

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

In the Matter of

COMMISSION ON HUMAN RIGHTS
ex rel. WADI TABRI,

Petitioner,

—against—

Complaint Nos. M-H-D-20-84484, M-H-D-
23-114814

OATH Index Nos. 2386/22, 1732/23

DIFIORE REALTY, LLC, GANDOLFO
DIFIORE,

Respondents.

DECISION AND ORDER

This case concerns Wadi Tabri, who spent the final six years of his life almost completely trapped in his home because of his landlord’s persistent, years-long refusal to provide him with a reasonable accommodation by building a ramp or lift to allow him to enter and exit the building using his walker, despite the landlord having solicited and received proposals from architectural firms to install these kinds of modifications. Rather than engage with his need for an accommodation in good faith or provide such an accommodation, Respondents DiFiore Realty, LLC and Gandolfo DiFiore suggested that Mr. Tabri move to an assisted living facility and abandon his home of almost forty years. These actions, among others listed below, violated Mr. Tabri’s rights.

Mr. Tabri filed a verified complaint (“Complaint”)¹ with the Law Enforcement Bureau of the New York City Commission on Human Rights (“Bureau”), alleging that Respondents DiFiore Realty, LLC and Gandolfo DiFiore discriminated against Mr. Tabri on the basis of disability by denying him the terms, privileges, and conditions of a housing accommodation and by failing to provide Mr. Tabri with a reasonable accommodation in violation of Section 8-107(5) and (15) of the New York City Human Rights Law, Title 8, Chapter 1 of the New York City Administrative Code (“City Human Rights Law” or “NYCHRL”). Trial was held before the Honorable Michael

¹ Citations to “Compl.” refer to the Complaint against Respondents DiFiore Realty, LLC and Gandolfo DiFiore, verified by Complainant Wadi Tabri on July 8, 2020, entered into the trial record as part of ALJ Exhibit 1. The Complaint also included claims against Carmela “Doe” as an alleged property manager and allegations against the prior building owner. (See Compl. ¶¶ 18–19). The Bureau withdrew claims against Carmela “Doe” and against the prior building owner before trial. (Tr. vol. 1, 6:8–7:12). Citations to “Tr.” refer to the OATH trial transcript, which is separated into two daily volumes but includes continuous pagination.

D. Turilli, Administrative Law Judge (“ALJ”) of the New York City Office of Administrative Trials and Hearings (“OATH”) on May 2 and May 3, 2023.

Now before the Office of the Chair of the New York City Commission on Human Rights (“Commission”) is the Report and Recommendation of Judge Turilli in *Comm’n on Human Rights v. DiFiore Realty, LLC*, OATH Index Nos. 2386/22, 1732/22 (July 26, 2023) (“R&R”).

For the reasons set forth herein, the Commission adopts in part and modifies in part the findings below, finding that Respondents discriminated against Mr. Tabri on the basis of disability by failing to provide him with a reasonable accommodation. As a result of the discrimination Mr. Tabri experienced, emotional distress damages are ordered to be paid to his estate. Respondents are also ordered to pay civil penalties and undertake affirmative efforts to remedy their discriminatory conduct, as specified herein.

I. PROCEDURAL BACKGROUND

A verified complaint was filed by the Bureau on behalf of Mr. Tabri on July 8, 2020.²

Respondents admit in Verified Answers that Respondent DiFiore Realty is a housing provider within the meaning of the NYCHRL that manages and operates the building located at 84-10 120th Street, Kew Gardens, New York 11415 (“Building”) and that Respondent DiFiore is the managing agent of the Building. (2020 Answer ¶ 3; 2022 Answer ¶¶ 2, 3).³ Respondents deny all allegations of discriminatory conduct and raise various affirmative defenses, including, *inter alia*, *res judicata*, collateral estoppel, and that the administrative closure of a prior complaint filed against the Building when it was under different ownership (and thus naming different respondents) bars the allegations raised here, citing Section 1-22 of Title 47 of the Rules of the City of New York (“RCNY”). (2020 Answer ¶¶ 13, 17; 2022 Answer ¶ 16). Respondents further claim that even if Mr. Tabri was provided with the reasonable accommodation requested, he could not enjoy the right or rights in question (2020 Answer ¶ 14) and assert that providing a ramp for Mr. Tabri would cause them an undue hardship (*id.* ¶¶ 16, 17).

The Bureau issued a Notice of Probable Cause for the Complaint on January 15, 2021, and referred this matter to OATH on April 29, 2022. (*See* ALJ Ex. 1). Trial was held on May 2 and May 3, 2023. The Bureau’s witnesses were Mr. Tabri; Nazerah Abdelgader, Mr. Tabri’s case manager from Catholic Charities Southwest Queens Senior Services (“Catholic Charities”);

² On October 7, 2022, the Bureau filed a separate Commission-initiated complaint, alleging, *inter alia*, that Respondents failed to provide reasonable accommodations to other tenants in Mr. Tabri’s building who Respondents were on notice also required reasonable accommodations, in violation of Section 8-107(5), (15), and (28). (*See* ALJ Ex. 2). These two complaints were consolidated into the instant matter. (R&R at 2). Because the Bureau did not offer evidence of discrimination against other tenants with disabilities (*see id.* at 20 n.8), this Decision and Order focuses on the charges as applied to Mr. Tabri.

³ Citations to “2020 Answer” refer to Respondents’ October 29, 2020 Verified Answer to the July 8, 2020 Complaint by Mr. Tabri, entered into the trial record as part of ALJ Exhibit 1. Citations to “2022 Answer” refer to Respondents’ December 29, 2022 Verified Answer to the October 7, 2022 Commission-initiated complaint, entered into the trial record as part of ALJ Exhibit 2.

Angel Ayón, the architect the Bureau retained to assess and prepare a report on the Building entrance and testify as an expert; and Respondent DiFiore.⁴ Both parties submitted documentary evidence at trial and post-trial briefs.⁵

After trial, Judge Turilli issued an R&R and the parties submitted comments on the R&R to the Commission, pursuant to 47 RCNY § 1-66. The Bureau calls for the adoption of Judge Turilli’s recommendations regarding liability, emotional distress damages, installation of platforms or lifts at the Building to redress the reasonable accommodation claims, and other affirmative relief. (*See* Pet. Comments⁶). The Bureau also asks the Commission to increase the civil penalty from the recommended \$100,000 to \$250,000. (*Id.*) Respondents argue that building modifications are inappropriate and assert a variety of arguments that range from questioning the efficacy of a ramp to indicating that Mr. Tabri should simply have moved out of his apartment. (*See* Resp. Comments⁷).

II. STANDARD OF REVIEW

In reviewing a report and recommendation, the Commission may accept, reject, or modify, in whole or in part, the findings or recommendations made by an administrative law judge. Though the findings of an administrative law judge inform the Commission’s assessment of evidence, the Commission ultimately determines the credibility of witnesses, the weight of the evidence, and other findings of fact. *Comm’n on Human Rights ex rel. Marquez v. Fresh & Co.*, OATH Index No. 434/22, Comm’n Dec. & Order, 2025 WL 3085471, at *3 (Oct. 30, 2025) (collecting cases). The Commission also interprets the NYCHRL and ensures the NYCHRL is applied to the facts correctly. *Comm’n on Human Rights ex rel. Cazares v. INS Handbags, Inc.*, OATH Index No. 1075/20, Comm’n Dec. & Order, 2025 WL 897951, at *3 (Mar. 18, 2025) (collecting cases). The Commission reviews an administrative law judge’s report and recommendation and the parties’ comments and objections *de novo* as to findings of fact and conclusions of law. *Id.* (collecting cases).

III. FACTUAL BACKGROUND

Knowledge of the facts described in the R&R is generally assumed for the purposes of this Decision and Order. Facts are derived from the trial record. The most pertinent facts are outlined herein.

⁴ Both Respondents and the Bureau intended to call Mr. DiFiore and Mr. Tabri as witnesses. (Tr. vol. 1, 13:16–14:12). To facilitate more efficient proceedings, Judge Turilli allowed the Bureau to call Mr. DiFiore and Mr. Tabri as witnesses and then gave Respondents “wide latitude” on cross-examination to “ask any questions that they . . . would be seeking to ask . . . on their own direct examination.” (*Id.* at 14:2–10).

⁵ The parties submitted their post-trial briefs to OATH on June 16, 2023. Respondents also filed a post-trial motion to dismiss. (*See* discussion *infra* Part IV.B).

⁶ Citations to “Pet. Comments” refer to the Bureau’s comments on the July 26, 2023 Report and Recommendation, filed with the Commission via email on January 18, 2024.

