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**VT Human Rights Commission**  
14-16 Baldwin Street  
Montpelier, VT 05633-6301  
<http://hrc.vermont.gov>

[phone] 802-828-2480  
[fax] 802-828-2481  
[tdd] 877-294-9200  
[toll free] 1-800-416-2010

## **INVESTIGATIVE REPORT**

HRC Case No.: PA20-0011

**COMPLAINANT:** Sisyphus Bradford

**RESPONDENT:** Travelodge

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

### **SUMMARY OF COMPLAINT**

Ms. Bradford alleges that Travelodge refused to allow her to stay at the hotel with her service dog by insisting that Ms. Bradford's dog was not a service animal and telling Ms. Bradford that she would have to pay a pet charge in order to stay at the hotel.

### **SUMMARY OF RESPONSE**

Travelodge responded that Ms. Bradford became upset when the desk clerk informed her that she would not be allowed to check in before noon because her room was not ready, and the standard time to check in is 3:00 pm. Travelodge stated that its employees are trained to ask only two standard questions about a service animal and they have never denied service to anyone with a service animal.

### **PRELIMINARY RECOMMENDATIONS**

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

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

- Facebook post from Sisyphus Bradford – 8/8/2019
- Record of Travelodge Stay for Sisyphus Bradford – 11/12/2019-11/13/2019
- Record of Travelodge Stay for Sisyphus Bradford – 11/21/2019-11/22/2019
- Record of Travelodge Stay for Sisyphus Bradford – 11/22/2019-12/2/2019
- Record of Travelodge Stay for Sisyphus Bradford – 12/2/2019-12/6/2019
- Email from Sisyphus Bradford to Travelodge – 12/4/2019

- Receipt from Humane Society of Chittenden County – 12/13/2019
- Email from Sisyphus Bradford to Department for Children and Families, Legal Services Vermont and Travelodge – 12/30/2019
- Emails from Sisyphus Bradford to Travelodge and Office of Attorney General, Disability Rights Vermont and the City Council – 12/30/2019
- Email from Ms. Garen, Travelodge General Manager, to Office of Attorney General, Disability Rights Vermont and the City Council – 12/30/2019
- Complaint – 1/24/2020
- Response – 2/10/2020

**Interviews:**

- Sisyphus Bradford, Complainant – 2/18/2020
- Joy DeSarno, Desk Clerk for Travelodge – 2/18/2020
- Tracy Garen, General Manager for Travelodge – 2/18/2020
- Ross Gruber, Dog Trainer – 3/11/2020
- Deanna Jones, Policy Advisor for Vermont’s Department for Children and Families – 3/11/2020

**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> Travelodge 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 Travelodge for several nights in November and December of 2019.<sup>8</sup>

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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. Garen, 2/18/2020.

<sup>8</sup> Record of Travelodge Stay for Sisyphus Bradford – 11/12/2019-11/13/2019; record of Travelodge Stay for Sisyphus Bradford, 11/21/2019-11/22/2019; record of Travelodge Stay for Sisyphus Bradford, 11/22/2019-12/2/2019; record of Travelodge Stay for Sisyphus Bradford, 12/2/2019-12/6/2019.

At the time that the complaint was filed (and currently), 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<sup>th</sup> of 2019 in order to use him 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 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 work with a professional trainer, Ross Gruber.<sup>14</sup> Mr. Gruber started working with Ms. Bradford and Mack in February of 2020.<sup>15</sup> Ms. Bradford uses positive reinforcement to shape Mack's behavior by pairing the desired behavior with some sort of 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 30, 2019, DCF arranged for Ms. Bradford to stay at Travelodge.<sup>24</sup> During her previous stays, Ms. Bradford did not have Mack.<sup>25</sup> DCF called Travelodge to arrange Ms. Bradford's stay and told Travelodge staff that Ms. Bradford would have a service dog.<sup>26</sup>

Ms. Bradford drove to Travelodge and attempted to check into the hotel around 12:30pm.<sup>27</sup> The regular check-in time at Travelodge is 3:00pm.<sup>28</sup> The front desk clerk, Joy DeSarno, was familiar with Ms. Bradford from her previous stays and, in the past, had allowed Ms. Bradford to check in early when a room became ready.<sup>29</sup> On December 30, 2019, Ms. DeSarno told Ms. Bradford that she wouldn't be able to access her room until closer to the regular check-in time because the

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<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.

