

LEV L. DASSIN  
Acting United States Attorney  
Southern District of New York  
By: EMILY E. DAUGHTRY  
DAVID J. KENNEDY  
Assistant United States Attorneys  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel. No. (212) 637-1579 (Daughtry)  
Tel. No. (212) 637-2733 (Kennedy)  
Fax No. (212) 637-0003  
[emily.daughtry@usdoj.gov](mailto:emily.daughtry@usdoj.gov)  
[david.kennedy2@usdoj.gov](mailto:david.kennedy2@usdoj.gov)



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
UNITED STATES OF AMERICA, :  
 :  
 :  
 Plaintiff, :  
 :  
 :  
 - against - :  
 :  
 :  
 BERK-COHEN ASSOCIATES AT :  
 TOR VIEW VILLAGE APARTMENTS, :  
 LLC, :  
 :  
 :  
 Defendant. :  
----- X

COMPLAINT  
09 Civ. \_\_\_\_\_

ECF CASE

Plaintiff United States of America (the "United States") alleges as follows:

1. This action is brought by the United States to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 ("Fair Housing Act" or the "Act"), 42 U.S.C. §§ 3601-3619. As set forth in full below, the United States alleges that the Defendant, the owner of Tor View Village Apartments, a residential apartment complex in Rockland County, New York ("Tor View Apartments"), has unlawfully discriminated against persons with disabilities in violation of the Fair Housing Act by refusing to make reasonable accommodations in rules, policies,

practices, or services, where such accommodations are necessary to afford people with disabilities an equal opportunity to use and enjoy a dwelling.

#### Jurisdiction and Venue

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 3614(a).

3. Venue is proper pursuant to 28 U.S.C. § 1391(b) and (c) because the claims alleged in this action arose in the Southern District of New York, and concern or otherwise relate to real property located in this District.

#### The Property

4. Tor View Apartments are residential apartment buildings located in the hamlet of Garnerville, in the Town of Haverstraw, in Rockland County, New York. There are 373 apartments located in 46 buildings as follows: 43 buildings with 8 units per building; 2 buildings with 10 units; and 1 building with 9 units.

5. The rental units at Tor View Apartments are “dwellings” within the meaning of 42 U.S.C. § 3602(b), and “dwelling units” within the meaning of 24 C.F.R. § 100.21.

6. Tor View Apartments are owned by Berk-Cohen Associates at TorView Village Apartments, LLC (“Tor View”), and managed by Manhattan Management Co., LLC (“Manhattan Management”).

#### Facts

7. Loeb House, Inc. (“Loeb House”) provides housing services for individuals with mental disabilities.

8. Loeb House clients live in two types of supported housing units at Tor View Apartments. Because certain of Loeb House's clients have mental disabilities that impair their ability to attend to their obligations under a lease agreement, including their ability to make rental payments in a timely fashion, Loeb House guarantees the rent for its clients at approximately 12 apartments (the "Guarantor Apartments"), and leases an additional 8 apartments directly from Tor View (the "Supportive Apartments"). These accommodations to Loeb House clients are tailored to address the mental disabilities of Loeb House clients.

9. Tor View has taken the position that it is not legally obliged to accept Loeb House's role as guarantor of its clients' obligations under the lease, with respect to both the Supportive Apartments and the Guarantor Apartments.

10. Tor View has taken the position that it is not legally obliged to accept Loeb House as signatory to the lease, with respect to the Supportive Apartments.

#### Fair Housing Act Claims

11. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-10, above.

12. Defendant's refusal to allow Loeb House to serve as guarantor of its clients' obligations under the lease, with respect to both the Supportive Apartments and the Guarantor Apartments, denies Loeb House's clients, who are people with disabilities, an equal opportunity to use and enjoy the dwellings at Tor View Apartments.

