

**From:** Carol Berg <cberg@cityofsantacruz.com>  
**Subject:** RE: Patricia Colby and I dispute your refusal to investigate our HOME discrimination complaint  
**Date:** June 27, 2011 12:09:23 PM PDT  
**To:** "John E. Colby" <colby@docktorcat.com>  
▶ 1 Attachment, 27.0 KB

---

Mr. Colby:

In response to your email below, your sister's unit is no longer a HOME assisted unit and is not regulated under the HOME Program. Only 11 of the 50 units in Mission Gardens are HOME assisted units. In 2010, your sister resided in one of the HOME assisted units and city staff conducted a HOME inspection of your sister's unit. Since correspondence from you on behalf of your sister at that time suggested that it was a burden for her to have the HOME inspection, we requested that the owner of Mission Gardens designate another unit as a HOME assisted unit instead of your sister's unit so that we would not need to disturb her with HOME unit inspections in the future. This change was completed earlier this year. Changes in HOME designated units are allowed under the HOME Regulatory Agreement with Mission Gardens. The Agreement does not require tenant notification of these changes.

Carol Berg  
(831) 420-5108

Please note that my email address has changed to [cberg@cityofsantacruz.com](mailto:cberg@cityofsantacruz.com)

---

**From:** John E. Colby [mailto:colby@docktorcat.com]  
**Sent:** Thursday, June 23, 2011 8:51 PM  
**To:** Carol Berg  
**Cc:** City Council; Martin Bernal; Bonnie Lipscomb; Norman Daly; "Mercedes M. Márquez"; Clifford Taffet; Helen R. Kanovsky; Maria F. Cremer; Gail B Goldman; Nancy DeSerpa  
**Subject:** Patricia Colby and I dispute your refusal to investigate our HOME discrimination complaint

June 23, 2011

Carol Berg  
Housing Program Manager  
Economic Development and Redevelopment  
City of Santa Cruz  
337 Locust Street  
Santa Cruz, CA 95060  
Tel: 831.420.5108

via email to: [cberg@cityofsantacruz.com](mailto:cberg@cityofsantacruz.com)

cc: [citycouncil@cityofsantacruz.com](mailto:citycouncil@cityofsantacruz.com)  
cc: [mbernal@cityofsantacruz.com](mailto:mbernal@cityofsantacruz.com)  
cc: [blipscomb@cityofsantacruz.com](mailto:blipscomb@cityofsantacruz.com)  
cc: [ndaly@cityofsantacruz.com](mailto:ndaly@cityofsantacruz.com)  
cc: [Mercedes.M.Marquez@hud.gov](mailto:Mercedes.M.Marquez@hud.gov)  
cc: [Clifford.Taffet@hud.gov](mailto:Clifford.Taffet@hud.gov)  
cc: [Helen.R.Kanovsky@hud.gov](mailto:Helen.R.Kanovsky@hud.gov)  
cc: [Maria.F.Cremer@hud.gov](mailto:Maria.F.Cremer@hud.gov)  
cc: [gail.b.goldman@hud.gov](mailto:gail.b.goldman@hud.gov)  
cc: [Nancy.deSerpa@mail.house.gov](mailto:Nancy.deSerpa@mail.house.gov)

re: Patricia Colby and I dispute your refusal to investigate our HOME discrimination complaint

Dear Ms. Berg:

My sister Patricia Colby and I dispute your refusal to investigate discrimination on the part of The John Stewart Company (JSCO) — managing agent for the Mission Gardens Apartments at 90 Grandview Street where Ms.

Colby resides in a HOME unit — and on the part of JSCO's attorney Nathan Benjamin.

Note:

1. As I communicated in the facts presented to you in our complaint, Ms. Colby was also sent a letter from JSCO attorney Nathan Benjamin, just as I was, meant to threaten, coerce and intimidate her from exercising her legal right to video record entry by JSCO staff. Thus Ms. Colby was directly discriminated against by JSCO's attorney.

2. Secondly, JSCO's attempts to discriminate against me, are also intended to threaten, coerce and intimidate Ms. Colby — who resides in a HOME unit — because I am associated with her, a disabled HOME resident, and I represent and advocate for her. Thus discriminating against me in my inspections, by association, discriminates against Ms. Colby, a HOME resident.

3. The non-discrimination clause of the HOME regulatory agreement between the City of Santa Cruz and the owners of Mission Gardens states:

**4.09. Nondiscrimination.** Developer shall not discriminate against any prospective tenant in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the HOME-Assisted Units on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any other arbitrary basis. Developer shall otherwise comply with all applicable local, California, and federal laws concerning discrimination in housing.

To quote: "Developer shall otherwise comply with all applicable local, California and federal laws concerning discrimination in housing."

