did not have the dog with her then.<sup>35</sup> Quality Inn's response stated, "Ms. Bradford to our knowledge in November was a healthy young woman...[p]lease note the account of Ms. Bradford's November stay where she did not need or have any diagnosed disabilities leading to a service animal."<sup>36</sup>

Quality Inn allows pets and service dogs to stay at the hotel.<sup>37</sup> The hotel charges guests with pets twenty dollars extra per night and also has them fill out an additional form.<sup>38</sup> Mr. Benoit did not believe that Ms. Bradford's dog was a service dog, and he knew she wouldn't be able to pay the pet fee because her stay was being paid for by the DCF.<sup>39</sup> Quality Inn's response states that Mr. Benoit and Mr. Simpson advised Ms. Bradford that her current reservation was not on the pet-friendly floor and that her reservation would have to be reassigned to a pet-friendly room.<sup>40</sup> According to Mr. Benoit, he told Ms. Bradford that the hotel did not have a room available for her to keep her pet.<sup>41</sup> He also mentioned concerns about allergies to Ms. Bradford.<sup>42</sup> In his interview, Mr. Benoit stated his belief that a person must have a note from their doctor in order to have a service dog.<sup>43</sup>

In his interview, Mr. Benoit stated that Quality Inn's manager, Julie Lacroix, had told him previously that pets are only allowed on the ground floor and that people whose stays were paid by DCF are only allowed on the second floor.<sup>44</sup> Mr. Benoit stated that the hotel keeps pets on only the ground floor because of pet dander and concerns about guests with allergies, and the hotel keeps DCF guests on only the second floor because the rooms on the second floor are not as nice as the other rooms that the hotel saves for paying guests.<sup>45</sup> In his interview, Mr. Simpson also stated that pets were assigned rooms on the first floor and guests from DCF were assigned rooms on the second floor.<sup>46</sup> Mr. Benoit stated, "[Ms. LaCroix] has made it strict on us that if a person with the state had a pet that they weren't allowed to have a pet because they weren't on a pet floor...I'm not saying I was in the right doing what I was doing, but I am saying that I was following the rules that I was given."<sup>47</sup>

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<sup>33</sup> *Id.*

<sup>34</sup> Interview with Mr. Simpson, 5/26/2020.

<sup>35</sup> Interview with Mr. Benoit, 5/8/2020.

<sup>36</sup> Response, 3/25/2020.

<sup>37</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>38</sup> *Id.*

<sup>39</sup> Interview with Mr. Benoit, 5/8/2020.

<sup>40</sup> Response, 3/25/2020.

<sup>41</sup> *Id.*

<sup>42</sup> Interview with Ms. Bradford, 2/18/2020; notes from Ms. Bradford, 12/20/2019.

<sup>43</sup> Interview with Mr. Benoit, 5/8/2020.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Interview with Mr. Simpson, 5/26/2020.

<sup>47</sup> Interview with Mr. Benoit, 5/8/2020.

When Mr. Benoit told Ms. Bradford that she would not be able to stay at the hotel with her dog, Ms. Bradford became angry and asked to speak to the manager.<sup>48</sup> Mr. Benoit got the manager, Ms. LaCroix.<sup>49</sup> Ms. LaCroix asked Ms. Bradford what tasks the dog performs.<sup>50</sup> According to Ms. Bradford, she answered Ms. LaCroix by describing two of the tasks that Mack performs, stating “panic attacks and nightmares.”<sup>51</sup> At the time of manager’s question, there were several other homeless people standing nearby and waiting to get to their rooms.<sup>52</sup> Ms. Bradford did not want to disclose any more information in front of so many people, and she told the manager that she would send her an email with more detail.<sup>53</sup> According to Ms. LaCroix, Ms. Bradford refused to answer the question but did tell Ms. LaCroix that she would send the hotel an email with the information.<sup>54</sup>

Ms. Bradford and Ms. LaCroix continued to argue.<sup>55</sup> Ms. Bradford stated that Ms. LaCroix was grumpy and upset at the time of their conversation and that Ms. LaCroix did not care about her answer.<sup>56</sup> Mr. Benoit did not remember all the details of the conversation between Ms. LaCroix and Ms. Bradford, but he stated that Ms. LaCroix was rude to Ms. Bradford and that Ms. LaCroix told Ms. Bradford that DCF clients were not allowed to have pets.<sup>57</sup>