⁷ Citations to “Resp. Comments” refer to Respondents’ comments on the July 26, 2023 Report and Recommendation, filed with the Commission via email on January 16, 2024.

A. The Building

Respondents acquired the Building in June 2019.⁸ (2022 Answer ¶ 6). The Building has twenty-two units. (DiFiore Dep.⁹ 64:22–25). In order to enter or exit Mr. Tabri’s residence in the Building, Mr. Tabri had to traverse six steps—a set of three steps with an elevated threshold at the exterior entrance leading into the Building and another set of three steps connecting the lobby to the corridor with Mr. Tabri’s apartment. (Tr. vol. 1, 28:16–19, 32:14–17; Ayón Report¹⁰ at 1, figs. 1, 2, 3, 4, & 5).

B. Mr. Tabri’s Need for an Accommodation

At the time of trial, Mr. Tabri was eighty-five years old.¹¹ (Tabri Dep.¹² 27:14–22). Since 1985, he had lived alone in a studio apartment on the first floor of the Building. (Tr. vol. 1, 28:4–5). He lived with polio paraparesis, which caused weakness in his legs. (*Id.* at 29:13–21; Pet. Ex. 1B¹³ at LEB000974). As a result, he used a walker at all times, including when moving around his apartment and going into the hallway to check mail. (Tr. vol. 1, 31:2–32:13).

Mr. Tabri’s mobility impairment made him unable to use the Building’s stairs on his own and he required assistance from an aide or friend to navigate the stairs. (*Id.* at 32:14–25, 46:9–12). Mr. Tabri and Nazerah Abdelgader, a case manager from Catholic Charities who had worked with Mr. Tabri by monitoring and assessing his wellbeing on a regular basis, both testified to the way that the lack of an accommodation restricted his movements. Mr. Tabri testified that “I need help to go up and down and to be independent rather than dependent.” (*Id.* at 41:16–20). Mr. Tabri mainly left the Building to go to his doctor and dentist, and occasionally to the barber. (*Id.* at 33:1–9, 35:12–36:11). When leaving the Building, he always had someone assist him. (*Id.* at 33:1–22, 35:12–36:11, 53:10–16). Mr. Tabri had prepared meals delivered to him (*id.* at 57:23–25, 60:5–10), and he received supportive services from Catholic Charities (*see* Catholic Charities Case Notes;¹⁴ Tr. vol. 1, 77:8–12, 79:20–81:6). An aide from Catholic Charities worked with Mr. Tabri, providing assistance twice a week with cleaning, laundry, dressing, going to appointments, and going outside for walks. (Tr. vol. 1, 79:20–80:19).

⁸ Mr. Tabri also reported that his previous landlords failed to provide him with a reasonable accommodation and filed a complaint with the Bureau in 2018, which was closed for administrative cause. (*See generally* Resp. Exs. A, B).

⁹ Citations to “DiFiore Dep.” refer to the April 10, 2023 deposition of Mr. DiFiore, entered into the trial record as Petitioner Exhibit 11.

¹⁰ Citations to “Ayón Report” refer to Ayón Studio’s March 17, 2023 Revised Recommendations for Accessibility Compliance, entered into the trial record as Petitioner Exhibit 4.

¹¹ The trial transcript incorrectly identifies Mr. Tabri’s age as thirty-five, rather than eighty-five. (Tr. vol. 1, 27:24–25).

¹² Citations to “Tabri Dep.” refer to the March 30, 2023 deposition of Mr. Tabri, entered into the trial record as Respondent Exhibits I and J.

¹³ Petitioner Exhibit 1B is a record of Mr. Tabri’s medical history, provided during a June 7, 2018 medical visit.

¹⁴ Citations to “Catholic Charities Case Notes” refer to Catholic Charities’ case management notes for Mr. Tabri from October 8, 2014 through December 15, 2022, which are organized in reverse chronological order in the exhibit. The notes were entered into the trial record as Petitioner Exhibit 2.

Ms. Abdelgader similarly reported, based on her interactions with him and observations of him, that Mr. Tabri required a walker, could not use the stairs, and required assistance to leave the Building. (*Id.* at 84:10–14, 87:2–5, 87:10–12, 87:22–88:3, 88:19–89:11). Ms. Abdelgader also testified that it would be difficult for Mr. Tabri to exit the Building quickly in case of emergency. (*Id.* at 90:1–7, 11–13).

Mr. Tabri and Ms. Abdelgader also testified about the effects on Mr. Tabri of the isolation and dependency that resulted from Mr. Tabri’s inability to come and go from the Building because he could not traverse the stairs. For example, Mr. Tabri testified that “I feel trapped in my apartment because I need help desperately.” (*Id.* at 57:17–22). He also stated that “[i]t doesn’t feel good [to be dependent] because [every]body wants to be independent, including me.” (*Id.* at 41:21, 24–25). Similarly, Ms. Abdelgader testified based on her interactions and observations of Mr. Tabri that he was frustrated that he was unable to leave the Building and had told her that he would like to take walks for exercise and fresh air, but that he could not unless the Building created a way for him to leave without using the stairs. (*Id.* at 89:12–14, 19–25, 107:21–23).

C. Respondents’ Actions and Requests to Respondents for Modifications

i. Respondents Had Solicited Proposals to Install Accessibility Modifications

Respondents were aware of Mr. Tabri’s need for an accommodation and the rough cost of providing that accommodation before they even purchased the Building.¹⁵ Shortly before acquiring the Building, Respondents solicited and received proposals from architecture firms to install ramps or lifts to permit people with mobility impairments to enter and exit the Building without having to use the stairs. On April 4, 2019, Mr. DiFiore received a Florilift of N.J., Inc. proposal to install a lift between the lobby and first floor for \$23,890. (Pet. Ex. 6). On May 17, 2019, Mr. DiFiore received a \$20,000 proposal from Gerald J. Caliendo Architects for “the construction of a new handicap ramp and the installation of a new handicap lift” at the Building. (Pet. Ex. 5).

Mr. DiFiore did not pursue either of these proposals beyond the initial solicitations and gave conflicting rationales for that decision. (*See, e.g.*, Tr. vol. 2, 313:19–319:15). Despite the multiple architectural proposals to install a ramp and/or lifts in the Building, Mr. DiFiore first testified at his deposition that he did not go forward with either proposal because “[he] didn’t want to” as he did not believe Mr. Tabri could walk down a ramp by himself. (DiFiore Dep.

¹⁵ In his deposition, Mr. DiFiore stated that his request for a May 2019 proposal was “because [Mr.] Tabri was unable to use the stairs to enter or exit the building” (DiFiore Dep. 134:8–135:12). While Mr. DiFiore denied this fact at trial (*see* Tr. vol. 2, 294:6–302:20), the Commission considers his prior testimony to be significantly more credible under the circumstances and in the context of the full transcript.

141:15–142:16). At trial, Mr. DiFiore then testified that the proposals were infeasible,¹⁶ saying a ramp “didn’t work” and “[t]here was no question I was not going to install it because it’s not doable.” (Tr. vol. 2, 313:19–316:10). He subsequently changed his testimony again, stating that he did not know whether a ramp was feasible, notwithstanding the existence of the architectural proposals, but that he chose not to pursue modifications in any event because he did not believe they would be helpful: “I don’t think Mr. Tabri could even walk on a ramp. So, in that case, I don’t think he would benefit from a ramp. And for that case, I chose not to put a ramp, not even though knowing if it was possible to put a ramp.” (*Id.* at 318:16–18, 319:1–4).¹⁷

ii. Mr. Tabri Repeatedly Sought Accommodations from Respondents

The trial record reflects that over a period of years, Mr. Tabri made repeated requests for accessibility assistance from Mr. DiFiore and his staff, directly and through his service providers. At different times beginning in 2019, Mr. Tabri appeared to believe a ramp would be installed.