<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> Interview with Ms. DeSarno, 2/18/2020; interview with Ms. Bradford, 2/18/2020.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Interview with Ms. DeSarno, 2/18/2020.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

previous night had been busy and the housekeepers were still working to clean the rooms.<sup>30</sup> Ms. Bradford, who was suffering from a migraine, became upset that she was unable to check in early.<sup>31</sup> Ms. DeSarno offered to call her when a room was ready.<sup>32</sup>

Ms. DeSarno stated that she had worked at Travelodge for over a year.<sup>33</sup> She was trained by Travelodge's general manager, Tracy Garen.<sup>34</sup> Training at the Travelodge includes reviewing information about service animals and emotional support animals.<sup>35</sup> The hotel keeps a printout from the US Department of Justice of frequently asked questions about service animals.<sup>36</sup> The printout hangs in the back office, which is next to the front desk.<sup>37</sup> Travelodge allows both service animals and pets to stay at the hotel; however, guests must pay a \$25 fee for each pet.<sup>38</sup>

Ms. Bradford left Mack in her vehicle while she talked to the desk clerk.<sup>39</sup> There was salt out on the sidewalks at the hotel, which Ms. Bradford did not consider a pet friendly practice due to the fact that the salt was not blue (pet friendly).<sup>40</sup> Ms. Bradford stated that she would have brought Mack with her if she had not been concerned about the salt.<sup>41</sup> The only place that Ms. Bradford does not usually take Mack is the post office because she is familiar with the workers there, it is organized, and the trip generally does not require interactions with others.<sup>42</sup>

Ms. DeSarno also asked Ms. Bradford if she had a service dog because DCF had mentioned the dog but Ms. DeSarno did not see a dog with Ms. Bradford.<sup>43</sup> Ms. Bradford confirmed that that she did have a service dog.<sup>44</sup> Ms. DeSarno then asked, "Where's the dog?"<sup>45</sup> Ms. Bradford told Ms. DeSarno that the dog was in her vehicle.<sup>46</sup> Ms. DeSarno then asked what specific task the dog was trained to do.<sup>47</sup>

In her interview, Ms. DeSarno stated that Ms. Bradford told her she has no right to ask her questions and she became more upset.<sup>48</sup> Ms. DeSarno stated that she was not questioning the validity of Bradford's disability but only asking about what task the dog was trained to do.<sup>49</sup> Ms.

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

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

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

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

<sup>39</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>40</sup> *Id.*

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

<sup>42</sup> *Id.*

<sup>43</sup> Interview with Ms. DeSarno, 2/18/2020.

<sup>44</sup> Interview with Ms. DeSarno, 2/18/2020; interview with Ms. Bradford, 2/18/2020.

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

<sup>46</sup> *Id.*

<sup>47</sup> Interview with Ms. DeSarno, 2/18/2020.

<sup>48</sup> *Id.*

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

DeSarno told Ms. Bradford that she was allowed to ask two questions, one about whether the dog is a service animal and the other about what task the dog is trained to perform.<sup>50</sup>

Ms. DeSarno stated, “Basically [Ms. Bradford] could not give me the answer to that question, the second question.”<sup>51</sup> According to Ms. DeSarno, Ms. Bradford told her that the dog is an “emotional support” for panic attacks related to Ms. Bradford’s PTSD.<sup>52</sup> Because Ms. Bradford used the words “emotional support” Ms. DeSarno decided that Ms. Bradford’s dog was an emotional support animal and not a service animal.<sup>53</sup> In her interview, Ms. DeSarno stated, “If you have a service dog, you’re used to answering these questions.”<sup>54</sup> Ms. Bradford stated that she told Ms. DeSarno that Mack helped her “with nightmares, with anxiety and with panic attacks.”<sup>55</sup> Ms. Bradford also stated that she didn’t recall the specifics of her conversation with Ms. DeSarno but that Ms. DeSarno “reclassified” her dog as a support animal.<sup>56</sup>

Ms. DeSarno told Ms. Bradford that she would need to pay the hotel’s pet fee in order to be allowed to stay there with her dog.<sup>57</sup> Ms. Bradford told Ms. DeSarno that she was going to email the hotel’s manager about her service dog and documentation for the dog.<sup>58</sup> Ms. Bradford went out to her car for about an hour and then came back to the front desk.<sup>59</sup> She told Ms. DeSarno that she emailed the manager, but Ms. DeSarno didn’t read the email until the next morning, after she received permission to read the email from the general manager.<sup>60</sup> Ms. DeSarno had access to the email on the day Ms. Bradford tried to stay at the hotel, but she stated that she did not view the email because Ms. Bradford had indicated that the email was for the manager.<sup>61</sup>