At the end of their conversation, Ms. LaCroix allowed Ms. Bradford and her dog to check in for their stay at the hotel.<sup>58</sup> Quality Inn required Ms. Bradford to fill out a pet form.<sup>59</sup> Ms. Bradford filled out the form but wrote, “service dog not pet.”<sup>60</sup>

During the process to check in, Ms. Bradford began to take notes about what the hotel employees were saying to her.<sup>61</sup> The notes state, “‘Pets can’t stay. Because of allergen...”<sup>62</sup> Ms. Bradford thought that Ms. LaCroix allowed her to stay because Ms. LaCroix saw Ms. Bradford taking notes and knew Ms. Bradford was going to contact DCF if Ms. LaCroix denied Ms. Bradford a room.<sup>63</sup> Ms. LaCroix does not remember the details of her interaction with Ms. Bradford but does remember allowing her to stay.<sup>64</sup> According to Ms. LaCroix, she allowed Ms. Bradford to stay at the hotel with her dog because she had no other choice and she had other work to do.<sup>65</sup>

According to Ms. Bradford, during her conversation with Ms. LaCroix, Ms. LaCroix told Ms. Bradford that she and her dog could stay at the hotel this time but that Ms. LaCroix was putting

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<sup>48</sup> Interview with Mr. Benoit, 5/8/2020; interview with Ms. Bradford, 2/18/2020.

<sup>49</sup> *Id.*

<sup>50</sup> Interview with Ms. Bradford, 2/18/2020; interview with Ms. LaCroix, 5/14/2020.

<sup>51</sup> Email from Sisyphus Bradford to Vermont Human Rights Commission, 4/23/2020.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>55</sup> Interview with Ms. Bradford, 2/18/2020; interview with Mr. Benoit, 5/8/2020.

<sup>56</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>57</sup> Interview with Mr. Benoit, 5/8/2020.

<sup>58</sup> Interview with Ms. LaCroix, 5/14/2020; interview with Ms. Bradford, 2/18/2020.

<sup>59</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>60</sup> Quality Inn Pet Policy form for Ms. Bradford, 12/20/2019.

<sup>61</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>62</sup> Notes from Ms. Bradford, 12/20/2019.

<sup>63</sup> *Id.*

<sup>64</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>65</sup> *Id.*

her on the Do-Not-Rent list so they would not be allowed to stay at the hotel again.<sup>66</sup> Ms. LaCroix believes that she was likely the person who placed Ms. Bradford on the Do-Not-Rent list.<sup>67</sup> In her interview, Ms. LaCroix stated that Ms. Bradford was placed on the list because she was “agitating” the staff and “wasn’t being forthcoming... with what task does that pet perform.”<sup>68</sup> Ms. LaCroix also stated, “challenging us upon check-in wasn’t something we deserved or needed. We don’t welcome you back if you’re going to give us a hard time.”<sup>69</sup>

Mr. Benoit thought that Ms. Bradford was placed on the Do-Not-Rent list for a variety of reasons that did not include the issue with having a dog.<sup>70</sup> The hotel records from Ms. Bradford’s earlier stay, in November of 2019, state:

*11/21 GST HAVING BREAKFAST SHE IS BEING RUDE TO THEM, THEY HAD TO MOVE THERE THE TABLES TO WATCH NEWS, SHE WAS HARASSING THEM. 11/21 PUT GST ON DO NOT RENT LIST...*<sup>71</sup>

The hotel records from Ms. Bradford’s stay from December of 2019 do not mention the Do-Not-Rent list.<sup>72</sup> The records from this stay state:

*12/20 GST MAY NOT BRING PET!!!!*<sup>73</sup>

Mr. Simpson did not know why Ms. Bradford was put on the Do-Not-Rent list, but he thought that putting Ms. Bradford on the Do-Not-Rent list because of her dog sounded like something Ms. LaCroix would do, and he stated, “[t]here’s just like a whole list of names that should be allowed there that aren’t allowed there, just simply on her bias.”<sup>74</sup>

The morning after Ms. Bradford checked in, she emailed Ms. Lacroix. The email stated:

*...My dog is a service dog. I am a disabled person. He performs tasks in service to my disabilities. These are the specific tasks my service dog performs:*

*Alert Tasks*

- Alert to alarm*
- Alert to intruder*
- Alert to panic attack*
- Alert to take medication*
- Respond to anxious behaviors*
- Routine reminders*
- Wake handler*

*Interruption Tasks*

- Interrupt flashback*
- Interrupt nightmare*

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<sup>66</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>67</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Interview with Mr. Benoit, 5/8/2020.