Mr. Tabri testified that he spoke to the Building superintendent, Noe Reyes, and the Building manager, Andrew Garcia, about his needs, including his difficulty with the stairs. (Tr. vol. 1, 36:12–18, 37:6–39:2, 39:24–40:7; Tr. vol. 2, 289:14–19). Mr. DiFiore was also aware that Mr. Tabri used a walker and recalled speaking with Mr. Tabri in person about six times. (Tr. vol. 2, 292:2–5, 321:7–8). Case notes from Catholic Charities as well as Ms. Abdelgader’s trial testimony reflect both requests for accommodation made on Mr. Tabri’s behalf and a pattern of denials by Respondents.¹⁸

When meeting with his case manager at the time, a month after the Building was purchased by Respondents, Mr. Tabri indicated that his landlords had not yet started installing a ramp and that he was unsure when installation would begin. (Catholic Charities Case Notes at LEB001112). At that time, Mr. Tabri shared that a ramp would be “a huge help to him so he can go outside on his own and he doesn’t need to be stuck at home all the time.” (*Id.*) Half a year later, on March 3, 2020, Mr. Tabri reported that he felt Respondents were not taking his requests for an accommodation seriously and were ignoring them. (*Id.* at LEB001108). Case notes from Catholic Charities indicate that Mr. Tabri had been asking the Building to construct a ramp for him and other tenants who are unable to use the stairs and that he had asked his case manager at the time to call Respondents about the issue. (*Id.*) When the case manager attempted to contact Respondents about installing a ramp in June 2020, no one answered the phone. (*Id.* at LEB001101). Case notes from June 29, 2020 reflect that Mr. Tabri felt “frustrated” and “defeated with this ramp situation,” and that he “doesn’t understand how the building wouldn’t do anything

¹⁶ As discussed *infra* at Part III.D, the Bureau’s expert concluded that installation of ramps and/or lifts was architecturally feasible.

¹⁷ Mr. DiFiore additionally claimed that he did not seek to construct a ramp because he believed that the reasonable accommodations case against the former building owner (*see* discussion *infra* Part IV.B), had been dismissed with prejudice (Tr. vol. 2, 318:26–319:7).

¹⁸ This discussion does not include case notes regarding Mr. Tabri’s accommodation requests from any date prior to Respondents’ June 2019 acquisition of the Building.

about it when he's been asking for help for so long." (*Id.* at LEB001099). In her November 2020 annual assessment, his then case manager, Ms. Abdelgader, stated that Mr. Tabri "confirmed he has asked his building for a ramp for the last 6 years"¹⁹ and "feels this will benefit him and his neighbors making it easier and safer to leave his building." (*Id.* at LEB001088–89).

For years, the Building's inaccessibility created barriers for Mr. Tabri. During a June 2021 heatwave, Mr. Tabri cited the stairs and lack of ramp as an impediment to going to a cooling center for respite. (*Id.* at LEB001072). Two months later, Mr. Tabri asked Ms. Abdelgader to "look into the ramp situation" and she called and left a voicemail for the building manager. (*Id.* at LEB001069–70). On November 17, 2021, Ms. Abdelgader spoke to Mr. Garcia, the building manager, about Mr. Tabri's request for a ramp and she noted that during that conversation, "[Mr. Garcia] admitted recommending [client] to move[] to a building with an elevator, senior friendly" and that "the ramp is too expensive considering [client] is the only one who needs it in the building." (*Id.* at LEB001061–63). Mr. Garcia further conveyed "it is not feasible to build the ramp" (*id.* at LEB001062), and Ms. Abdelgader testified that he communicated to her Respondents' belief that the ramp was too costly: "[Mr. Garcia] expressed to me that it's too expensive and he suggested that the client moved to a senior building, which will be more accessible" (Tr. vol. 1, 92:13–21).

The Catholic Charities case notes thereafter continued to reflect Mr. Tabri's frustration and hopes for improved accessibility well into 2022. (*See, e.g.*, Catholic Charities Case Notes at LEB001054 ("[H]e really hopes something can be done as he had place[d] many complaints in the past about the ramp being installed and until this day there has [sic] been no changes.")). Mr. Tabri and Ms. Abdelgader repeatedly requested assistance and were repeatedly denied. In August 2022, Mr. Garcia told Ms. Abdelgader, after speaking to Mr. DiFiore, that "the problem i[s] the way the building is constructed which does not allow for a ramp to be easily installed," though Mr. Garcia agreed to "look into the ramp matter and see what he can do." (*Id.* at LEB001040). Mr. Tabri expressed frustration about Mr. Garcia's handling of the issue. (*Id.*) A week later, Ms. Abdelgader again spoke to Mr. Garcia to address the issue that Mr. Tabri's door buzzer was not working and "asked [him] what would be done for [Mr. Tabri] to be able to get his service providers into the building as [Mr. Tabri] uses a walker and has trouble getting down the stairs." (*Id.* at LEB001038). Mr. Garcia told Ms. Abdelgader that he "will speak with the Super about continue [sic] to leave the building door open or provide another plan." (*Id.*) Mr. Tabri "continue[d] to express his frustration." (*Id.*) In October, he conveyed to Ms. Abdelgader that "he really hopes he will live to see the ramp is approved and buil[t]." (*Id.* at LEB001035). Nothing changed. At trial, Mr. Tabri testified: "I pray to God every single day . . . to solve this problem for me once [and] for all." (Tr. vol. 1, 57:12–22).

iii. Respondent DiFiore's Visit to Mr. Tabri on the Eve of Trial

¹⁹ As set forth *supra* note 18, a portion of the six-year time period predates the relevant timeline for the violations at issue in this matter.

Mr. DiFiore and the Building’s superintendent, Mr. Reyes, did eventually go to Mr. Tabri’s apartment to discuss the ramp—on May 1, 2023, the *evening before* the trial in this matter was set to begin. (Tr. vol. 1, 28:25–29:3, 40:8–15). Mr. Tabri testified that Mr. DiFiore asked him why he needed a ramp. (*Id.* at 40:8–15). Mr. DiFiore denied that he had discussed a ramp or modifications to the Building and attributed this pre-trial visit to his desire to “see how [Mr. Tabri] was doing” because it “had been a while” since he had seen him. (Tr. vol. 2, 321:9–324:12). Given the timeline as set forth above, the Commission finds that Mr. DiFiore’s testimony is not credible.

D. Additional Proposals for Modifications

The Bureau retained an expert witness, Angel Ayón, to assess the Building for modifications and prepare a report. (Tr. vol. 1, 134:23–135:18). Mr. Ayón is a registered architect, the principal of an architectural firm, and has twenty-five years of experience. (*Id.* at 127:8–24; Ayón CV²⁰). He has familiarity with accessibility requirements under the Americans with Disabilities Act (“ADA”), Chapter 11 of the New York City Building Code, and processes for obtaining permits from the Department of Buildings and Department of Transportation. (Tr. vol. 1, 130:14–131:21). His prior projects include building renovation and designing and installing entrance modifications for accessibility. (*Id.* at 129).

Mr. Ayón took photographs and rendered drawings of the relevant Building spaces as part of his assessment. (*Id.* at 135:19–137:21). The documents showed the three exterior stairs and elevated threshold at the entrance to the Building on the outside of the Building, and the three stairs connecting the lobby to the first-floor hallway where Mr. Tabri’s apartment was located. (Ayón Report at 5–8 figs. 1, 2, 3, 4, 5, 6, & 7).

Mr. Ayón found that installing ramps or lifts was architecturally feasible and presented two options. The first option involved installing an interior and an exterior ramp, and the second option involved installing an interior and exterior platform lift. (*See* Tr. vol. 1, 138:3–13, Tr. vol. 2, 176:5–178:10; Ayón Report at 2–4). In his report, Mr. Ayón notes that parts of the options were interchangeable, and there could be an exterior ramp and interior lift, or an interior ramp and exterior lift. (*See* Ayón Report at 4).

IV. DISCUSSION

A. Legal Standard

The City Human Rights Law “shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York state civil and human rights laws, including those laws with provisions worded comparably to provisions of [the NYCHRL], have been so construed.” N.Y.C. Admin. Code § 8-130(a). Pursuant to the Local Civil Rights Restoration Act of 2005, “[i]nterpretations of New York state

²⁰ Citations to “Ayón CV” refer to the Curriculum Vitae of Angel Ayón, AIA, NCARB, NOMA, LEED AP, entered into the trial record as Petitioner Exhibit 3.

or federal statutes with similar wording may be used to aid in interpretation of the [NYCHRL], viewing similarly worded provisions of federal and state civil rights laws as a floor below which the [NYCHRL] cannot fall, rather than a ceiling above which the local law cannot rise.” Local Law No. 85 § 1 (2005). *See also* Local Law No. 35 § 1 (2016).

Moreover, “case law interpreting analogous anti-discrimination statutes under state and federal law, though perhaps persuasive, is not precedential in the interpretation of the NYCHRL.” *Comm’n on Human Rights ex rel. Ondaan v. Lysius*, OATH Index No. 2801/18, Comm’n Dec. & Order, 2020 WL 7212457, at *6 (Nov. 24, 2020) (citing *Albunio v. City of New York*, 23 N.Y.3d 65, 77 n.1 (2014) (“[T]he New York City Council’s 2005 amendment to the NYCHRL was, in part, an effort to emphasize the broader remedial scope of the NYCHRL in comparison with its state and federal counterparts and, therefore, to curtail courts’ reliance on case law interpreting textually analogous state and federal statutes.”)).