Since JSCO's discrimination against me as retaliation for my advocacy for Ms. Colby's disability rights is discrimination against a person helping her exercise her Fair Housing rights, such discrimination is inseparably intertwined with discrimination against Ms. Colby. Moreover, JSCO staff refer to Ms. Colby and I as "the Colby's" to other Mission Gardens residents, treating us as an inseparable unit. In other words, Ms. Colby's Fair Housing rights are being violated by JSCO discriminating against me, as her representative and advocate. Thus there are "applicable laws concerning discrimination in housing" which are being violated by JSCO's actions w.r.t. my inspections which the City of Santa Cruz is contractually obligated to investigate and resolve in its administration of the HOME program.

I am putting you, your superiors, other City of Santa Cruz staff and the Santa Cruz City Council on notice that we, Ms. Colby and I, hold the City of Santa Cruz responsible to end this discrimination against us as per the non-discrimination clause of the HOME regulatory agreement between the City of Santa Cruz and the owners of the Mission Gardens Apartments. Any refusal to do so is a refusal to perform the City of Santa Cruz's contractual obligations set forth in the HOME regulatory agreement.

Once more, we ask you to hold Ms. Powis, Ms. Bell and their attorney Nathan Benjamin accountable, to end this harassment campaign of threats, intimidation and coercion against Ms. Colby and I. Please contact me if you require further information on my part.

Also, I would appreciate if you would confirm by email or by voicemail that you received this email disputing your initial refusal to investigate our complaint.

Sincerely yours,  
John E. Colby, Ph.D.

email: [colby@soe.ucsc.edu](mailto:colby@soe.ucsc.edu)  
telephone: 831.471.9767

postal address:  
849 Almar Avenue, Suite C-242  
Santa Cruz, CA 95060

On Jun 23, 2011, at 5:23 PM, Carol Berg wrote:

Mr. Colby,

In response to your email below, the inspections that you are referring to are not HOME Program inspections and therefore are not regulated under the HOME Program.

Carol Berg  
(831) 420-5108

Please note that my email address has changed to [cberg@cityofsantacruz.com](mailto:cberg@cityofsantacruz.com)

---

**From:** John E. Colby [<mailto:colby@docktorcat.com>]

**Sent:** Wednesday, June 22, 2011 3:09 PM

**To:** Carol Berg

**Cc:** City Council; Martin Bernal; Bonnie Lipscomb; Norman Daly; "Mercedes M. Márquez"; Clifford Taffet; Helen R. Kanovsky; Maria F. Cremer; Gail B Goldman; Nancy DeSerpa

**Subject:** What is JSCO hiding and why is the City of Santa Cruz allowing it?

June 22, 2011

Carol Berg  
Housing Program Manager  
Economic Development and Redevelopment  
City of Santa Cruz  
337 Locust Street  
Santa Cruz, CA 95060  
Tel: 831.420.5108

cc: [citycouncil@cityofsantacruz.com](mailto:citycouncil@cityofsantacruz.com)  
cc: [mbernal@cityofsantacruz.com](mailto:mbernal@cityofsantacruz.com)  
cc: [blipscomb@cityofsantacruz.com](mailto:blipscomb@cityofsantacruz.com)  
cc: [ndaly@cityofsantacruz.com](mailto:ndaly@cityofsantacruz.com)  
cc: [Mercedes.M.Marquez@hud.gov](mailto:Mercedes.M.Marquez@hud.gov)  
cc: [Clifford.Taffet@hud.gov](mailto:Clifford.Taffet@hud.gov)  
cc: [Helen.R.Kanovsky@hud.gov](mailto:Helen.R.Kanovsky@hud.gov)  
cc: [Maria.F.Cremer@hud.gov](mailto:Maria.F.Cremer@hud.gov)  
cc: [gail.b.goldman@hud.gov](mailto:gail.b.goldman@hud.gov)

cc: [Nancy.deSerpa@mail.house.gov](mailto:Nancy.deSerpa@mail.house.gov)

re: What is JSCO hiding and why is the City of Santa Cruz allowing it?

Dear Ms. Berg:

As per the following passage from the Citizen Participation Plan for the HOME program administered by the City of Santa Cruz for the Mission Gardens Apartments at 90 Grandview Street, I am submitting a complaint via email (since it includes hyperlinks and to more easily distribute it to others).

## 2. Complaints

Citizen with complaints concerning the Consolidated Plan, the Annual Action Plan, substantial amendments and the CAPER should contact City HCD staff by phone or in writing within 30 days from the date the document is published for comment. Complaints concerning any CDBG-funded or HOME-funded program in which the person believes access has been limited or denied, must be made within 30 days from the date of the occurrence. Staff will review each complaint based on the information provided within the complaint and provide a complete written responses to citizen complaints within 15 working days from the date of their complaint when practicable.

The City will accept written complaints provided they specify the following:

- (1) The description of the objection, and supporting facts and data
- (2) Name, address, and telephone number of complainant and a date of complaint

Complaints shall be sent to:

City of Santa Cruz  
Housing & Community Development Manager  
337 Locust Street  
Santa Cruz, CA 95060

A record will be maintained of all complaints received that will include the nature of the complaint, City investigation of facts and evidences, referrals made, and the final disposition.