<sup>71</sup> Quality Inn Guest Record for Ms. Bradford, 11/21/2019.

<sup>72</sup> Quality Inn Guest Record for Ms. Bradford, 12/20/2019.

<sup>73</sup> *Id.*

<sup>74</sup> Interview with Mr. Simpson, 5/26/2020.

*Interrupt panic/anxiety attack*  
*Provision Tasks*  
*Provide distraction*  
*Provide excuse to leave uncomfortable situation*  
*Provide pressure to body*

*He was recovering from surgery on Thursday and was on pain medication Friday, and thus he was not his usual self and that is the behavior you observed in the lobby.*

*Here is the relevant federal law regarding service dogs and disability rights: [https://www.ada.gov/service\\_animals\\_2010.htm](https://www.ada.gov/service_animals_2010.htm) Vermont law respects the federal law. Placing me on a no-stay list for having a service dog is inappropriate...<sup>75</sup>*

Although Ms. Bradford mentioned Mack’s behavior in her email, Ms. LaCroix stated during her interview that the dog was not misbehaving or barking.<sup>76</sup> Mr. Benoit thought that the problems with Ms. Bradford during her December stay were not specific to Ms. Bradford or her dog’s behavior but were because Ms. Bradford, as a nonpaying client, was not allowed to have a dog with her, according to the hotel’s rules.<sup>77</sup>

Mr. Benoit felt that he was not properly prepared by management to be able to deal with the different situations he faced while working at the front desk, including dealing with service animals.<sup>78</sup> Mr. Simpson stated that he “didn’t really receive training about service dogs.”<sup>79</sup> According to Ms. LaCroix, members of staff are trained about the questions they can ask from ADA.gov.<sup>80</sup> The training is not in-depth, but the trainer has a conversation with the person being trained.<sup>81</sup>

In late December of 2019 or early January of 2020, DCF found out that Quality Inn had placed Ms. Bradford on their Do-Not-Rent list.<sup>82</sup> DCF did not have any details about why Quality Inn had placed Ms. Bradford on the Do-Not-Rent list and does not generally look into the details of why their clients have been placed on a Do-Not-List.<sup>83</sup> DCF began placing Ms. Bradford at a different hotel.<sup>84</sup>

## **LEGAL ANALYSIS**

This investigation was tasked with determining whether Quality Inn violated Vermont’s Fair Housing and Public Accommodations Act (VFHPAA) by denying Ms. Bradford access to “services, facilities, privileges, advantages, benefits, and accommodations” of the Quality Inn hotel.<sup>85</sup>

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<sup>75</sup> Email from Ms. Bradford to Quality Inn, 12/21/2019.

<sup>76</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>77</sup> Interview with Mr. Benoit, 5/8/2020.

<sup>78</sup> *Id.*

<sup>79</sup> Interview with Mr. Simpson, 5/26/2020.

<sup>80</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>81</sup> *Id.*

<sup>82</sup> Interview with Ms. Spaulding, 5/18/2020; interview with Ms. Dolkart, 5/19/2020.

<sup>83</sup> *Id.*

<sup>84</sup> Interview with Ms. Dolkart, 5/19/2020.

<sup>85</sup> 9 V.S.A. §4502(c)(1).

## The Vermont Fair Housing and Public Accommodations Act

The Vermont Fair Housing and Public Accommodations Act (VFHPAA) provides as follows:

(c) No individual with a disability shall be excluded from participation in or be denied the benefit of the services, facilities, goods, privileges, advantages, benefits, or accommodations, or be subjected to discrimination by any place of public accommodation on the basis of his or her disability as follows:

(5) A public accommodation shall make reasonable modifications in policies, practices, or procedures when those modifications are necessary to offer goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.<sup>86</sup>

The VFHPAA is intended to be construed so as to be consistent with the Americans with Disabilities Act (ADA).<sup>87</sup> Thus, in addition to looking at Vermont law, the investigation looks at information such as cases and guidance related to the ADA.

