

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y

★ AUG 28 2007 ★

United States of America,)
)
Plaintiff,)
)
v.)
)
Sayville Development Group, LLC)
a/k/a Sayville Development Corp.,)
Stephen Ray Fellman, and)
Home Properties Sayville, LLC,)
)
Defendants.)
_____)

LONG ISLAND OFFICE

Civil Action No.

CV - 07 3622

BIANCO, J.

LINDSAY, M.

COMPLAINT

The United States of America alleges:

1. This action is brought by the United States to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (Fair Housing Act), 42 U.S.C. §§ 3601-3619. It is brought pursuant to Section 814(a), 42 U.S.C. § 3614(a) of the Fair Housing Act.

2. As set forth below, Defendants Sayville Development Group, a/k/a Sayville Development Corp. ("Sayville Development"), and Stephen Ray Fellman ("Fellman"), an architect, designed and/or constructed the property known as Sayville Commons, located at 400 Adams Way, Sayville, NY, so that it does not comply with the requirements of the Fair Housing Act concerning access for persons with disabilities.

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

4. Venue is proper because the claims alleged herein arose in the Eastern District of

New York, and concern or otherwise relate to real property located in the Eastern District of New York.

5. Sayville Commons is a multifamily, residential apartment complex that consists of 20 two-story buildings, none of which has an elevator. Sayville Commons also has a community building that has a community room, a leasing office, and additional residences. Sayville Commons has a total of 342 units, 171 of which are located on the ground floor.

6. Sayville Commons was designed and constructed for first occupancy after March 13, 1991. Each of Sayville Commons's 342 units is a "dwelling" within the meaning of 42 U.S.C. § 3602(b).

7. Sayville Commons's 171 ground-floor units are "covered multifamily dwellings" within the meaning of 42 U.S.C. § 3604(f)(7)(B), and are subject to the design and construction requirements of 42 U.S.C. § 3604(f)(3)(C).

8. Defendant Sayville Development is incorporated under the laws of New York, and its principal place of business is in West Bayshore, New York.

9. Defendant Fellman is an architect licensed by the State of New York, whose principal place of business is in Amityville, New York.

10. Defendant Home Properties Sayville, LLC ("Home Properties"), is incorporated under the laws of New York, and its principal place of business is in Rochester, New York.

11. Defendant Sayville Development has engaged in the design and construction of one or more multi-family complexes in the State of New York.

12. Defendant Sayville Development provided design and construction services in connection with the design and construction of Sayville Commons.

13. Defendant Fellman provided architectural and/or engineering services in

connection with the design and construction of one or more multi-family complexes in the State of New York, including but not limited to Sayville Commons.

14. On or about July 15, 2005, Defendant Sayville Development sold Sayville Commons to Defendant Home Properties. Defendant Home Properties is currently the owner of Sayville Commons, and in that capacity is a party necessary to this lawsuit in whose absence complete relief cannot be afforded to the United States.

15. Long Island Housing Services (“LIHS”) is a private, not-for-profit organization incorporated under the laws of New York. Its principal place of business is in Bohemia, New York.

16. One of LIHS’s specific purposes and goals is the promotion of equal opportunity in the rental of housing and the elimination of all forms of illegal housing discrimination. To this end, the activities in which LIHS engages include, but are not limited to: (1) investigating allegations of discrimination; (2) conducting investigations of housing facilities to determine whether equal opportunity in housing is provided; (3) taking such steps as it deems necessary to assure such equal opportunity and to counteract and eliminate discriminatory housing practices; (4) providing outreach and education to the community, including housing providers and consumers, regarding fair housing; and (5) monitoring and training housing providers that have previously engaged in discriminatory housing practices.

17. In January and February 2006, LIHS conducted two site visits to Sayville Commons, during which time it identified and documented conditions that violate the Fair Housing Act. LIHS diverted resources to investigate and document the FHA violations at Sayville Commons.

18. Defendants Sayville Development and Fellman have failed to design or construct

Sayville Commons so that:

(a) the public use and common use portions are readily accessible to and usable by individuals with disabilities;

(b) all doors within the ground-floor units are sufficiently wide to allow passage by persons with disabilities who use wheelchairs; and

(c) the ground-floor units contain the following features of adaptive design: (i) an accessible route into and through the dwelling; and (ii) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space.

19. Defendants Sayville Development and Fellman, through the actions referred to in the preceding paragraph, have:

(a) Discriminated in the rental of, or otherwise made unavailable or denied, dwellings to renters because of handicap, in violation of 42 U.S.C. § 3604(f)(1);

(b) Discriminated against persons in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of handicap, in violation of 42 U.S.C. § 3604(f)(2); and

(c) Failed to design or construct dwellings in compliance with the accessibility and adaptability features mandated by 42 U.S.C. § 3604(f)(3)(C).

20. Defendants Sayville Development and Fellman may have designed and constructed multifamily complexes in addition to Sayville Commons for first occupancy after March 13, 1991 which are also subject to the Fair Housing Act's accessibility requirements.

21. The conduct of Defendants Sayville Development and Fellman described above constitutes:

(a) A pattern or practice of resistance to the full enjoyment of rights granted by

the Fair Housing Act, 42 U.S.C. §§ 3601-3619; or

(b) A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619, which denial raises an issue of general public importance.

22. LIHS has been injured by the discriminatory housing practices of defendants described above, and under the Fair Housing Act is an “aggrieved person,” as defined in 42 U.S.C. § 3602(i).

23. In addition to LIHS, there may be other victims of the discriminatory actions and practices of Defendants Sayville Development and Fellman who are aggrieved persons as defined in 42 U.S.C. § 3602(i). These persons may have suffered actual injury and damages as a result of the above actions and practices.

24. The discriminatory actions of Defendants Sayville Development and Fellman were intentional, willful, and taken in disregard for the rights of LIHS and the other victims of this discrimination.

WHEREFORE, the United States prays that the court enter an ORDER that:

1. Declares that Defendants Sayville Development’s and Fellman’s policies and practices, as alleged herein, violate the Fair Housing Act;

2. Enjoins Defendants Sayville Development and Fellman, their officers, employees, agents, successors and all other persons in active concert or participation with any of them, from:

(a) Failing or refusing to bring the covered dwelling units and public and common use areas at Sayville Commons and other covered multifamily dwellings into compliance with 42 U.S.C. § 3604(f)(3)(C);

(b) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the their unlawful practices to the position

they would have been in but for the discriminatory conduct; and

(c) Designing or constructing covered multifamily dwellings in the future that do not contain the accessibility and adaptability features required by 42 U.S.C.

§ 3604(f)(3)(C).

3. Enjoins Defendant Home Properties from engaging in conduct that denies access to the common and public use areas and the covered multifamily dwellings under their ownership or management or failing to take any other action appropriate to ensure that any retrofits required to bring the living units and public use and common use areas into compliance with the accessibility provisions of the Fair Housing Act are done in a prompt and efficient manner.

4. Awards monetary damages, pursuant to 42 U.S.C. § 3614(d)(1)(B) to all persons harmed by the Defendants Sayville Development's and Fellman's discriminatory practices, including LIHS; and

5. Assesses a civil penalty against Defendants Sayville Development and Fellman in an amount authorized by 42 U.S.C. § 3614(d)(1)(C) and 28 C.F.R. § 85.3(b)(3) to vindicate the public interest.

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

Dated: August 28, 2007

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