B. The Commission Agrees with the R&R’s Denial of Respondents’ Motion to Dismiss

After trial, Respondents filed a motion to dismiss at OATH.²¹ In the June 16, 2023 motion, Respondents asserted that the Complaint could not proceed at OATH under 47 RCNY § 1-22. Respondents argued that the Bureau’s administrative closure of a separate complaint against the Building’s prior owners covering a different period of time barred the instant Complaint.²² Respondents also argued that the doctrines of *res judicata* and collateral estoppel prevented the Complaint from moving forward. (R&R at 3–7; Mot. to Dismiss). The R&R denied the motion to dismiss because the instant matter and the prior matter involved separate claims against separate respondents and “[t]he administrative closure of the prior complaint was not a final determination adjudicated on the merits and therefore is not entitled to any preclusive effect.” (R&R at 6–7). The Commission agrees with the R&R’s denial of the motion to dismiss and adopts the reasoning set forth therein. (*Id.* at 3–7).

C. Mr. Tabri’s Death Did Not Stay This Proceeding

Mr. Tabri passed away after issuance of the R&R but before issuance of this Decision and Order. Respondents argue that Mr. Tabri’s death renders the R&R “null and void” because the case should have been stayed due to his passing. (Resp. Comments at 2). Respondents assert that it would be “improper” for the Commission to rule on the R&R unless there is a substitution of parties, arguing that no decision should issue “until and unless a legal representative is appointed” to Mr. Tabri’s estate. (*Id.*) These arguments are unavailing.

²¹ Respondents also sought leave to file a pre-trial motion to dismiss for these reasons at OATH, which Judge Turilli denied without prejudice to renew at the close of trial. Respondents then moved for interlocutory review of that decision by the Commission, pursuant to 48 RCNY § 2-30, or for reconsideration, which Judge Turilli also denied. (R&R at 3).

²² *See supra* note 8.

Unlike when a NYCHRL claim is brought by a private litigant in state or federal court, the Bureau is the party initiating litigation at OATH and at the Commission. *See* 47 RCNY § 1-03. Complainants, such as Mr. Tabri, may choose to intervene as a party, but complainants need not intervene for the Bureau to proceed with litigation in the public interest. *Id. See also* 48 RCNY § 2-25. Mr. Tabri did not intervene in this matter and was not a party to the litigation. Furthermore, Mr. Tabri's estate has a legal representative as Letters of Administration were issued on July 1, 2024. *See* Decree Appointing Administrator, Estate of Wadi Tabri, File No. 2023-4834 (Queens Cnty. Sur. Ct. July 1, 2024). There is no basis to delay the resolution of this matter.

D. Respondents Failed to Provide a Reasonable Accommodation to Mr. Tabri in Violation of Section 8-107(5) and (15)

Section 8-107(5) of the City Human Rights Law makes it unlawful for the owner or lessor of a housing accommodation to discriminate “in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith[,]” “[b]ecause of the actual or perceived . . . disability . . . of any person or group of persons.” N.Y.C. Admin. Code § 8-107(5)(a)(1)(b). The NYCHRL requires covered entities to provide a reasonable accommodation “to enable a person with a disability to . . . enjoy the right or rights in question provided that the disability is known or should have been known by the covered entity.” *Id.* § 8-107(15)(a). In housing, this means providing reasonable accommodations that would enable residents with disabilities to use or enjoy their housing accommodation on an equal basis with residents who do not have a disability. *See Torres v. Prince Mgmt. Corp.*, OATH Index No. 301/98, Rep. & Rec., 1997 WL 1129224, at *3 (Aug. 14, 1997), *adopted*, Comm’n Dec. & Order, 1997 WL 34613064 (Oct. 27, 1997). Failure to do so constitutes an unlawful discriminatory practice. N.Y.C. Admin. Code § 8-107(15). The NYCHRL defines reasonable accommodation as “such accommodation that can be made that does not cause undue hardship in the conduct of the covered entity’s business.” *Id.* § 8-102.

That Respondents are covered housing providers within the meaning of the NYCHRL with corresponding legal obligations is not in dispute. (*See, e.g.*, 2020 Answer ¶ 3; 2022 Answer ¶¶ 2, 3). Respondents have stipulated to the fact that Mr. DiFiore “was and continues to be the sole individual with authority to decide whether or not to grant any reasonable accommodation request by Wade [sic] Tabri.” (Stipulations).²³

For the Bureau to establish an unlawful failure to provide a reasonable housing accommodation, it must prove that (1) the tenant has a disability; (2) respondents knew or should have known of the disability; (3) an accommodation would enable the tenant to use or enjoy the housing accommodation; and (4) respondent refused to provide such an accommodation. *In re*

²³ Citations to “Stipulations” refer to a document containing joint stipulations agreed to by the Bureau and Respondents, entered into the trial record as ALJ Exhibit 3.

Comm’n on Human Rights ex rel. Blue v. Jovic, OATH Index No. 1624/16, Comm’n Dec. & Order, 2017 WL 2491797, at *10 (May 26, 2017) (citing *In re Comm’n on Human Rights ex rel. Stamm v. E&E Bagels*, OATH Index No. 803/14, Comm’n Dec. & Order, 2016 WL 1644879, at *6 (Apr. 20, 2016)).²⁴

Where a respondent argues that any accommodation that would enable a tenant to use or enjoy a housing accommodation constitutes an undue hardship, that argument is an affirmative defense which the respondent bears the burden of proving. *Id.* (citing *Stamm*, 2016 WL 1644879, at *6). *See also* N.Y.C. Admin. Code § 8-102. A respondent may also seek to prove as an “affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation . . . enjoy the right or rights in question.” N.Y.C. Admin. Code § 8-107(15)(b).

Firstly, it is undisputed that Mr. Tabri has a disability. (*See* R&R at 16–17; Pet. Ex. 1B).

Secondly, it is clear Respondents knew or should have known about the disability. Not only had Mr. DiFiore confirmed in his deposition with the Bureau that he sought architectural proposals to install building modifications due to Mr. Tabri’s inability to use the stairs to enter or exit the Building, but Mr. Tabri and his case manager, Ms. Abdelgader, also communicated several times thereafter with building manager Mr. Garcia about Mr. Tabri’s need for a modification to the Building entrance. Mr. DiFiore was also aware that Mr. Tabri used a walker. In addition, Mr. Garcia told Ms. Abdelgader that he had spoken to Mr. DiFiore regarding installation of a ramp.

Thirdly, the Bureau met its burden at trial of demonstrating that an accommodation would have enabled Mr. Tabri to use or enjoy his housing accommodation on an equal basis with residents who do not have a disability. Without any accommodation, Mr. Tabri was essentially trapped in his apartment, unable to so much as go for a walk without assistance, let alone shop for himself or otherwise participate in life outside his apartment. It is unquestionable that the ability to come and go from one’s home, is a core requirement for someone to be able to “use or enjoy” one’s housing accommodation.

Respondents now claim, without proof, that Mr. Tabri would not “obtain any advantage or utility from a ramp.” (Resp. Comments at 1). Respondents further claim that the Bureau failed

²⁴ The Commission notes that the standard used in the R&R is incorrect, as it states that the Bureau must prove that “the accommodation is reasonable” as part of its *prima facie* case. (R&R at 16). However, this element is not required for a reasonable accommodation claim under the NYCHRL. As explained in *Stamm*, “the proper inquiry is not whether the Bureau can establish the reasonableness of the accommodation, but whether the respondent can establish that the proposed accommodation causes an undue hardship on its business.” 2016 WL 1644879, at *6. As a result, “the burden [is] on the respondent to ‘show the unavailability of any safe and reasonable accommodation,’” (*id.* (quoting *Jacobsen v. N.Y.C. Health & Hosps. Corp.*, 11 N.E.3d 159, 167 (N.Y. 2014))), and “the complainant does not need to prove reasonableness” (*id.* (citing *Phillips v. City of New York*, 884 N.Y.S.2d 369, 380 (App. Div. 2009), *rejected on other grounds*, *Jacobsen*, 11 N.E.3d 159))).

to prove that “Mr. Tabri had ever safely ascended or descended a ramp with or without personal assistance” and thus, that installation of a ramp would be “speculative and experimental.” (*Id.* at 2).

