

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Civil Action No. _____ 12-2782 DSD/JSM

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 ROCKFORD VILLA LLC,)
 LAURIE HOLASEK, and)
 RACHEL STEPANEK,)
)
 Defendants.)

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COMPLAINT

The United States of America, for its complaint against Rockford Villa LLC, Laurie Holasek, and Rachel Stepanek (collectively Defendants), alleges as follows:

NATURE OF ACTION

1. This is an action brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 through 3619 (the Act).

2. The United States alleges that Defendants refused to make reasonable accommodations for a tenant with an assistance animal at Rockford Villa apartments in Rockford, Minnesota, and retaliated against the persons requesting the accommodation, in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(f)(2)(A) and (C), 3604(f)(3)(B), and 3617.

3. The aggrieved persons, Maria Hicks and Brian Garrity, filed a complaint of

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discrimination with the United States Department of Housing and Urban Development (HUD). After an investigation, HUD charged Defendants with failing to make reasonable accommodations, disability discrimination, and retaliation in violation of the Fair Housing Act. Under the Fair Housing Act, Defendants Rockford Villa LLC and Laurie Holsack elected to have the claims asserted in the HUD charge determined in a civil action.

4. The United States, therefore, brings this action for injunctive relief and monetary damages on behalf of Hicks and Garrity pursuant to the Fair Housing Act, 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

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

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 42 U.S.C. § 3612(o).

PARTIES

7. Plaintiff is the United States of America.

8. Defendant Rockford Villa LLC is a Minnesota limited liability company and the corporate owner of Rockford Villa, a 24-unit apartment building located in Rockford, Minnesota.

9. Defendant Laurie Holasek is the sole member of Defendant Rockford Villa LLC, and owns and manages Rockford Villa.

10. Defendant Rachel Stepanek lives at Rockford Villa and was the on-site

manager of the property at the time of the allegations contained in this Complaint. Defendant Holasek employed Stepanek to perform the on-site manager duties at the Rockford Villa apartment building.

11. Aggrieved person Maria Hicks is a former resident of Rockford Villa. Hicks has severe heart failure, depression, an anxiety disorder, and panic attacks. These impairments substantially limit her major life activities. Because of her conditions, individually and in combination, Hicks is a person with disabilities under the Act, 42 U.S.C. § 3602(h). The United States brings this suit on her behalf.

12. Aggrieved person Brian Garrity is Maria Hicks' partner, and a former resident of Rockford Villa. The United States brings this suit on his behalf.

FACTS

13. Defendant Stepanek showed Hicks and Garrity a second-floor apartment at Rockford Villa.

14. Stepanek was employed by and/or acting as an agent for Defendants Laurie Holasek and Rockford Villa LLC at the time of the allegations in this Complaint. At all relevant times, Stepanek was acting within the scope of her employment/agency with Defendants Holasek and Rockford Villa LLC.

15. Hicks and Garrity signed a four-month lease for the period March 1, 2011 to June 30, 2011 for Rockford Villa unit 204.

16. At the time Hicks and Garrity signed the lease, Defendant Stepanek was aware that Hicks had disabilities.

17. In late February and early March, Hicks and Garrity moved into Rockford

Villa unit 204.

18. Rockford Villa is a “dwelling” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

19. Advertising for vacant apartment units at Rockford Villa stated that “pets under 25 pounds ok.”

20. Some Rockford Villa tenants have dogs, including on-site manager Defendant Stepanek.

21. In May 2011, Hicks asked Stepanek for information about Rockford Villa’s policy regarding assistance dogs and told Stepanek that she would like to obtain an assistance dog to help with her disabilities.

22. Stepanek responded that only dogs 25 pounds or less were allowed, and only in apartment units on the first floor. Stepanek stated that no exceptions to this policy were allowed.

23. On or about May 19, 2011, Dr. William Roberts, a specialist in family medicine and primary care, prescribed an assistance dog for Hicks to reduce her anxiety and motivate her to walk daily to alleviate her severe heart condition and other disabilities.

24. Between May 19 and May 21, 2011, Hicks and Garrity attempted to contact Defendants numerous times regarding obtaining an assistance dog, including leaving voicemails. They received no response.

25. During this time, a representative of Top Dog, a non-profit organization that places dogs with seniors and disabled persons, sent Holsasek a letter stating that

Hicks should be allowed to live with an assistance dog at Rockford Villa.

26. On or about May 22, 2011, Hicks taped a note to on-site manager Stepanek's apartment door enclosing her doctor's note regarding her need for an assistance dog and stating that she would be obtaining an assistance dog that day.

27. Later that day, Stepanek told Hicks that she could have a pet only if she lived on the first floor. Hicks responded that the dog was an assistance animal prescribed by her doctor, and requested that she be allowed to have the dog in her second floor apartment as a reasonable accommodation for her physical and mental disabilities.

28. On or about May 22, 2011, Hicks and Garrity adopted a small, white Maltese mix dog weighing less than 10 pounds. The dog provided emotional comfort and support to Hicks, helping to reduce her anxiety and depression and manage her severe heart disease.

29. On May 22, 2011, Stepanek told Holsasek that Hicks had obtained a dog, and that the dog was for her disability.

30. The next day, May 23, 2011, Holasek called Hicks and told her that, despite her doctor's note, she could not have a dog in her second floor apartment, that her lease would not be extended, and words to the effect, "You are out of here by the end of the month."

31. The same day, May 23, 2011, Hicks and Garrity received a letter from Holasek notifying them that their four-month lease would not be renewed at the end of June 2011.

