

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD DONAHUE AND MARY
DONAHUE,

Defendants.

Civil Action No. 22-cv-273

COMPLAINT

DEMAND FOR JURY TRIAL

The United States of America alleges as follows:

1. The United States brings this action to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. §§ 3601-3619 (“Fair Housing Act”).

JURISDICTION AND VENUE

2. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3614(a).

3. Venue is proper in this district under 28 U.S.C. § 1391(b) because the actions and omissions giving rise to the United States’ allegations occurred in the Western District of Wisconsin, and the Defendants reside in the Western District of Wisconsin.

FACTUAL ALLEGATIONS

4. Defendants Richard Donahue and Mary Donahue, husband and wife, reside in the City of Janesville, in Rock County, Wisconsin.

5. During part or all of the period of time relevant to this action, Defendant Richard Donahue owned and operated approximately one hundred residential rental properties (the “Subject Properties”) in and around Janesville, Wisconsin.

6. At all times relevant to this action, Defendant Mary Donahue has been a co-owner of the Subject Properties, along with Defendant Richard Donahue.

7. Nearly all of the Subject Properties are small, one- or two-unit homes located in Janesville, Wisconsin.

8. The Subject Properties include, but are not limited to, the following properties: 306 Cherry Street, 165 Cherry Street, 327 N. High Street, 1821 Myra Avenue, 1021 N. Grant, 525 Park Street, 214 S. Pearl Street, 215 McKinley Street, 304 High Street, 159 Linn Street, 335 E. Racine Street.

9. The Subject Properties are “dwellings” within the meaning of 42 U.S.C. § 3602(b).

10. At all times relevant to this action, Defendant Richard Donahue has been actively involved in the management of the Subject Properties, including, but not limited to, showing the properties to prospective tenants, collecting rent, receiving maintenance requests, inspecting completed maintenance work, communicating with tenants regarding difficulties paying rent, and initiating eviction proceedings.

11. Defendant Richard Donahue has authority to act on behalf of Defendant Mary Donahue and is responsible for the management of the Subject Properties that the Defendants co-own.

12. Since at least 2000, and continuing until the present, Defendant Richard Donahue has subjected tenants of the Subject Properties to discrimination on the basis of sex, including unwelcome and severe or pervasive sexual harassment. This conduct has included, but is not limited to, the following examples of unwelcome and severe or pervasive sexual harassment:

- a. Demanding that tenants provide him with sexual favors, including oral sex and sexual intercourse, in order to not lose housing;

- b. Offering to grant tangible housing benefits—such as reducing rent or excusing late or unpaid rent—to tenants in exchange for sexual favors, including oral sex and sexual intercourse;
- c. Subjecting tenants to unwelcome sexual touching;
- d. Exposing his genitals and requesting sexual favors to tenants;
- e. Making unwelcome sexual comments and sexual advances to tenants; and
- f. Taking adverse housing actions, such as initiating eviction actions, or threatening to do so, against tenants who objected to or refused his sexual advances.

13. For example, from 2004 through 2012, Defendant Richard Donahue subjected a female tenant to repeated unwelcome and unwanted sexual comments and demands for sexual contact in exchange for rent abatement. Early in her tenancy, he stated on at least one occasion that she could give him a “blowjob” in exchange for rent forgiveness. During the course of her tenancy, Defendant Richard Donahue repeatedly touched this female tenant in a sexual manner without her consent and regularly made sexual comments to her that were unwanted and unwelcome. In 2012, he told her that he would not take her to court and evict her if she “showed some appreciation” to him, by which he meant, and she understood him to mean, that she should perform a sexual act. During this encounter, Defendant Richard Donahue subjected the tenant to unwanted sexual touching, exposed his genitals to her, and demanded that she perform oral sex on him and engage in sexual intercourse. Defendant Richard Donahue ultimately evicted the tenant after she refused his sexual demands.

14. In another example, in or around 2011, Defendant Richard Donahue repeatedly made unwelcome sexual comments to a female tenant and regularly told her that she could perform oral sex or engage in sexual intercourse with him in exchange for rent. Defendant Richard

Donahue told her that she had a “hot ass,” that her “tits” looked good, and on one occasion, he grabbed her bottom without her consent because, he said, he “wanted to touch it.”