**The gist of my complaint: the managing agent for the Mission Gardens Apartments —The John Stewart Company (JSCO) — and their attorney Nathan Benjamin are harassing and intimidating my sister and I to coerce us from exercising our legal rights to video record inspections of our units to protect ourselves from being harassed and to collect evidence for the government, our elected representatives, the police and for the courts.**

I believe this harassment, intimidation and coercion is retaliation for my sister requesting accommodations from JSCO and the City of Santa Cruz for the effects of smokers' secondhand tobacco smoke in common areas of Mission Gardens upon her disabilities. In short, smokers here are using cigarette smoke as a weapon to injure my sister based upon her disabilities, making their violations of the Santa Cruz smoking ban (<http://tinyurl.com/3moj3cb>) disability motivated hate crimes.

**The facts:**

- 1. On May 10, 2011 JSCO Regional Manager Maya Powis and Mission Gardens Property Manager LaMonica Bell refused to enter my apartment for my annual unit inspection, asserting that video recording this inspection would violate their privacy rights.**
- 2. On May 9 and May 10, 2011, JSCO attorney Nathan Benjamin wrote letters to intimidate and coerce me and my sister, respectively, from asserting our legal rights to video record inspections of our units to protect ourselves from being harassed and to gather objective evidence for the government, our elected officials, the police and the courts. His letters from those dates to us are attached as a PDF. The court case he cited, California v. Gibbons (<http://tinyurl.com/4xez8c6>), describes a case where a man surreptitiously video recorded women having sex with him. We do not plan on video recording Ms. Powis and Ms. Bell having sex in our apartments, nor do we plan to engage in any sexual activity with them during our unit inspections (or at any other time).**
- 3. On May 18, 2011, JSCO attorney Nathan Benjamin wrote to me again trying to intimidate and coerce me from asserting my legal rights to video record inspections of my unit to protect myself and to gather objective evidence like I described above.**
- 4. On May 22 and May 27, 2011, I made my intentions clear that I was going to video record my inspections and share the results with HUD and the California Housing Finance Agency (CalHFA).**
- 5. On June 1, 2011, Ms. Powis sent me an email in which she asserted that offsite JSCO employee Chris Pritchard would accompany her to inspect my apartment on June 7, 2011, despite the facts that Mr. Pritchard is a smoker whose thirdhand smoke would seriously affect my sister's health and I had already informed Ms. Powis that Mr. Pritchard acted as an enforcer in the summer of 2009, coercing me to backdate Low Income Housing Tax Credit (LIHTC) application documents.**
- 6. After I caught pneumonia, my annual inspection was rescheduled for Thursday, June 16, 2011. Before then, Ms. Powis refused to return my email request and one from the CalHFA**

tenant liaison Marian Grant asking who was going to inspect my apartment last Thursday (although Ms. Powis had informed me of these details in the past). Last Thursday, June 16, 2011, Ms. Powis and Ms. Bell came to inspect my apartment but refused to perform the inspection because I intended to video record it, although I had already informed them of my intent to video record in my emails to Ms. Bell on May 22 and May 27, 2011. Please watch this video recording of our encounter on that afternoon (<http://tinyurl.com/3qkcbd9>). Ms. Powis and Ms. Bell keep trying to frame me as attaching a restrictive condition to their access to inspect, while I openly offer them access again and again, only asserting my legal right to video record inspections of my unit. Note that I don't legally require Ms. Powis and Ms. Bell's consent to video record inspections inside my own apartment. They are harassing and trying to intimidate me just like JSCO's attorney Nathan Benjamin did in his letters to me.

**Questions: What were Ms. Powis and Ms. Bell trying to hide that they would object to being video recorded? What were they planning to do in my apartment that they didn't want there to be objective evidence of?**

I claim JSCO, Ms. Powis, Ms. Bell and their attorney Nathan Benjamin have been waging a campaign of harassment, threats and intimidation to prevent my sister and I from exercising our legal rights to collect objective evidence of what seems to be JSCO's intention to abuse their inspections of our units to harass us for advocating for my sister's disability rights with JSCO and the City of Santa Cruz.

I hold the City of Santa Cruz responsible to end this discrimination against us as per the non-discrimination clause of the HOME regulatory agreement between the City and the owners of the Mission Gardens Apartments.

Thank you for acting to hold Ms. Powis, Ms. Bell and their attorney Nathan Benjamin accountable, to end this harassment campaign of threats, intimidation and coercion against my sister and I. Please contact me if you require further information on my part.

Sincerely yours,  
John E. Colby, Ph.D.

email: [colby@soe.ucsc.edu](mailto:colby@soe.ucsc.edu)  
telephone: 831.471.9767

postal address:  
849 Almar Avenue, Suite C-242  
Santa Cruz, CA 95060

**JSCO attorney Nathan Benjamin's May 9th and 10th letters to my sister and I:**