Had Respondents engaged with Mr. Tabri in a cooperative dialogue, as required by the NYCHRL, Respondents might have been able to discern more fully Mr. Tabri’s limitations and needs to identify accommodation options. Moreover, having solicited and received architectural proposals to install lifts in the Building, Respondents do not now claim that Mr. Tabri would have been unable to use a lift.²⁵ Even were it the case that a ramp would not have met all of Mr. Tabri’s needs, the insufficiency of one proposed accommodation does not relieve Respondents of the legal obligations to provide modifications, particularly where they appear to have involved virtually identical costs, as discussed above.

Respondents claim that the Bureau failed to prove that if Mr. Tabri were able to come and go from his apartment without having to traverse stairs, he actually would have done so. (Resp. Post-Trial Br. at 11, 13–14). At trial, Mr. Tabri’s case manager testified that he “feels frustrated because he cannot get out the building even to take a walk for fresh air” and, when asked if Mr. Tabri “ha[d] ever told [her] anything that he’d like to do if he was able to leave the apartment *by himself*” (emphasis added), she testified that “[h]e would like to take . . . walks for . . . exercise and fresh air.” (Tr. vol. 1, 89:12–25).

Moreover, the Bureau is not required to prove that, given the opportunity, Mr. Tabri would have left his apartment building with any particular frequency. An essential element of freedom is the ability to come and go *as one chooses*. As discussed in the R&R, when looking at whether a reasonable accommodation would enable use or enjoyment of the housing accommodation, the Commission looks to whether the accommodation would “help such use and enjoyment.” (R&R at 17 (citing *Comm’n on Human Rights ex rel. Carol T. v. Mutual Apartments Inc.*, OATH Index No. 2399/14, Rep. & Rec., 2015 WL 1431880, at *8 (Mar. 13, 2015) (“Considering the broad and remedial purpose of the City Human Rights Law, and the specific language of section 8-107(15) . . . the issue is whether having [an emotional support animal] enables or helps complainants to use and enjoy their apartment.”), *modified on penalty*, Comm’n Dec. & Order, 2018 WL 1899647 (Apr. 12, 2018); *Comm’n on Human Rights ex rel. L.D. v. Riverbay Corp.*, OATH Index No. 1300/11, Rep. & Rec., 2011 WL 12687937, at *10 (Aug. 26, 2011) (finding that an emotional support dog enabled the complainant to use and enjoy her apartment as the animal “helps to ‘ameliorate at least to some extent a need created by a disability’” (quoting *Phillips*, 884 N.Y.S.2d at 395 n.12))), *adopted*, Comm’n Dec. & Order, 2012

²⁵ Respondents’ comments ignore the fact that platform lifts were also explored as a reasonable accommodation option. (*See, e.g.*, Ayón Report; Pet. Exs. 5, 6). As explained by Mr. Ayón, platform lifts incorporate universal design standards, such as operation by a push button, and “are simple devices that . . . are designed for accessibility and within the confines of what is called universal design, meaning that this is a design that is generic enough so that it could be easily used by anyone without necessarily having any kind of expertise of it, [b]ut especially for” those with physical disabilities. (Tr. vol. 2, 205:19–206:13).

WL 1657555 (Jan. 9, 2012))). *Phillips* elaborates that the term “accommodation . . . is intended to connote any action, modification or forbearance that helps ameliorate *at least to some extent* a need created by a disability.” 884 N.Y.S.2d at 395 n.12 (emphasis in original). *See also Torres*, 1997 WL 1129224, at *5 (involving a failure to provide the reasonable accommodation of a ramp for a tenant who used a wheelchair but could not maneuver it on their own, and stating that “contrary to Respondents’ argument, the ‘right’ at issue here is not independent living” and that not requiring a ramp’s construction on this basis would “betray both the letter and spirit of anti-discrimination laws” and “would exclude some of our most vulnerable citizens from the [NYCHRL’s] protection”).

The fourth element—that Respondents refused to provide a reasonable accommodation—is well established by the evidence, which shows that Respondents consistently refused to provide an accommodation despite soliciting proposals for modifications to the Building and receiving numerous requests for accommodations from Mr. Tabri and his case manager. Indeed, Respondents failed to even engage Mr. Tabri in a good faith cooperative dialogue about his needs. This failure took place over the course of nearly four years, from 2019 through the trial shortly before Mr. Tabri’s death. Mr. DiFiore conceded at trial that he chose not to install a ramp in the Building despite Mr. Tabri’s requests. (Tr. vol. 2, 318:16–318:4).

For these reasons, the Commission finds that the Bureau established a *prima facie* case that Respondents failed to provide a reasonable accommodation for Mr. Tabri’s disability. For their part, Respondents have “waive[d] the affirmative defense that granting a reasonable accommodation to Wad[i] Tabri would constitute an undue burden because of the financial cost or expense of making a physical modification to the main entrance of the Building.” (Stipulations). Thus, an undue hardship on this basis is not present here.

Respondents similarly failed to demonstrate or provide any evidence to support the assertion that construction of a ramp and/or lift for the Building would be architecturally or structurally infeasible, a potential basis for an undue hardship defense available to respondents in such cases. *See, e.g., Marine Holdings, LLC v. New York City Comm’n on Human Rights*, 31 N.Y.3d 1045, 1047 (2018); *Riverbay Corp. v. New York City Comm’n on Human Rights*, No. 260832/10, 2011 WL 11554353, at *8–9 (N.Y. Sup. Ct. Sep. 9, 2011). While Mr. DiFiore claimed at times that the 2019 architectural proposals to make the Building more accessible were infeasible (*see* Tr. vol. 2, 316:19–317:1), he also stated that he chose not to implement the accommodations without knowing whether they were feasible or not (Tr. vol. 2, 318:16–319:7). Moreover, no evidence in the record indicates that the proposals were not feasible. (R&R at 19). In contrast, the Bureau’s expert witness, architect Mr. Ayón, demonstrated that the installation of either ramps or lifts was architecturally feasible and offered detailed drawings of two alternative approaches, one for installation of an interior and exterior lift, and one for installation of an interior and exterior ramp. (R&R at 20; Ayón Report at 2–4 (referencing illus. SK-A1 to SK-B5)). Mr. Ayón also noted that Respondents could interchange a ramp and lift at either the entrance or lobby stairs. (R&R at 12–13; Ayón Report at 4). The Commission adopts the R&R’s

analysis and conclusion that construction of ramps or lifts in the Building lobby and at the entrance is architecturally feasible.

Accordingly, the Commission adopts the R&R's finding that Respondents failed to provide a reasonable accommodation in violation of Section 8-107(5) and (15).

E. Respondents Failed to Engage in a Cooperative Dialogue in Violation of Section 8-107(28)

The requirement to provide a reasonable accommodation is coupled with complementary obligations for covered entities to “engage in a cooperative dialogue within a reasonable time with a person who has requested an accommodation or who the covered entity has notice may require an accommodation related to disability.” N.Y.C. Admin. Code § 8-107(28)(c). A cooperative dialogue is

the process by which a covered entity and a person entitled to an accommodation, or who may be entitled to an accommodation under the law, engage in good faith in a written or oral dialogue concerning the person's accommodation needs; potential accommodations that may address the person's accommodation needs, including alternatives to a requested accommodation; and the difficulties that such potential accommodations may pose for the covered entity.

Id. § 8-102. The requirement to engage in a cooperative dialogue is “supplemental to and independent of” the requirement to provide a reasonable accommodation. *Id.* § 8-107(28)(f). Housing providers are required to conclude a cooperative dialogue “with a written final determination identifying any accommodation granted or denied.” *Id.* § 8-107(28)(d).

As set forth above, Respondents were on notice that Mr. Tabri needed a reasonable accommodation because Mr. Tabri's disability was visible and apparent,²⁶ and separately because of the direct requests for accommodation Mr. Tabri and his case worker made. Despite this notice, Respondents never engaged in any meaningful dialogue with Mr. Tabri about providing him with a reasonable accommodation. Instead of exploring with Mr. Tabri what his disability and resulting needs entailed, Respondents communicated that a ramp would be too costly. Indeed, instead of identifying ways to enable Mr. Tabri to use and enjoy his home, Respondents suggested that Mr. Tabri abandon his home of almost forty years to move into an assisted living facility. There are myriad ways for a housing provider to engage in a good faith cooperative dialogue with a tenant with a disability, but there is no indication Respondents engaged in any

²⁶ “If the requester's disability is known or readily apparent to the covered entity, but the need for the accommodation is not readily apparent or known, the entity is only permitted to request information that is necessary to evaluate how the accommodation would ameliorate the impacts of the person's disability on their ability to perform essential job duties or enjoy the rights in question.” N.Y.C. COMM'N ON HUM. RTS., LEGAL ENFORCEMENT GUIDANCE ON DISCRIMINATION ON THE BASIS OF DISABILITY 39 (2025), *available at* https://www.nyc.gov/assets/cchr/downloads/pdf/NYCCHR_LegalGuide-Disability.pdf.

meaningful dialogue with Mr. Tabri on the issue whatsoever. The record also does not show any written determination from Respondents reflecting their denial of the accommodation.

