

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CASE NO.
v.)	
)	
TALGAR GENERAL PARTNERSHIP,)	
BRUCE TALBOT, and H. WILLIAM)	
GARDNER,)	
)	
Defendants.)	
_____)	

COMPLAINT AND REQUEST FOR JURY TRIAL

The United States of America (“United States”) alleges as follows:

1. This action is brought by the United States to enforce Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601-3631, as amended (“the Fair Housing Act” or “the FHA”), on behalf of Michael Scribner and Judith DeMerchant, pursuant to 42 U.S.C. § 3612(o).
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 3612(o).
3. Venue is proper in the District of New Hampshire under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the United States’ claims occurred there.

FACTUAL ALLEGATIONS

4. Defendant Talgar General Partnership (“Talgar”) is a limited liability partnership organized pursuant to the laws of New Hampshire. Talgar is the owner of a mobile home park known as Sleepy Hollow Mobile Home Park (“Sleepy Hollow”), which is located in Newmarket, New Hampshire.

5. Defendant Bruce Talbot and Defendant H. William Gardner are partners in Talgar, and are actively involved in the day-to-day operations of Sleepy Hollow.

6. Michael Scribner is the owner and occupant of a mobile home located at 138 Dartmouth Circle, Lot 6C, in Sleepy Hollow. Mr. Scribner pays rent to Defendants for the space on which the mobile home is located.

7. The mobile home spaces rented by Defendants are “dwellings” as defined by 42 U.S.C. § 3602(b).

8. Judy DeMerchant resided with Mr. Scribner in his trailer for a period of approximately two years in 2010 and 2011. Complainant Judy DeMerchant is a person with handicaps (“disabilities”), which include, but may not be limited to, deafness and anxiety disorder. These disabilities substantially limit one or more of Ms. DeMerchant’s major life activities. Since April 2011, Ms. DeMerchant has been the owner of a Chihuahua dog named “Benny.” In the opinion of Ms. DeMerchant’s physician, the presence of Benny in her home is of assistance to her in dealing with the symptoms and effects of her anxiety disorder. In addition, Benny has been trained by Mr. Scribner and Ms. DeMerchant to assist Ms. DeMerchant in dealing with her deafness, by alerting her to the presence of visitors and other occurrences of which she may be unaware.

9. Residents of Sleepy Hollow are subject to Rules and Regulations (“Rules”) promulgated by Defendants. Section V of the Rules states in its entirety:

Residents shall not keep any farm-type animals within the park, including, but not limited to, chickens, ducks, pigs, geese, or goats. There are no dogs or cats permitted. However, the Owners will permit traditional pets such as tropical fish, birds, hamsters and gerbils, provided they remain within the home.

10. In July 2011, the Defendants, personally or through their employees or agents, told Complainants that the presence of the dog was a violation of the Rules and that they would have to remove the dog or leave Sleepy Hollow.

11. In response to the notice described in the foregoing paragraph, on August 7, 2011, Mr. Scribner communicated to Defendants Talbot and Gardner, in writing, a request that Ms. DeMerchant be permitted to retain her assistance animal as a reasonable accommodation to the rules pursuant to federal law. This communication represented that Ms. DeMerchant was a person with disabilities, and that the dog assisted her in dealing with her disabilities. Mr. Scribner enclosed with this communication a letter from Ms. DeMerchant’s physician, which stated that Ms. DeMerchant had been under his care since 2000, that she had limitations regarding social interaction and coping with stress and anxiety, and that having a support animal alleviated these limitations.

12. On October 11, 2011, Mr. Scribner made a second written request for an accommodation to Defendants Talbot and Gardner. This request was identical in substance to the first, and enclosed a further copy of the letter from Ms. DeMerchant’s physician.

13. The letter from Ms. DeMerchant’s physician referred to in the foregoing paragraph invited the recipient to contact the physician for more information. Based on information and belief, Defendants did not contact the physician.

14. Defendants repeatedly and consistently refused to grant the requested

accommodation described in paragraphs 11 and 12.

15. Ms. DeMerchant and Mr. Scribner (“Complainants”) timely filed a complaint of discrimination with the U.S. Department of Housing and Urban Development (“HUD”), pursuant to 42 U.S.C. § 3610(a).

16. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD investigated this complaint, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered in the course of this investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause existed to believe that Defendants violated the Fair Housing Act. Accordingly, on February 29, 2012, pursuant to 42 U.S.C. § 3610(g)(2)(A), the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination against Defendants.

17. On or about March 9, 2012, Defendants timely elected to have these charges resolved in a federal civil action, pursuant to 42 U.S.C. § 3612(a).

18. The Secretary of HUD subsequently authorized the Attorney General to file this action on behalf of Ms. DeMerchant and Mr. Scribner, pursuant to 42 U.S.C. § 3612(o).

CLAIM FOR RELIEF

19. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-18, *supra*.

20. By the actions and statements referred to in the foregoing paragraphs, Defendants have discriminated in the terms, conditions or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of disability, by refusing to make a reasonable accommodation in their rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a

dwelling, in violation of 42 U.S.C. § 3604(f)(2), (f)(3)(B).

21. As a result of Defendants' conduct, Michael Scribner and Judy DeMerchant have been injured and are aggrieved persons as defined by 42 U.S.C. § 3602(i).

22. Defendants' conduct described herein was intentional, willful, and taken in reckless disregard for the rights of Mr. Scribner and Ms. DeMerchant.

WHEREFORE, the United States prays that this Court enter an order that:

1. Declares that Defendants' actions, policies and practices, as alleged herein, violate the Fair Housing Act;
2. Enjoins Defendants, their agents, employees and successors, and all other persons in active concert or participation with them, from:
 - (a) discriminating on the basis of disability in any aspect of the rental or lease of a dwelling;
 - (b) refusing to make reasonable accommodations pursuant to the Fair Housing Act; and
 - (c) failing or refusing to take such steps 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 Defendants' unlawful housing practices.
3. Awards monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1) and 3614(d)(1)(B), to Mr. Scribner and Ms. DeMerchant.

The United States further prays for such additional relief as the interests of justice may require.

Dated:

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Respectfully submitted,

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