

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
CIVIL NO. _____

United States of America,)	
)	
Plaintiff,)	
)	COMPLAINT
v.)	
)	
Robert Lund and Judith Lund,)	
)	
Defendants.)	

The United States of America, for its Complaint, states and alleges as follows:

INTRODUCTION

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 - 3619.

2. The United States brings this action on behalf of Michelle Swib and her two minor children, A.W. and I.W., pursuant to 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

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

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 42 U.S.C. § 3612(o), because the actions giving rise to this action occurred in the District of Minnesota and because Defendants live and do business in this District.

PARTIES

5. Plaintiff is the United States of America (“United States”).

6. At all relevant times, Defendants Robert Lund and Judith Lund (“Defendants”) owned a property located at 804 Center Street East, Roseau, Minnesota that contained four apartment units (“the Apartments”).

7. At all relevant times, Defendants jointly managed the Apartments. The Defendants reside at 1202 Third Street, Northeast, Roseau, Minnesota, 56751.

8. The complainant, Michelle Swib, is an individual currently residing at 580 Carleton Court, Apartment 211, Grand Forks, North Dakota 58203.

9. Ms. Swib is the mother of two minor children, A.W. and I.W., who reside with her. A.W. has mental disabilities and requires the assistance of a service animal to help manage her conditions.

FACTUAL ALLEGATIONS

10. The subject unit in the Apartments became available sometime before October 1, 2007.

11. The Defendants ran advertisements in local newspapers for the subject property in late September and early October 2007, listing the subject unit for rent as follows: “2 bedroom apartment. Available immediately. Call Bob Lund at 463-1008.”

12. On or about October 1, 2007, Ms. Swib called the phone number listed in the advertisement and spoke to a man later identified as Defendant Robert Lund. Mr. Lund told Ms. Swib that the unit was available and that he accepted Section 8 vouchers.

However, when Ms. Swib mentioned that she had a service dog for her disabled daughter, Mr. Lund responded that he did not accept any dogs. Ms. Swib tried to explain what a service animal was, that it was akin to a seeing-eye dog for the blind, and offered to show Mr. Lund a doctor's note for the dog, but Mr. Lund interrupted her and instructed her to terminate her call so that other prospective renters could call.

13. At no time did Mr. Lund ask for additional information about Ms. Swib's daughter's need for a service animal, in spite of her offer of a doctor's statement explaining her daughter's need of a service animal.

14. The subject unit remained available for several weeks after October 1, 2007.

15. On or about December 6, 2007, Ms. Swib filed a timely complaint with the United States Department of Housing and Urban Development ("HUD"), pursuant to the Fair Housing Act, 42 U.S.C. § 3601, *et seq.* She amended the complaint on or about August 18, 2008, and again on or about May 6, 2009. In the complaints, Ms. Swib alleged that she and her children were injured by the discriminatory acts of Defendants when she was denied the opportunity to view or rent the subject unit based on Defendants' "no dog" policy. In addition, Ms. Swib alleged that she and her children were denied a reasonable accommodation to such policy and that Defendants' statements expressed a discriminatory preference against renters with disabilities who use service animals.

16. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and

prepared a final investigative report. Based upon the information gathered, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause exists to believe that discriminatory housing practices occurred.

17. On June 10, 2009, HUD issued a Charge of Discrimination under 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in discrimination in violation of the Fair Housing Act.

18. On June 30, 2009, Defendants elected, pursuant to 42 U.S.C. § 3612(a), to have the claims asserted in the Charge of Discrimination resolved in a civil action under 42 U.S.C. § 3612(o).

19. On July 1, 2009, the Administrative Law Judge issued a Notice of Election and Judicial Determination and terminated the administrative proceedings regarding Ms. Swib's complaint.

20. Thereafter, the HUD Secretary authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).

FAIR HOUSING CLAIMS

21. Through the actions described above, the Defendants have:

(a) discriminated in the rental, or otherwise made unavailable or denied, a dwelling to any renter because of a disability of a person intending to reside in that dwelling after it is so rented, in violation of 42 U.S.C. § 3604(f)(1)(B); and

(b) 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).

22. As a result of the Defendants' conduct, Ms. Swib and her two minor children are aggrieved persons, as defined in 42 U.S.C. § 3602(i), and have suffered injuries.

23. Defendants' discriminatory actions were intentional, willful, and taken in disregard of the rights of Ms. Swib and her two minor children.

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

1. Declaring that Defendants' policies and practices, as alleged in this Complaint, violate the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*;
2. Enjoining Defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with Defendants, from discriminating on account of disability against any person in any aspect of the rental of dwellings; and
3. Awarding monetary damages to Michelle Swib and her two minor children, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

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

Dated: July 30, 2009

Respectfully submitted,

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