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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

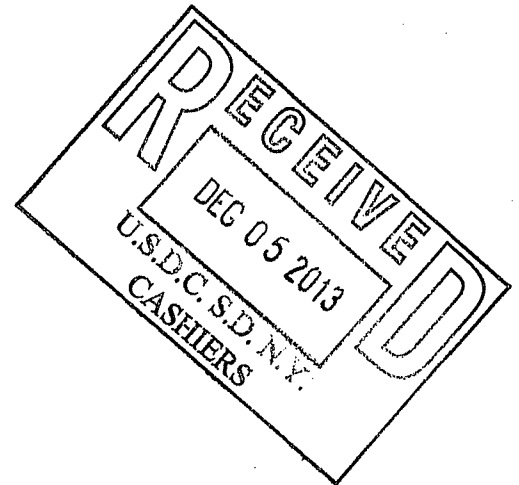
UNITED STATES OF AMERICA,

Plaintiff,

v.

EAST RIVER HOUSING CORP.,

Defendant.



COMPLAINT

13 Civ. _____

Jury Trial Demanded

Plaintiff, the United States of America, by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, alleges for its complaint as follows:

PRELIMINARY STATEMENT

1. This is a civil action for declaratory relief, injunctive relief, and monetary damages under the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*, brought by the United States of America on behalf of Stephanie Aaron ("Complainant"), to redress discrimination on the basis of disability.

2. As alleged more fully below, defendant East River Housing Corp. ("East River"), the owner-operator of a 1,672-unit housing cooperative located at 573 Grand Street, New York, New York, 10002, unlawfully discriminated against Complainant based on her disability.

3. East River's conduct violates the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* (the "Act"), and should be declared unlawful and enjoined, and appropriate monetary damages should be awarded.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and 42 U.S.C. § 3612(o) because East River is situated in this district and the events giving rise to the Complaint occurred in this district.

THE PARTIES

6. Plaintiff is the United States of America (the "United States").

7. Defendant East River is a private 1,672-unit housing cooperative, located at 573 Grand Street, New York, New York 10002.

8. Complainant is the proprietary lessee of an apartment at East River and is subject to a proprietary lease dated November 24, 2003, by and between East River and Complainant.

9. Complainant's apartment constitutes a "dwelling" within the meaning of the Act, 42 U.S.C. § 3602(b).

10. Complainant is an "aggrieved person" as that term is defined in the Act, 42 U.S.C. § 3602(i), and has suffered damages as a result of defendant's conduct.

PROCEDURAL BACKGROUND

11. On December 11, 2012, Complainant filed a verified Housing Discrimination Complaint with the U.S. Department of Housing and Urban Development ("HUD") alleging discrimination on the basis of disability.

12. Pursuant to the requirements of 42 U.S.C. § 3610(a) and (b), the Secretary of HUD (the "Secretary") conducted and completed an investigation of the administrative complaint.

13. Based on the information gathered in the HUD investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that East River discriminated against Complainant and violated the Act.

14. On October 23, 2013, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging East River with engaging in discriminatory housing practices in violation of the Act.

15. On November 8, 2013, East River timely elected to have the charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a). Following this election, the Secretary authorized the Attorney General to file this action on Complainant's behalf, pursuant to 42 U.S.C. § 3612(o)(1).

FACTS

16. Complainant Stephanie Aaron has chronic major depression, anxiety, and post-traumatic stress disorder. Historically, Complainant's mental illness has impacted her ability to socialize, maintain relationships, sleep, and concentrate. It also exacerbates her asthma. Complainant is a person with a disability as defined by the Act, 42 U.S.C. § 3602(h).

17. Article 3, paragraph 5(f) of the Proprietary Lease entered into by and between East River and Complainant states that all House Rules are to be considered "substantial obligations" of tenancy. Article 14 of the Proprietary Lease and House Rule 27 specifically prohibit dogs and other animals in East River's buildings without East River's "prior written consent."

18. In August 2012, Complainant was experiencing a resurgence of her depression and anxiety symptoms. She was often physically ill, unable to socialize, and overwhelmed by her

circumstances, which included working in a stressful work environment with an uncertain future with her employer.

19. On or about August 22, 2012, Complainant took in a stray dog and named her "Rosie." Within a few days, Complainant began to notice an improvement in the symptoms of her lifelong mental illness, and she decided to keep Rosie.

20. On September 14, 2012, East River sent Complainant a "10 Day Notice to Cure," which alleged that Complainant had violated a "substantial obligation of [her] tenancy" by keeping Rosie and demanded that Complainant remove Rosie by October 2, 2012.

21. Shortly after Complainant received the Notice to Cure, the symptoms of Complainant's mental illness worsened, and she returned to Dr. Lori Plutchik, a psychiatrist whom she had previously seen for treatment in 2008-2011.

22. On September 20, 2012, Complainant responded to the Notice to Cure by submitting a request for reasonable accommodation (the "First Reasonable Accommodation Request"), explaining her psychiatric disability. The request was accompanied by a handwritten letter from Dr. Plutchik, dated September 19, 2012, that stated that Rosie was a "primary source of healing and emotional support" for Complainant and requested that East River allow Rosie to remain with Complainant as a "service dog and emotional support animal." The letter included Dr. Plutchik's address and telephone number and invited East River to contact Dr. Plutchik to discuss the situation further, if necessary.