Ms. DeSarno again told Ms. Bradford that she would need to pay the pet fee in order to be allowed to stay at the hotel with her dog.<sup>62</sup> Ms. DeSarno felt that Ms. Bradford was personally attacking her because Ms. Bradford asked her if she was a doctor and what her medical credentials were.<sup>63</sup> Ms. DeSarno also felt that Ms. Bradford was bullying her by raising her voice and telling Ms. DeSarno that she doesn’t know anything about the law.<sup>64</sup> Ms. Bradford left the Travelodge and DCF arranged for her to stay at another hotel.<sup>65</sup>

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

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

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

<sup>54</sup> *Id.*

<sup>55</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>56</sup> *Id.*

<sup>57</sup> Interview with Ms. DeSarno, 2/18/2020.

<sup>58</sup> Interview with Ms. Bradford, 2/18/2020.

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

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

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

<sup>64</sup> *Id.*

<sup>65</sup> Interview with Ms. Bradford, 2/18/2020.

Tracy Garen has been the General Manager for Travelodge for five years.<sup>66</sup> She was not present at the hotel during the interactions between Ms. DeSarno and Ms. Bradford on December 30<sup>th</sup>.<sup>67</sup> On the same day, Ms. Garen received the email from Ms. Bradford, which included information about PTSD service dog tasks.<sup>68</sup> The email was addressed to Ms. Garen but also included DCF and Legal Services Vermont. The email included the following wording:

*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*  
*Interrupt panic/anxiety attack*

*Provision Tasks*

*Provide distraction*  
*Provide excuse to leave uncomfortable situation*  
*Provide pressure to body*<sup>69</sup>

In their interviews, Ms. Garen and Ms. DeSarno stated that they thought the tasks included in the email were clearly copied and pasted from the internet and were not specific to Ms. Bradford's dog.<sup>70</sup> Ms. Garen and Ms. DeSarno also referenced a post by Ms. Bradford that they had seen online for an "emotional support puppy fundraiser for Sissy Bradford," which they believed further supports Ms. DeSarno's decision to consider Ms. Bradford's dog as an emotional support dog and not a service dog.<sup>71</sup>

On the same day that Ms. Bradford attempted to stay at the Travelodge, she also emailed the Office of Attorney General, Disability Rights Vermont and the City Council.<sup>72</sup> Ms. Garen responded by email to all the people Ms. Bradford had included in her email.<sup>73</sup> Ms. Garen's email includes the following wording:

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

<sup>67</sup> *Id.*

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

<sup>69</sup> Email from Ms. Bradford to DCF, Legal Services Vermont and Travelodge, 12/30/2019.

<sup>70</sup> Interview with Ms. Garen, 2/18/2020; interview with Ms. DeSarno, 2/18/2020.

<sup>71</sup> *Id.*

<sup>72</sup> Email from Ms. Garen to Office of Attorney General, Disability Rights Vermont and the City Council, 12/30/2019.

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

Ms. Bradford did not bring the dog with her to check in, and the desk clerk simply told her that if it was a Service animal, then why wouldn't it be with her? Ms. Bradford immediately got defensive and implied that the desk clerk was refusing her the room, which was not the case. The desk clerk just told her that we would need to see the animal, and that if it was a service animal, then it is a working animal that should be with her and under her control at all times.<sup>74</sup>

On the same day, Ms. Bradford responded to the recipients of the earlier emails, writing, "I did not say that my dog was for stress and emotional support...I stated two tasks that [Mack] performs for me in service to my disability."<sup>75</sup>

Ms. Bradford believed she had been placed on a Do-Not-Rent list because every time she received temporary shelter assistance after that date, DCF stated that she wasn't allowed to stay at the Travelodge.<sup>76</sup> Travelodge has a Do-Not-Rent list, and front desk clerks are able to place individuals on the list, but no one at Travelodge placed Ms. Bradford on the list.<sup>77</sup> Deanna Jones, a policy advisor for DCF, called Ms. Garen on the day of the incident to educate the hotel about the laws allowing service animals.<sup>78</sup> During their discussion, Ms. Garen told Ms. Jones that the hotel would allow Ms. Bradford to stay with her service dog in the future.<sup>79</sup> Ms. Garen confirmed in her interview that Ms. Bradford would be allowed to stay at the hotel without paying the pet fee because she now accepts that Ms. Bradford's dog is a service animal.<sup>80</sup> In contrast, Ms. DeSarno stated that Ms. Bradford would be allowed to stay at the hotel as long as she paid the pet fee.<sup>81</sup>

## **LEGAL ANALYSIS**

This investigation was tasked with determining whether Travelodge 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 Travelodge hotel.<sup>82</sup>

### **The Vermont Fair Housing and Public Accommodations Act**

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

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<sup>74</sup> *Id.*

<sup>75</sup> Email from Ms. Bradford to Office of Attorney General, Disability Rights Vermont and the City Council, 12/30/2019.