Under the ADA, service animals are defined as:

Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability...The work or tasks performed by a service animal must be directly related to the individual's disability.<sup>88</sup>

The ADA specifies that, because service dogs are not “pets” under the law, places of public accommodations cannot charge a “pet” fee or any other surcharge.<sup>89</sup>

The Department of Justice (DOJ) provides information about how to interpret the ADA. According to the DOJ, service dogs are not required to be professionally trained; they can be trained by their owners.<sup>90</sup> In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform?<sup>91</sup> Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.<sup>92</sup>

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<sup>86</sup> 9 V.S.A. § 4502.

<sup>87</sup> 9 V.S.A. § 4500.

<sup>88</sup> 28 C.F.R. §36.104.

<sup>89</sup> 28 C.F.R. §35.136(h): A public entity shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

<sup>90</sup> Department of Justice, Civil Rights Division, *Frequently Asked Questions about Service Animals and the ADA*, available at [https://www.ada.gov/regs2010/service\\_animal\\_qa.pdf](https://www.ada.gov/regs2010/service_animal_qa.pdf) (last visited 2/6/2020).

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

The DOJ also explains the difference between service dogs and emotional support animals. Emotional support animals provide comfort just by being with a person.<sup>93</sup> Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA.<sup>94</sup>

The DOJ also explains when a service animal may be excluded from a public accommodation. If a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.<sup>95</sup> Also, if admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited.<sup>96</sup> However, in most settings, the presence of a service animal will not result in a fundamental alteration.<sup>97</sup>

### The Elements of the Prima Facie Case

#### **1. Ms. Bradford is a person with a disability;**

Ms. Bradford was diagnosed with post-traumatic stress disorder (PTSD) in 2016.<sup>98</sup> She has nightmares, panic attacks and migraines.<sup>99</sup> The major life activities that are impacted by her disability include the ability to work and interact with other people.

Finding: Ms. Bradford is a person with a disability.

#### **2. The Quality Inn hotel is a place of public accommodation;**

The VFHPAA defines a public accommodation as “any school, restaurant, store, establishment or other facility at which services, facilities, goods, privileges, advantages, benefits or accommodations are offered to the general public.”<sup>100</sup> Hotels such as Quality Inn are establishments at which lodging is offered to the general public.<sup>101</sup>

Finding: Quality Inn is a place of public accommodation.

#### **3. Ms. Bradford made a request for a reasonable modification to Quality Inn’s policies, practices or procedures;**

Ms. Bradford asked to be able to stay at the hotel with her service dog. In doing so, she was asking the hotel to modify its policy to charge guests a fee to have an animal with them. The ADA specifies that, because service dogs are not “pets” under the law, places of public accommodation cannot charge a “pet” fee or any other surcharge.<sup>102</sup>

Finding: Ms. Bradford made the requisite reasonable modification request.

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<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>99</sup> *Id.*

<sup>100</sup> 9 V.S.A. § 4501.

<sup>101</sup> *Morales v. New York*, 22 F.Supp.3d 256, 266 (S.D.N.Y.2014).

<sup>102</sup> 28 C.F.R. §35.136(h).

#### **4. Quality Inn failed to make reasonable modifications that would accommodate Ms. Bradford's disability.<sup>103</sup>**

Quality Inn modified its practice of charging a pet fee by allowing Ms. Bradford to stay at the hotel with her dog in December without paying the pet fee.<sup>104</sup> However, the hotel's manager, Ms. LaCroix, also placed Ms. Bradford on the Do-Not-Rent list and told her she would not be allowed to stay at the hotel in the future.<sup>105</sup> If Ms. LaCroix decided to not allow Ms. Bradford to stay at the hotel in the future because of her service dog, she was essentially refusing to make the same modification again, or provide any service, in the future.

Ms. Bradford was first placed on the Do-Not-Rent list in November, when she stayed at the hotel before she had her service dog.<sup>106</sup> It appears that Ms. Bradford's placement on the Do-Not-Rent list was related to Ms. Bradford's own behavior. Guest records support that Ms. Bradford was placed on the Do-Not-Rent list during her November stay because of her own behavior of disturbing other hotel guests.<sup>107</sup> However, the hotel accepted a reservation for Ms. Bradford and allowed her to stay at the hotel in December, after the incident in November. In effect, although Quality Inn placed Ms. Bradford on their Do-Not-Rent list, Quality Inn did not refuse to rent to Ms. Bradford because of her November stay. Quality Inn refused to rent to Ms. Bradford after her December stay.<sup>108</sup> This investigation focuses on the reasoning for the refusal to rent to Ms. Bradford, which began after Ms. Bradford's December stay.