13. Defendant, through the above-referenced actions, has:
  - a. Discriminated in the rental of, or otherwise made unavailable or denied, dwellings to Loeb House and its clients because of a disability, in violation of 42 U.S.C. § 3604(f)(1)(B);
  - b. Discriminated against Loeb House and its clients in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability, in violation of 42 U.S.C. § 3604(f)(2)(B); and
  - c. Refused to make reasonable accommodations in rules, policies, practices, or services, which were necessary to afford the Loeb House clients an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).
  
14. Defendant's conduct constitutes:
  - a. a pattern or practice of resistance to the full enjoyment of the rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq.; and
  - b. a denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., which denial raises issues of general public importance.
  
15. To the extent that Tor View refuses to provide reasonable accommodation to Loeb House clients by refusing to accept Loeb House as guarantor or tenant for the purposes of accommodating the disabilities of Loeb House clients,

then those clients, as well as Loeb House, are aggrieved persons as defined in 42 U.S.C. § 3602(i).

16. There may be additional persons who have been the victims of defendant's discriminatory housing practices and who have suffered injuries as a result of defendants' conduct. Such individuals are also aggrieved persons as defined in 42 U.S.C. § 3602(i).
17. Defendant's conduct is intentional, willful, and taken in disregard of the rights of others.

Request for Relief

WHEREFORE, the United States respectfully requests that the Court enter an order that:

1. Declares that defendant's discriminatory practices violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 et seq.;
2. Pursuant to 42 U.S.C. § 3614(d)(1)(A), enjoins defendants, their agents, employees, and successors, and all other persons in active concert or participation with them, from:
  - a. Maintaining and enforcing their policy prohibiting a party that is not a residential tenant from signing the lease agreement where the residential tenant has mental disabilities preventing them from meeting their obligations under the lease agreement;
  - b. Maintaining and enforcing their policy prohibiting a party that is not a residential tenant from meeting rental obligations under the lease

where the residential tenant has mental disabilities preventing them from meeting their rental obligations under the lease agreement; or

- c. Discriminating on the basis of disability against any person in any aspect of the rental or use of a dwelling.
3. Awards monetary damages to each victim of defendant's discriminatory housing practices, pursuant to 42 U.S.C. § 3614(d)(1)(B); and
4. Assesses a civil penalty against the defendant to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C).

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

ERIC H. HOLDER, JR.  
Attorney General of the United States

  
LORETTA KING  
Acting Assistant Attorney General  
Civil Rights Division

Dated: May 6, 2009  
New York, New York

LEV L. DASSIN  
Acting United States Attorney

By:   
EMILY E. DAUGHTRY  
DAVID J. KENNEDY  
Assistant United States Attorneys  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel. No. (212) 637-1579 (Daughtry)  
Tel. No. (212) 637-2733 (Kennedy)  
Fax No. (212) 637-0003  
[emily.daughtry@usdoj.gov](mailto:emily.daughtry@usdoj.gov)  
[david.kennedy2@usdoj.gov](mailto:david.kennedy2@usdoj.gov)

### **STATEMENT REGARDING RELATED CASE**

The above-referenced action is related to a case already filed in this Court: Berk-Cohen Associates at Tor View Village Apartments, LLC vs. Loeb House, Inc., County of Rockland, Rockland County Fair Housing Board, and United States Department of Housing and Urban Development, 08 Civ. 9963 (DLC). In that case, the plaintiff, Tor View Apartments, is seeking declaratory relief that it need not provide certain accommodations under the Fair Housing Act to clients of defendant Loeb House, and has also sued as a defendant the United States Department of Housing and Urban Development (“HUD”).

The United States is filing a separate action to obtain declaratory relief that Tor View Apartments must provide certain accommodations under the Fair Housing Act to clients of Loeb House. Pursuant to the Fair Housing Act, the United States, as opposed to HUD, is authorized to obtain declaratory relief, and thus the Court does not have subject matter jurisdiction over the claims against HUD in 08 Civ. 9963 (DLC).

Finally, although the United States has indicated that the address of the defendant in this case is in Rockland County, this case is related to a case already filed and assigned to a Judge in Foley Square.