<sup>76</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>77</sup> Interview with Ms. Garen, 2/18/2020; interview with Ms. DeSarno, 2/18/2020.

<sup>78</sup> Interview with Ms. Jones, 3/11/2020.

<sup>79</sup> *Id.*

<sup>80</sup> Interview with Ms. Garen, 2/18/2020.

<sup>81</sup> Interview with Ms. DeSarno, 2/18/2020.

<sup>82</sup> 9 V.S.A. §4502(c)(1).

(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>83</sup>

The VFHPAA is intended to be construed so as to be consistent with the Americans with Disabilities Act (ADA).<sup>84</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>85</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>86</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>87</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>88</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>89</sup>

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<sup>83</sup> 9 V.S.A. § 4502.

<sup>84</sup> 9 V.S.A. § 4500.

<sup>85</sup> 28 C.F.R. §36.104.

<sup>86</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>87</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>88</sup> *Id.*

<sup>89</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>90</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>91</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>92</sup> Also, if admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited.<sup>93</sup> However, in most settings, the presence of a service animal will not result in a fundamental alteration.<sup>94</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>95</sup> She has nightmares, panic attacks and migraines.<sup>96</sup> The major life activities that are impacted by her disability include the ability to work and interact with other people. Travelodge has not contested that Ms. Bradford is a person with a disability.

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

#### **2. The Travelodge 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>97</sup> Hotels such as Travelodge are establishments at which lodging is offered to the general public.<sup>98</sup>

Finding: Travelodge is a place of public accommodation.

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

Ms. Bradford asked to be able to stay at the hotel without paying a pet fee. 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>99</sup>

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<sup>90</sup> *Id.*

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

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

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

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

<sup>95</sup> Interview with Ms. Bradford, 2/18/2020.

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

<sup>97</sup> 9 V.S.A. § 4501.

<sup>98</sup> *Morales v. New York*, 22 F.Supp.3d 256, 266 (S.D.N.Y.2014).

<sup>99</sup> 28 C.F.R. §35.136(h).

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

**4. Travelodge failed to make reasonable modifications that would accommodate Ms. Bradford's disability without fundamentally altering the nature of the public accommodation.**<sup>100</sup>

Ms. DeSarno, the front desk clerk for Travelodge, told Ms. Bradford that she could stay at the hotel if she paid the pet fee, despite being informed by both DCF and Ms. Bradford that her dog was a service dog and not a pet.<sup>101</sup>

Ms. DeSarno's basis for denying Ms. Bradford was not because granting the request would have fundamentally altered the goods, services and privileges Travelodge. She simply did not believe that Ms. Bradford's dog was a service animal.<sup>102</sup> Ms. DeSarno had interacted with Ms. Bradford during some of her previous stays at the Travelodge, and she remembered that Ms. Bradford did not have a service dog during those stays.<sup>103</sup> Additionally, when Ms. Bradford entered the hotel, she did not have her dog with her.<sup>104</sup> Ms. DeSarno thought that, if the dog was a service dog, he should be with Ms. Bradford.<sup>105</sup> Finally, Ms. DeSarno was dissatisfied with the answer Ms. Bradford gave when Ms. DeSarno asked her what specific task the dog is trained to do.<sup>106</sup> Ms. DeSarno stated that Ms. Bradford should be used to answering this question.<sup>107</sup> If Ms. DeSarno is correct that Ms. Bradford's dog is not a service animal, then Ms. Bradford's request for the hotel to modify its policies may not have been reasonable.

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>108</sup> The work or tasks performed by a service animal must be directly related to the individual's disability.<sup>109</sup> Ms. Bradford trained Mack to sleep with her and wake her up when she has nightmares.<sup>110</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>111</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.

In situations where it is not obvious that the 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

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<sup>100</sup> Bhatt v. Univ. of Vermont, 184 Vt. 195, 200 (Vt. 2008).

<sup>101</sup> Interview with Ms. DeSarno, 2/18/2020; interview with Ms. Bradford, 2/18/2020.