According to Ms. LaCroix, Ms. Bradford's behavior during the interaction preceding Ms. Bradford's December stay was the reason Ms. LaCroix placed her on the Do-Not-Rent list.<sup>109</sup> Ms. LaCroix stated in her interview that Ms. Bradford was "agitating" the staff and that "we don't welcome you back if you're going to give us a hard time."<sup>110</sup> Ms. Bradford became angry when Mr. Benoit told her that she would not be allowed to stay at the hotel with her service dog, and Ms. Bradford and Ms. LaCroix argued about Ms. Bradford's dog and whether they would be allowed to stay.<sup>111</sup> Under some circumstances, a guest's argumentative behavior may explain why a hotel placed someone on the Do-Not-Rent list. In this case, additional information suggests that this reasoning is incomplete.

First, the actions by Mr. Benoit and Ms. LaCroix appear to have caused the disagreement between Ms. Bradford and the hotel. Ms. Bradford did not act inappropriately by requesting to stay at the hotel with her service dog. Mr. Benoit acted inappropriately when he initially refused to allow Ms. Bradford to stay at the hotel with her service dog. Although Mr. Benoit may have received cursory training about service dogs, Mr. Benoit clearly did not have the level of knowledge needed to appropriately provide service to guests with service dogs. Ms. Bradford's request to speak to a manager, even if communicated in an angry manner, appears to be a reasonable response to the service she was receiving. Ms. LaCroix also acted inappropriately by

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<sup>103</sup> *Bhatt v. Univ. of Vermont*, 184 Vt. 195, 200 (Vt. 2008).

<sup>104</sup> Interview with Ms. Bradford, 2/18/2020; interview with Ms. LaCroix, 5/14/2020.

<sup>105</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>106</sup> Quality Inn Guest Record for Ms. Bradford, 11/21/2019.

<sup>107</sup> *Id.*

<sup>108</sup> Interview with Ms. Spaulding, 5/18/2020; interview with Ms. Dolkart, 5/19/2020.

<sup>109</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>110</sup> *Id.*

<sup>111</sup> Interview with Mr. Benoit, 5/8/2020; interview with Ms. LaCroix, 5/14/2020.

telling Ms. Bradford that DCF clients were not allowed to have pets and instructing staff that guests from DCF were not allowed to have service dogs.

Second, evidence supports that Ms. LaCroix's reasoning for enforcing the Do-Not-Rent list specifically to Ms. Bradford was because of Ms. Bradford's service dog. Ms. LaCroix's own words connect her action of placing Ms. Bradford on the Do-Not-Rent list to Ms. Bradford's dog. In her interview, Ms. LaCroix also stated that she placed Ms. Bradford on the list because Ms. Bradford "wasn't being forthcoming... with what task does that pet perform."<sup>112</sup> In situations where it is not obvious that a dog is a service animal, staff may ask two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform?<sup>113</sup> Ms. LaCroix asked Ms. Bradford what task the dog has been trained to perform and was dissatisfied with Ms. Bradford's answer.<sup>114</sup> If Ms. Bradford did not answer the question, it is possible that Ms. LaCroix could have refused to modify the hotel's pet fee policy for her. This investigation believes it is likely that Ms. Bradford answered Ms. LaCroix's question during their conversation. However, even if Ms. Bradford did not answer the question during the interaction at the front desk, Ms. Bradford later emailed the answer to the hotel.<sup>115</sup> Ultimately, Ms. LaCroix accepted that Ms. Bradford's dog was a service dog but made a decision to not rent to Ms. Bradford in the future regardless of Ms. Bradford's response.

In addition to Ms. LaCroix's testimony, Ms. Bradford's email to the hotel supports the theory that Ms. LaCroix placed Ms. Bradford on the Do-Not-Rent list because of her service dog. Ms. Bradford's email stated, "[p]lacing me on a no-stay list for having a service dog is inappropriate."<sup>116</sup> The email clearly shows that Ms. Bradford knew she was being placed on the Do-Not-Rent list and that she believed the reason was that she had a service dog.