23. East River did not respond to Complainant's First Reasonable Accommodation Request and did not contact Dr. Plutchik for any information.

24. On October 18, 2012, East River sent Complainant a "10 Day Notice of Termination." The Notice of Termination indicated that Complainant would have to vacate her apartment by November 6, 2012.

25. On October 24, 2012, Complainant submitted another request for reasonable accommodation (the "Second Reasonable Accommodation Request"). Complainant's Second Reasonable Accommodation Request again attached Dr. Plutchik's September 19, 2012, letter.

26. By letter dated November 5, 2012, East River denied the Second Reasonable Accommodation Request on the ground that Dr. Plutchik's letter did not use the word "disabled."

27. On November 11, 2012, Complainant received a "Notice of Petition Holdover" notifying her that a Summary Holdover Proceeding regarding her eviction would be held in Manhattan Housing Court with a return date of November 29, 2012.

28. On November 15, 2012, Complainant's attorney, Karen Copeland, sent another reasonable accommodation request on Complainant's behalf (the "Third Reasonable Accommodation Request"), attaching Dr. Plutchik's September 19, 2012, letter for a third time. The Third Reasonable Accommodation Request stated that Complainant is disabled and "is entitled to a reasonable accommodation to facilitate her dealing with the limitations of her disabling conditions." The request sought "non-enforcement of . . . [the] 'no pet' clause" as a reasonable accommodation.

29. In December 2012, Complainant began treatment with Miriam Benhaim, Ph.D., a clinical psychologist.

30. On December 11, 2012, Complainant filed a verified complaint with HUD.

31. In January 2013, Dr. Benhaim and Dr. Plutchik wrote to East River. In separate letters, both doctors noted that the prospect of losing Rosie had worsened Complainant's

depression. Dr. Plutchik explained that, if Complainant were allowed to keep her dog, "it would be a tremendous support for her and help her to recover from this depression." Dr. Benhaim explained that it would be in Complainant's "best psychological interest" for East River to allow Complainant to keep Rosie.

32. East River did not respond to the January 2013 letters from Complainant's doctors.

33. In March 2013, East River moved for summary judgment against Complainant in Housing Court and for entry of a judgment of possession and issuance of a warrant of eviction.

34. On April 29, 2013, Dr. Plutchik sent another letter to East River, noting Complainant's "precipitous emotional decline" due to the continued prospect of losing Rosie.

35. On April 30, 2013, the Housing Court judge granted summary judgment in favor of East River and awarded East River a final judgment of possession. The Housing Court judge initially stayed the warrant of eviction through May 31, 2013, to afford Complainant an opportunity to cure by removing Rosie from her apartment. The stay was later extended to September 30, 2013. On October 17, 2013, the Housing Court issued a Decision and Order that lifted the stay and gave Complainant ten days to cure the breach by permanently removing Rosie from her apartment.

36. On October 24, 2013, the day after the Secretary issued its Charge of Discrimination, the Housing Court, upon Complainant's motion, issued an order to show cause why "an order should not be made . . . to reargue and renew the Order of October 17, 2013 and to stay the Order of Eviction dated April 30, 2013 and any efforts to execute the provisions of that Order."

37. On November 25, 2013, East River cross-moved in the Housing Court for attorney's fees and denial of Complainant's motion "in its entirety." A hearing with respect to the Housing Court's order to show cause and East River's cross-motion is scheduled for December 5, 2013.

CLAIM FOR RELIEF

38. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 37 of this Complaint as if fully set forth in this paragraph.

39. East River violated the Fair Housing Act, 42 U.S.C. § 3604(f)(1)(A), by making unavailable or denying a dwelling to Complainant because of Complainant's disability;

40. East River violated the Fair Housing Act, 42 U.S.C. § 3604(f)(2), by discriminating against Complainant in the terms, conditions, and privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability.

41. East River violated the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(B), by refusing to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling.

42. The discriminatory actions of East River were intentional and taken in disregard of Complainant's rights.

RELIEF REQUESTED

WHEREFORE, Plaintiff the United States of America requests that the Court enter judgment:

1. Declaring that East River's policies and practices as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*;

2. Enjoining East River, its officers, employees, agents, successors, and all other persons in active concert or participation with it, from:

(a) discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of a disability of the buyer or renter, in violation of 42 U.S.C. § 3604(f)(1)(A);

(b) discriminating in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);

(c) failing or refusing to make reasonable accommodations as required by 42 U.S.C. §§ 3604(f)(3)(B);

(d) failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Complainant to the position she would have been in but for the discriminatory conduct;

3. Awarding monetary damages to Complainant for injuries caused by East River's discriminatory conduct, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

4. Granting such further relief as this Court may deem just and proper.

The United States requests trial by jury.

Dated: New York, New York
December 5, 2013

Respectfully submitted,

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