Accordingly, the Commission adopts the R&R's finding that Respondents failed to engage in a cooperative dialogue with Mr. Tabri in violation of Section 8-107(28).

V. DAMAGES, CIVIL PENALTIES, AND AFFIRMATIVE RELIEF

Where the Commission finds that respondents have engaged in an unlawful discriminatory practice, the City Human Rights Law authorizes the Commission to order respondents to cease and desist from such practices and take actions that effectuate the purposes of the NYCHRL, including “the extension of full, equal and unsegregated accommodations, advantages, facilities, and privileges.” N.Y.C. Admin. Code § 8-120(a)(5). The Commission may also award damages to complainants, *id.* § 8-120(a)(8), and impose civil penalties of up to \$125,000 per discriminatory act or up to \$250,000 per discriminatory act where the Commission determines that the unlawful conduct is willful, wanton, or malicious, *id.* § 8-126(a). *See also Comm’n on Human Rights ex rel. Fernandez v. Gil’s Collision Servs. Inc. d/b/a D & R Collision Corp.*, OATH Index No. 1245/19, Comm’n Dec. & Order, 2023 WL 3974499, at *22–24 (May 31, 2023) (issuing a \$250,000 civil penalty based on the “willful, egregious nature” of respondents’ NYCHRL violations); *Automatic Meter Reading Corp. v. New York City*, 114 N.Y.S.3d 575 (Table), 2019 WL 1475080, at *12 (Sup. Ct. 2019) (upholding \$250,000 civil penalty issued by the Commission upon a finding that respondent engaged in willful and wanton sexual harassment over a three-year period).

A. Compensatory Damages

“Compensatory damages, including emotional distress damages, are intended to redress a specific loss that the complainant suffered by reason of the respondent’s wrongful conduct.” *In re Comm’n on Human Rights ex rel. Howe v. Best Apartments*, OATH Index No. 2602/14, Comm’n Dec. & Order, 2016 WL 1050864, at *6–7 (Mar. 14, 2016) (citing *Vasquez v. N.Y.C. Dep’t of Educ.*, No. 11 Civ. 3674, 2015 WL 3619432, at *13 (S.D.N.Y. June 10, 2015) (citing *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 416 (2003))). To support an award of emotional distress damages, the record “must be sufficient to satisfy the Commissioner that the mental anguish does in fact exist, and that it was caused by the act of discrimination.” *Comm’n on Human Rights ex rel. Joo v. UBM Bldg. Maint. Inc.*, OATH Index No. 384/16, Comm’n Dec. & Order, 2018 WL 6978286, at *9 (Dec. 20, 2018) (citing *Howe*, 2016 WL 1050864, at *6). “An award for compensatory damages may be premised on the complainant’s credible testimony alone,” or other evidence including testimony from other witnesses, circumstantial evidence, and objective indicators of harm, such as medical evidence. *See Comm’n on Human Rights ex rel. Agosto v. American Constr. Assocs.*, OATH Index No. 1964/15, Comm’n Dec. & Order, 2017 WL 1335244, at *7 (Apr. 5, 2017) (collecting cases). The NYCHRL places no limitation on the size of compensatory damages awards, *see* N.Y.C. Admin. Code § 8-120(a)(8), and courts have consistently recognized the Commission’s “special experience in weighing the merit and value of

mental anguish claims.” *Automatic Meter Reading Corp.*, 2019 WL 1475080, at *10 (quoting *Matter of Cutri v. Comm’n on Human Rights*, 113 A.D.3d 608, 608 (2d Dep’t 2014)). In assessing compensatory damages in a particular case, the Commission evaluates the nature of the violation, the amount of harm indicated by the evidentiary record, and awards that have been issued for similar harms. *In re Comm’n on Human Rights ex rel. Nieves v. Rojas*, OATH Index No. 2153/17, Comm’n Dec. & Order, 2019 WL 2252369, at *6 (May 16, 2019) (citing *In re Sch. Bd. of Educ. of the Chapel of the Redeemer Lutheran Church v. N.Y.C. Comm’n on Human Rights*, 188 A.D.2d 653, 654 (2d Dep’t 1992)).

i. Mr. Tabri Is Entitled to \$75,000 in Emotional Distress Damages

The Commission agrees with the R&R that emotional distress damages are warranted for Mr. Tabri and orders Respondents to pay \$75,000 to his estate.

The record reflects that Respondents were aware of Mr. Tabri’s need for a reasonable accommodation even prior to acquiring the Building in 2019 and still chose to leave Mr. Tabri without needed assistance for four years, through the time of his death. Despite repeated requests over the course of these years, Respondents refused to even engage in dialogue with Mr. Tabri about his need for an accommodation.

Respondents’ refusal to provide the accommodation is particularly stark since they solicited and obtained two architectural proposals that would have addressed Mr. Tabri’s accessibility needs. Respondents chose to waive the defense that such solutions were too expensive. Indeed, Respondents failed to engage in good faith dialogue about *any* way to improve Mr. Tabri’s situation, other than telling him to abandon his home of forty years and move to an assisted living facility. The serious and willful nature of Respondents’ refusal to accommodate Mr. Tabri is further supported by Respondents’ continually shifting rationales for their refusal to engage or accommodate Mr. Tabri—because the accommodations were supposedly too expensive (an argument abandoned by Respondents before trial), because the accommodations were supposedly architecturally infeasible, because of Respondents’ unsupported claim that Mr. Tabri could not benefit from a ramp, or because of Respondents’ unsupported claim that even if Mr. Tabri could leave his apartment he would choose not to.

Mr. Tabri spent the last years of his life pleading and hoping that the building he lived in would accommodate his disability so that he could enter and leave his home without having to traverse stairs. And for those years he was repeatedly dismissed and ignored, essentially brushed off as a nuisance and told he should abandon his home entirely. Mr. Tabri credibly testified to the way that Respondents’ refusal to provide him with a reasonable accommodation caused emotional harm: “I feel trapped in my apartment because I need help desperately” and “I pray to God every single day . . . to solve this problem for me once or [sic] for all.” (Tr. vol. 1, 57:12–22). The case notes from Catholic Charities and Ms. Abdelgader’s testimony are similarly revealing about Mr. Tabri’s feelings of defeat and despair because of Respondents’ repeated failure to provide an accommodation.

The trial record further revealed how Respondents' violations impacted Mr. Tabri's overall wellbeing. For example, as a result of not having access to a ramp or lift, Mr. Tabri could not go outside to get some fresh air, he was unable to leave his apartment to go to a cooling center during a dangerous summer heatwave, and he could not admit friends into the Building to visit his apartment when his buzzer was malfunctioning.

Based on the totality of the evidence and circumstances, including corroborating evidence of emotional distress from Ms. Abdelgader, the Commission finds that Mr. Tabri's prolonged suffering resulting from Respondents' failure to make a meaningful effort to accommodate his needs or to even engage him in good faith dialogue warrant a significant emotional distress damages award of \$75,000. *See, e.g., Marine Holding LLC v. New York City Comm'n on Hum. Rts.*, No. 109512012, 2014 WL 9867377 (N.Y. Sup. Ct. Jan. 9, 2014) (awarding \$60,000 to a wheelchair user whose housing provider refused to install a ramp over a four-year period, resulting in multiple incidents of her being trapped in her home), *aff'd*, 31 N.Y.3d 1045; *Parris v. Pappas*, 844 F. Supp. 2d 271, 276–78 (D. Conn. 2012) (awarding \$100,000 to tenant of mobile home park where owner threatened to evict tenant if she continued using the services of her home health aide); *Sec'y, U.S. Dep't of Hous. & Urb. Dev. v. Twinbrook Village Apartments*, HUDALJ Nos. 02-00-0256-8, 02-00-0257-8, 02-00-0258-8, 2001 WL 1632533, at *21 (H.U.D. A.L.J. Nov. 9, 2001) (awarding \$75,000 to one plaintiff, calculated as roughly \$125 per day for the twenty months that she was confined to her apartment, noting “the only thing that stood between Ms. Braiman and the outside world that she longed to see was a ramp for wheelchair accessibility . . . [i]t is difficult to quantify the amount which would be just compensation for Ms. Braiman's suffering. What is the price of freedom?”).²⁷