The hotel's argument that, as of November, Ms. Bradford "was a healthy young woman... she did not need or have any diagnosed disabilities leading to a service animal" is concerning. It appears that hotel staff have an expectation to receive personal information about their guests, such as the nature of their disabilities. However, staff are not allowed to inquire about the nature of a person's disability.<sup>117</sup> Ms. Bradford was diagnosed with PTSD in 2016, well before her stays in 2019, a fact that Ms. Bradford was not required to disclose to the hotel.

Ms. Bradford's request to modify the hotel's policy of charging a pet fee was only reasonable if Ms. Bradford's dog is a service dog. Although Ms. LaCroix and Mr. Benoit referred to Ms. Bradford's dog as a pet, Ms. Bradford's dog qualifies as a service dog. A service dog is defined as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.<sup>118</sup> The work or tasks performed by a service animal must be directly related to the individual's disability.<sup>119</sup> Ms. Bradford trained Mack to sleep with her and wake her up when she

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<sup>112</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> Email from Ms. Bradford to Quality Inn, 12/21/2019.

<sup>116</sup> *Id.*

<sup>117</sup> Department of Justice, Civil Rights Division, *Frequently Asked Questions about Service Animals and the ADA*, available at [https://www.ada.gov/regs2010/service\\_animal\\_qa.pdf](https://www.ada.gov/regs2010/service_animal_qa.pdf) (last visited 2/6/2020).

<sup>118</sup> 28 C.F.R. §36.104.

<sup>119</sup> *Id.*

has nightmares.<sup>120</sup> Ms. Bradford also trained Mack to lay across her body, which helps her to focus on her breathing and become calm when she has panic attacks.<sup>121</sup> Mack is a dog that is individually trained to perform tasks for the benefit of Ms. Bradford, and the tasks are directly related to her disability. This investigator observed Ms. Bradford and Mack together and found Ms. Bradford's testimony regarding Mack's training to be credible. Because Mack meets the criteria required by the ADA to be a service dog, Mack is considered a service dog.

## **Defenses**

The DOJ explains the limited circumstances in which a public accommodation may lawfully exclude a service animal.<sup>122</sup> For example, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.<sup>123</sup> In this case, Quality Inn has not argued that Ms. Bradford's dog was out of control or not housebroken. Although Ms. Bradford mentioned Mack's behavior in her email to Quality Inn, Ms. LaCroix stated during her interview that the dog was not misbehaving or barking.<sup>124</sup>

Another potential defense for Quality Inn is if admitting service animals would fundamentally alter the nature of their service.<sup>125</sup> Here, the services provided by the hotel would not be altered by allowing Ms. Bradford's service animal to stay with her in the hotel because they already allowed animals to stay with at least some guests. According to the DOJ, in most settings, the presence of a service animal will not result in a fundamental alteration.<sup>126</sup>

**Finding:** By barring Ms. Bradford from future stays, Quality Inn failed to make reasonable modifications that would accommodate Ms. Bradford's disability.

## **Conclusion for Discrimination Based on Disability**

There is sufficient evidence to support Ms. Bradford's claim that Quality Inn unlawfully discriminated against her by refusing to allow her to have her service dog with her at the hotel. Therefore, this investigation makes a preliminary recommendation to the Human Rights Commission to find there are **reasonable grounds** to believe that Quality Inn discriminated against Ms. Bradford based on her disability in violation of the VFHPAA.

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<sup>120</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>121</sup> *Id.*

<sup>122</sup> Department of Justice, Civil Rights Division, *Frequently Asked Questions about Service Animals and the ADA*, available at [https://www.ada.gov/regs2010/service\\_animal\\_qa.pdf](https://www.ada.gov/regs2010/service_animal_qa.pdf) (last visited 2/6/2020).

<sup>123</sup> *Id.*

<sup>124</sup> Interview with Ms. LaCroix, 5/14/2020.

<sup>125</sup> Department of Justice, Civil Rights Division, *Frequently Asked Questions about Service Animals and the ADA*, available at [https://www.ada.gov/regs2010/service\\_animal\\_qa.pdf](https://www.ada.gov/regs2010/service_animal_qa.pdf) (last visited 2/6/2020).

<sup>126</sup> *Id.*

Cassie Burdyslaw

Cassandra Burdyslaw, Investigator

7/30/2020

Date

Approved By:

Bor Yang

Bor Yang, Executive Director

8/3/2020

Date