<sup>102</sup> Interview with Ms. DeSarno, 2/18/2020.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

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

<sup>108</sup> 28 C.F.R. §36.104.

<sup>109</sup> *Id.*

<sup>110</sup> Interview with Ms. Bradford, 2/18/2020.

<sup>111</sup> *Id.*

task has the dog been trained to perform?<sup>112</sup> This investigation does not make a conclusion about what Ms. Bradford answered when Ms. DeSarno asked her what tasks her dog performs. However, Ms. DeSarno's opinion that Mack was not a service animal appears to have been formed before she asked Ms. Bradford that question. Ms. DeSarno's opinion appears to have been based on Mack's absence from Ms. Bradford's presence. Before Ms. DeSarno asked Ms. Bradford what task the dog has been trained to perform, she asked Ms. Bradford, "where's the dog?"<sup>113</sup> This question is not one of the two questions that staff are allowed to ask. It appears that Ms. DeSarno was inappropriately questioning the validity of Ms. Bradford's service dog. Additionally, a person with a disability is not required to have their service dog with them at all times.<sup>114</sup>

Even if Ms. Bradford did not adequately answer Ms. DeSarno's question when the two of them spoke, Ms. Bradford emailed Travelodge with the tasks that her service dog performs. Ms. Bradford informed Ms. DeSarno that she would send information about her service dog to the hotel, and Ms. DeSarno acknowledged that she knew Ms. Bradford had emailed the hotel.<sup>115</sup> Ms. DeSarno did not attempt to consider the information that Ms. Bradford emailed to the hotel before deciding that Ms. Bradford was required to pay a pet fee.

This investigation also considers whether Ms. Bradford's request would have fundamentally altered the service that the hotel provides. In most settings, the presence of a service animal will not result in a fundamental alteration.<sup>116</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 pets to stay with their guests, and, as mentioned earlier, this was not the basis for Ms. DeSarno's objection to the animal.

Finding: Travelodge failed to make reasonable modifications that would accommodate Ms. Bradford's disability without fundamentally altering the nature of the public accommodation.

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

There is sufficient evidence to support Ms. Bradford's claim that Travelodge unlawfully discriminated against her by refusing to allow her to have a service dog with her at the hotel without paying a pet fee and by questioning Ms. Bradford about her service dog beyond the two questions allowed by law. Therefore, this investigation makes a preliminary recommendation to the Human Rights Commission to find there are reasonable grounds to believe that Travelodge discriminated against Ms. Bradford based on her disability in violation of the VFHPAA.

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<sup>112</sup> *Id.*

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

<sup>114</sup> *Johnson v. Oregon Bureau of Labor and Industries*, 290 Or. App. 335, 342-243 (2018).

<sup>115</sup> Interview with Ms. DeSarno, 2/18/2020.

<sup>116</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).

Cassie Burdyslaw

3/24/2020

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Cassandra Burdyslaw, Investigator

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Date

Approved By:



3/25/2020

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Bor Yang, Executive Director

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Date

STATE OF VERMONT  
HUMAN RIGHTS COMMISSION

Sisyphus Bradford, )  
Complainant )  
 )  
 )  
v. ) HRC Complaint No. PA20-0011  
 )  
 )  
Travelodge, )  
Respondent )

FINAL DETERMINATION

Pursuant to 9 V.S.A. 4554, the Vermont Human Rights Commission enters the following Order:

The following vote was taken on a motion to find that there are **reasonable grounds** to believe that Travelodge, the Respondents, illegally discriminated against Sisyphus Bradford, the Complainant, in violation of Vermont's Fair Housing and Public Accommodations Act

Kevin Christie, Chair	For <u>X</u>	Against ___	Absent___	Recused ___
Nathan Besio	For <u>X</u>	Against ___	Absent ___	Recused ___
Donald Vickers	For <u>X</u>	Against ___	Absent ___	Recused ___
Dawn Ellis	For <u>X</u>	Against ___	Absent ___	Recused ___
Joan Nagy	For <u>X</u>	Against ___	Absent ___	Recused ___

Entry:        X Reasonable Grounds                        \_\_\_ Motion failed

Dated at Brookfield, Vermont, this 23rd day of April, 2020.

BY: VERMONT HUMAN RIGHTS COMMISSION

/s/ Kevin Christie  
Kevin Christie, Chair

/s/ Nate Besio  
Nathan Besio

/s/ Donald Vickers  
Donald Vickers

/s/ Dawn Ellis  
Dawn Ellis

/s/ Joan Nagy  
Joan Nagy