32. On or about May 26, 2011, Garrity hand-delivered a letter to Holasek

stating that Hicks was requesting to have her assistance animal in their second floor apartment as a reasonable accommodation for her disabilities, and that the non-renewal notice was retaliatory. Holasek told Garrity words to the effect that, "You are still out of here."

33. On or about June 2, 2011, Hicks filed a fair housing complaint with HUD against Defendants on behalf of herself and Garrity.

34. On or about June 6, 2011, Holasek notified Hicks and Garrity by letter that, after speaking with her lawyer, she was cancelling the non-renewal of their lease.

35. On or about June 10, 2011, Holasek gave a "Pet Policy Reminder" notice to all Rockford Villa tenants regarding Hicks' "little white dog," in which she threatened to evict Hicks if she did not comply with the pet policy reminder.

36. In August 2011, Hicks and Garrity moved out of Rockford Villa because Garrity lost his job and they could no longer afford the rent.

PROCEDURAL BACKGROUND

37. As required by the Fair Housing Act, 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted an investigation of the complaint made by Hicks and Garrity, attempted conciliation without success, and prepared a final investigative report.

38. Based on the information gathered in his investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause exists to believe that illegal discriminatory housing practices occurred. Therefore, on or about September 27, 2012, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination pursuant to 42 U.S.C. § 3610(g), charging the Defendants with

discrimination under the Fair Housing Act, including under 42 U.S.C. §§ 3604(f)(2)(A) and (C), 3604(f)(3)(B), and 3617.

39. On October 2, 2012, Rockford Villa LLC and Holasek timely elected to have the claims asserted in HUD's Charge of Discrimination resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a).

40. On October 2, 2012, a HUD Administrative Law Judge issued a Notice of Election and terminated the administrative proceedings on the HUD complaint filed by Hicks and Garrity. Following the Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).

41. The United States now timely files this Complaint pursuant to the Fair Housing Act, 42 U.S.C. § 3612(o).

FAIR HOUSING ACT VIOLATIONS

**Violation of the Fair Housing Act – 42 U.S.C. § 3604(f)(2)(A) and (C)
Disability Discrimination**

42. The United States incorporates by reference the preceding paragraphs of this Complaint.

43. Defendants discriminated against Hicks, a person with a disability, and against Garrity, a person associated with Hicks, 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 dwelling, because of the disability of Hicks, in violation of 42 U.S.C. § 3604(f)(2)(A) and (C).

44. As a result of Defendants' conduct, Hicks and Garrity are aggrieved persons as defined in 42 U.S.C. § 3602(i) and have suffered injuries as a result of

Defendants' actions.

45. Defendants' discriminatory actions were intentional, willful, and taken in disregard of the rights of Hicks and Garrity.

FAIR HOUSING ACT VIOLATIONS
Violation of the Fair Housing Act – 42 U.S.C. § 3604(f)(3)(B)
Refusal to Make Reasonable Accommodations

46. The United States incorporates by reference the preceding paragraphs of this Complaint.

47. Defendants refused 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, in violation of 42 U.S.C. § 3604(f)(3)(B).

48. As a result of Defendants' conduct, Hicks and Garrity are aggrieved persons as defined in 42 U.S.C. § 3602(i) and have suffered injuries as a result of Defendants' actions.

49. Defendants' discriminatory actions were intentional, willful, and taken in disregard of the rights of Hicks and Garrity.

FAIR HOUSING ACT VIOLATIONS
Violation of the Fair Housing Act – 42 U.S.C. § 3617
Retaliation

50. The United States incorporates by reference the preceding paragraphs of this Complaint.

51. Defendants coerced, intimidated, threatened, or interfered with Hicks and Garrity in the exercise or enjoyment of, or on account of their having exercised or

enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Section 803, 804, 805, or 806 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.

52. As a result of Defendants' conduct, Hicks and Garrity are aggrieved persons as defined in 42 U.S.C. § 3602(i) and have suffered injuries as a result of Defendants' actions.

53. Defendants' discriminatory actions were intentional, willful, and taken in disregard of the rights of Hicks and Garrity.

REQUEST FOR RELIEF

WHEREFORE, the United States requests that this Court:

1. Declare that Defendants' discriminatory housing practices as set forth above violate the Fair Housing Act;

2. Enjoin and restrain Defendants, their officers, employees, agents, successors, and all other persons or corporations in active concert or participation with Defendants, from:

A. Discriminating against any person 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 dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);

B. 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, in violation of 42 U.S.C. § 3604(f)(3)(B); and

C. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Section 803, 804, 805, or 806 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.

3. Order Defendants to take such affirmative steps as may be necessary to restore, as nearly as practicable, Ms. Hicks and Mr. Garrity to the position they would have been in but for the discriminatory conduct;

4. Order Defendants to take such actions as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of their unlawful conduct, including implementing policies and procedures to ensure that no applicants or residents are discriminated against because of disability;

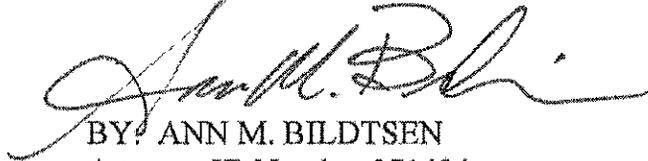
5. Award monetary damages to Ms. Hicks and Mr. Garrity pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

6. Order such additional relief as the interests of justice require.

Dated: November 1, 2012

Respectfully submitted,

B. TODD JONES
United States Attorney

A handwritten signature in cursive script, appearing to read "Ann M. Bildtsen".

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