ii. Emotional Distress Damages Should Be Awarded to Mr. Tabri's Estate

The Commission orders Respondents to pay the \$75,000 emotional distress damages award to Mr. Tabri's estate. Where a complainant in an anti-discrimination case dies before final judgment, damages awarded for emotional distress are due to be paid to the estate of the decedent. *See, e.g., U.S. Equal Emp. Opportunity Comm'n v. Coughlin, Inc.*, No. 2:21-cv-99-wks, 2022 WL 1568529, at *7 (D. Vt. May 18, 2022) (collecting cases concerning survivability of both compensatory and punitive damages in anti-discrimination cases); *Ambruster v. Monument 3: Realty Fund VII Ltd.*, 963 F. Supp. 862, 865 (N.D. Cal. 1997) (“[T]he Court holds that under the [Fair Housing Act], a claim for emotional distress damages survives the death of a plaintiff. The inclusion of emotional distress damages furthers the legislative goals of compensating victims and deterring violations.”); *Estate of William T. Simpson & Ross Dennis v. Edith Marie Johnson*, Fair Housing – Fair Lending (P–H) P 25,076, 1994 WL 391135 (H.U.D.

²⁷ Adjusted for inflation, these awards amount to approximately \$85,959.83, \$142,765.78, and \$141,186.02 in present-day value, respectively. *See CPI Inflation Calculator*, UNITED STATES BUREAU OF LABOR STAT., https://www.bls.gov/data/inflation_calculator.htm (last visited July 31, 2026). *See also Secor v. City of New York*, 13 Misc.3d 1220(A), 2006 WL 2918060, at *4 (N.Y. Sup. Ct. Oct. 3, 2006) (considering the amount of inflation in assessing reasonableness of Commission's emotional distress damages award).

A.L.J. July 26, 1994) (housing provider ordered to pay emotional distress damages to complainant's estate in a race discrimination case under Fair Housing Act).

The payment of emotional distress damages to Mr. Tabri's estate ensures that housing providers do not evade compliance with the City Human Rights Law by "waiting out" elderly and terminally ill tenants in lieu of providing those tenants with reasonable accommodations. *See Ambruster*, 963 F. Supp. at 865 ("Because the litigation process can easily outlast the longevity of [terminally ill or elderly] plaintiffs, eliminating emotional distress damages can undermine the value of housing discrimination laws as to those groups.").

For these reasons, the Commission orders that the award of \$75,000 in emotional distress damages be paid to Mr. Tabri's estate.²⁸

B. Civil Penalties

In assessing whether the imposition of civil penalties will vindicate the public interest, the Commission may consider several factors, including, but not limited to: (1) respondents' financial resources; (2) the sophistication of respondents' enterprise; (3) respondents' size; (4) the willfulness of the violation; and (5) the impact on the public of issuing civil penalties. *Joo*, 2018 WL 6978286, at *10 (collecting cases). The Commission also considers the extent to which respondents cooperated with the Bureau's investigation and the proceedings at OATH, as well as the amount of remedial action that respondents may have already undertaken. *Agosto*, 2017 WL 1335244, at *11 (collecting cases).

The R&R recommends a civil penalty of \$100,000. In its comments on the R&R, the Bureau requests a civil penalty of \$250,000. For the reasons set forth below, the Commission finds that Respondents are liable for a civil penalty in the amount of \$150,000.

i. Length of Time

Respondents' violations of the NYCHRL took place over a period of approximately four years. During this time, Mr. Tabri faced extreme difficulty entering and exiting the Building. His repeated pleas were left unanswered by Respondents, who were aware of his need for a reasonable accommodation and refused to provide it or even participate in a cooperative dialogue about how to meet Mr. Tabri's needs. Respondents' refusal to provide a reasonable accommodation over multiple years carries substantial weight in this penalty assessment. Mr. Tabri was in his eighties when the violations by these Respondents began, and Respondents encouraged him to move into an assisted living facility instead of engaging him in a good faith cooperative dialogue or providing an accommodation. Housing providers cannot withhold reasonable accommodations from tenants in anticipation of the tenant passing away or finding alternative living arrangements.

²⁸ As discussed *supra* at Part IV.C, Letters of Administration were issued in July 2024.

The length of time that Respondents deprived Mr. Tabri of his right to equal use and enjoyment of his housing accommodation, coupled with their encouragement that Mr. Tabri move out and their continual refusal to even engage him in a conversation about his needs, supports a \$150,000 civil penalty.

ii. Egregiousness of Discrimination

The Commission agrees with the R&R that Respondents' violations were "egregious and willful." (R&R at 27). Respondents were aware of Mr. Tabri's needs for a reasonable accommodation prior to acquiring the Building and even solicited proposals for how to put a ramp or lift in place. Throughout his tenancy, Mr. Tabri repeatedly asked for modifications to make the Building accessible, even asking his Catholic Charities case managers to help him advocate. Respondents expressly denied these requests in some interactions and simply ignored them in others. Rather than putting ramps or lifts in place, Respondents provided many shifting and contradictory excuses. Respondents' building manager, Mr. Garcia, also suggested that Mr. Tabri move out of his home if he wanted to be able to move about freely.

The willful and egregious nature of Respondents' failure to provide a reasonable accommodation to Mr. Tabri, which impeded his ability to enter or exit the Building for multiple years of his tenancy, merits a \$150,000 civil penalty.

iii. Respondents' Size, Financial Situation, and Impact on the Public

When subject to a civil penalty for violating the NYCHRL, Respondents may "plead and prove any relevant mitigating factor" with respect to the amount of the civil penalty only. N.Y.C. Admin. Code § 8-126(b). During the proceedings in this case, Respondents and the Bureau stipulated that "Respondents Gandolfo DiFiore and DiFiore Realty LLC waive any defense, argument, or position that their financial condition should be considered a mitigating factor for purposes of calculating potential civil penalties" and that Mr. DiFiore is "a sophisticated and experienced residential landlord within the City of New York." (Stipulations).

In addition, the trial record shows that Respondents have sizable financial resources and operations. Mr. DiFiore is the sole member of DiFiore Realty, LLC, which owns three residential properties with a total of fifty-two apartment units. (DiFiore Dep. 63:22–65:3). Mr. DiFiore has ownership interests in additional companies, which have an ownership interest in more than ten other properties. (*Id.* at 148:10–149:24, 158:20–159:16, 166:23–167:21, 176:2–24, 179:3–180:15, 182:5–184:20, 187:15–189:2, 192:13–193:11, 196:10–197:8, 204:3–14). One of the companies has properties containing a total of over 200 units. (*Id.* at 149:21–24). Furthermore, as noted in the R&R, due to their size and the scope of their operations, the potential impact of Respondents' discrimination on the public is significant, warranting a higher civil penalty.

Respondents' size and sophistication support a civil penalty of \$150,000. *Cf. Comm'n on Human Rights ex rel. Colon v. Lewis*, OATH Index No. 330/19, Comm'n Dec. & Order, 2026 WL 451716, at *13 (Jan. 27, 2026) (ordering a \$100,000 civil penalty for egregious housing

discrimination over the course of five years, but noting that the respondents only had two buildings comprising seven housing units and stating “[t]he Commission finds that Respondents’ size weighs against issuance of the maximum possible penalty”).

iv. Respondents’ Cooperation

The R&R considers, *inter alia*, Respondents’ cooperation in the investigation as a mitigating factor for civil penalties. The Commission agrees that Respondents generally participated in the investigation and processes leading up to and through trial. This has factored into the civil penalty assessment of \$150,000, which is well below the maximum \$250,000 civil penalty allowed for willful, wanton, or malicious violations of the City Human Rights Law.

v. Respondents’ Eve of Trial Behavior

In its comments on the R&R, the Bureau looks to Mr. DiFiore’s visit to Mr. Tabri the night before trial as part of the basis for a \$250,000 civil penalty. (*See* Pet. Comments at 9). The Commission agrees that this conduct warrants an increased civil penalty beyond that recommended in the R&R. Mr. Tabri testified that during this visit, Mr. DiFiore asked him why he needed a ramp. (Tr. vol. 1, 40:8–15). Mr. DiFiore denied this but only offered vague testimony as to what motivated his unannounced visit to the apartment of an eighty-five-year-old tenant who had mobility limitations and had, three years earlier, filed a disability discrimination complaint that was proceeding to trial the very next day. Mr. DiFiore indicated that the superintendent accompanied him to visit Mr. Tabri “because Mr. Tabri is more familiar with him.” (Tr. vol. 2, 321:21–24). In response to questioning, Mr. DiFiore testified, “I wanted to see how he was doing it [sic]. . . . It’s been – it’s been — had been a while since I had seen him.” (*Id.* at 321:12–15). There is no evidence in the record that Mr. Tabri and Mr. DiFiore had any ongoing friendly relationship (*see* Tr. vol. 1, 28:23–29:3, 40:16–20), which is bolstered by the fact that Mr. DiFiore felt he needed the superintendent to accompany him. At trial, Mr. Tabri did not express that he felt intimidated or harassed by the visit. (R&R at 28). However, in the absence of any plausible justification for the visit and taking into account the proximity of the visit to the trial date, the Commission finds Respondents’ conduct to be inappropriate interference with the Commission’s proceedings due to its potential chilling effect. *See* N.Y.C. Admin. Code § 8-107(19) (stating that it is unlawful discrimination “to coerce, intimidate, threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of such person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to [N.Y.C. Admin. Code § 8-107]”). The Commission orders Respondents to pay an increased civil penalty of \$150,000 in part because of this conduct.

C. Affirmative Relief

The City Human Rights Law authorizes the Commission to require Respondents to undertake affirmative measures, including trainings, to prevent further discrimination. N.Y.C. Admin. Code § 8-120(a)(4). *See, e.g., Colon*, 2026 WL 451716, at *14 (collecting cases). This also includes “the extension of full, equal and unsegregated accommodations, advantages, facilities, and privileges.” N.Y.C. Admin. Code § 8-120(a)(5). Here, the R&R recommended that Respondents be ordered to install either ramps or platform lifts at the Building’s entrance as a reasonable accommodation for Mr. Tabri. (R&R at 30).

Although ordering construction of building modifications was appropriate given the discrimination Mr. Tabri experienced, in light of his passing, the Commission instead orders that for five calendar years, starting thirty (30) days after service of this Order, Respondents shall conspicuously post in all common areas of the Building (including, but not limited to, the Building lobby, elevators, mailrooms, and laundry rooms) a Commission-created notice (“Notice”), which shall advise all residents of their right to a reasonable accommodation for mobility-related disabilities, which may include installation of ramps or platform lifts at the exterior and interior entrances of the Building. The Notice shall include the contact information for Respondents’ point of contact for reasonable accommodation requests, as well as the Bureau’s contact information. The Commission further orders that Respondents furnish a copy of the Notice to the tenants of each occupied unit in the Building, which may be accomplished by placing a copy of the Notice under the door of each unit or in the relevant mailboxes of the units’ tenants. The Commission further orders that the Notice be similarly conspicuously posted in the common areas of all other residential apartment buildings in New York City owned by any Respondent.

In addition, the Commission adopts the following R&R recommendations and orders Respondents to:

1. Create a written anti-discrimination policy to inform all of Respondents’ employees and agents about their obligations under the NYCHRL, including the right of residents to request and be provided with reasonable accommodations, and to create and distribute to all current and future employees a written anti-discrimination policy that includes how to identify and respond to reasonable accommodation requests;
2. Create and post a reasonable accommodation policy for residents and a clear process that individuals can follow to request accommodations and timelines for obtaining decisions on their requests;
3. Undergo the Commission’s “Human Rights Law and Discrimination in Housing Overview” and “Rights of People with Disabilities in Housing and Public Accommodations” trainings and submit proof of attendance to the Commission;

4. Display prominently the Commission's Notice of Rights Poster in English and Spanish for no less than five years, in all New York City locations where Respondents rent out property.

VI. CONCLUSION

FOR THE REASONS DISCUSSED HEREIN, IT IS HEREBY ORDERED that no later than thirty (30) calendar days after service of this Order, Respondents pay a total of \$75,000 in emotional distress damages to Mr. Tabri's Estate by sending to the New York City Commission on Human Rights, 22 Reade Street, 2nd Floor, New York, New York 10007, Attn: Monitoring Clerk, a bank certified or business check made payable to the Estate Administrator, whose name the Commission will provide to Respondents upon issuance of this Decision and Order. The check must include a written reference to OATH Index Nos. 2386/22 & 1732/23.

IT IS FURTHER ORDERED that no later than sixty (60) calendar days after service of this Order, Respondents pay a civil penalty of \$150,000 to the New York City Department of Finance by sending to the New York City Commission on Human Rights, 22 Reade Street, 2nd Floor, New York, New York 10007, Attn: Monitoring Clerk, a bank certified or business check made payable to the New York City Department of Finance, including a written reference to OATH Index Nos. 2386/22 & 1732/23.

IT IS FURTHER ORDERED that no later than sixty (60) calendar days after service of this Order, Respondents: (1) create a written anti-discrimination policy to inform all of Respondents' employees and agents about their obligations under the NYCHRL, including the right of residents to request and be provided with reasonable accommodations, and how to identify and respond to reasonable accommodation requests; and (2) create a reasonable accommodation policy and process for residents to request accommodations and timelines for obtaining decisions on their requests.

No later than sixty (60) calendar days after service of this Order, the policies must be provided as an electronic copy to the Commission's Monitoring Clerk at monitoring@cchr.nyc.gov, including written reference to OATH Index Nos. 2386/22 & 1732/23, whereupon the Commission will review the policies to ensure they comply with the New York City Human Rights Law. No later than thirty (30) calendar days after approval by the Commission, Respondents are ordered to distribute the written anti-discrimination policy to all of Respondents' employees and agents, as well as post the reasonable accommodation policy in all locations where Respondents rent out housing accommodations, on Legal Size (8.5 x 14 inch) paper, in a conspicuous location where it will be visible to residents and patrons seeking housing for a period of five (5) years after the date of this Order.

IT IS FURTHER ORDERED that no later than thirty (30) calendar days after service of this Order, Respondents must arrange for themselves and all current employees and agents of the Building to attend two Commission-led anti-discrimination trainings: "Human Rights Law and

Discrimination in Housing Overview” and “Rights of People with Disabilities in Housing and Public Accommodations.” A schedule of available trainings is available at <https://www.nyc.gov/site/cchr/community/events-workshops.page>, and other trainings can be scheduled by emailing trainings@cchr.nyc.gov. Respondents shall provide proof of attendance to the Monitoring Clerk no later than seven (7) calendar days after completion of each training by emailing monitoring@cchr.nyc.gov.

IT IS FURTHER ORDERED that no later than thirty (30) calendar days after service of this Order, Respondents post the Commission’s Notice of Rights Poster, available at <https://www.nyc.gov/site/cchr/law/legal-resources.page#legalnotices> and enclosed, in all locations where Respondents rent out housing accommodations, on Legal Size (8.5 x 14 inch) paper, in a conspicuous location where it will be visible to residents and patrons seeking housing for a period of five (5) years after the date of this Order.

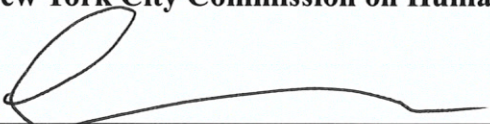
IT IS FURTHER ORDERED that no later than thirty (30) calendar days after service of this Order, Respondents post the Commission-created Notice, in all locations where Respondents rent out housing accommodations, on Legal Size (8.5 x 14 inch) paper, in a conspicuous location where it will be visible to residents and patrons seeking housing, including in all common spaces such as lobbies, elevators, mailbox areas, and laundry rooms. Respondents are also ordered to provide this Notice to all current residents in the Building, which may be accomplished by placing a copy of the Notice under each unit’s door or in each unit’s mailbox. In each residential apartment building in New York City owned by any Respondent, Respondents are similarly ordered to post the Notice, on Legal Size (8.5 x 14 inch) paper, in a conspicuous location where it will be visible to residents and patrons seeking housing, including in all common spaces such as lobbies, elevators, mailbox areas, and laundry rooms.

Failure to comply with any of the foregoing provisions in a timely manner shall constitute non-compliance with a Commission order. In addition to any civil penalties assessed against them pursuant to this Order, Respondents shall pay a civil penalty of \$100 per day for every day the violation continues. N.Y.C. Admin. Code § 8-124. Furthermore, failure to abide by this Order may result in criminal penalties. *Id.* § 8-129.

Civil penalties are paid to the general fund of the City of New York.

Dated: New York, New York
August 3, 2026

SO ORDERED:
New York City Commission on Human Rights



Christine Clarke
Commissioner/Chair