15. In another example, in approximately 2014, Defendant Richard Donahue told a female tenant who was behind on rent that he “could make this right” for her, by which he meant, and she understood him to mean, that he would forgive back rent if she had sexual relations with him. She refused. On another occasion when the tenant asked for the key to a new rental unit, Defendant Richard Donahue told her to “leave her door open at night,” by which he meant, and she understood him to mean, that she could have the new rental if she let him enter to have sexual relations with him. She refused his sexual demands and ultimately ended up homeless.

16. In approximately 2017, Defendant Richard Donahue made unwelcome sexual comments to a female tenant and regularly demanded she engage in sexual intercourse with him in exchange for rent. Defendant Richard Donahue told her that he “didn’t care if she was late or unable to pay rent,” as long as she had sex with him. Defendant Richard Donahue filed for eviction against her after she told him she did not want to have sex with him.

17. The experiences of the women described above in paragraphs 13-16 were not the only instances of Defendant Richard Donahue’s sexual harassment of tenants. Rather, they were part of Defendant Richard Donahue’s longstanding pattern or practice of illegal sexual harassment of multiple tenants from at least 2000 to the present.

18. The conduct of Defendant Richard Donahue described in this Complaint caused female tenants and persons associated with them to suffer physical harm, fear, anxiety, and emotional distress, and interfered with their ability to secure and maintain rental housing for themselves and their families.

19. All of Defendant Richard Donahue's discriminatory housing practices described above occurred while he was exercising his authority as an agent for Defendant Mary Donahue at their co-owned Subject Properties. She is therefore vicariously liable for Defendant Richard Donahue's conduct, regardless of whether she knew or should have known of his conduct. Further, based on Defendant Richard Donahue's decades-long pattern or practice of sexual harassment, Defendant Mary Donahue knew or should have known of his illegal conduct.

CAUSE OF ACTION

20. By the actions and statements described above, the Defendants have:
- a. Denied dwellings or otherwise made dwellings unavailable because of sex, in violation of 42 U.S.C. § 3604(a);
 - b. Discriminated in the terms, conditions, or privileges of the rental of dwellings, or in the provision of services or facilities in connection therewith, because of sex, in violation of 42 U.S.C. § 3604(b);
 - c. Made statements with respect to the rental of dwellings that indicate a preference, a limitation, or discrimination based on sex, in violation 42 U.S.C. § 3604(c); and
 - d. Coerced, intimidated, threatened, or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights granted or protected by the Fair Housing Act, in violation of 42 U.S.C. § 3617.
21. Under 42 U.S.C. § 3614(a), the Defendants' conduct constitutes:
- a. A pattern or practice of resistance to the full enjoyment of the rights granted by the Fair Housing Act, and
 - b. A denial to a group of persons of rights granted by the Fair Housing Act that raises an issue of general public importance.

22. Female residents and persons associated with them, including but not limited to those referred to in paragraphs 13-16, have been injured by Defendants' discriminatory conduct. These persons are "aggrieved persons" as defined in 42 U.S.C. § 3602(i) and have suffered damages as a result of the Defendants' conduct.

23. The Defendants' conduct was intentional, willful, and taken in reckless disregard of the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States requests that the Court enter an Order that:

- a. Declares that the Defendants' discriminatory practices violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619;
- b. Enjoins the Defendants, their agents, employees, and successors, and all other persons in active concert or participation with them, from:
 - i. Discriminating on the basis of sex, including engaging in sexual harassment, in any aspect of the rental of a dwelling;
 - ii. Interfering with or threatening to take any action against any person engaged in the exercise or enjoyment of rights granted or protected by the Fair Housing Act;
 - iii. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the Defendants' past unlawful practices to the position they would have been in but for the discriminatory conduct; and
 - iv. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, as nearly as practicable, the effects of the Defendants' unlawful practices;

- c. Awards monetary damages to each person aggrieved by the Defendants' discriminatory conduct, under 42 U.S.C. § 3614(d)(1)(B);
- d. Assesses civil penalties against the Defendants to vindicate the public interest, under 42 U.S.C. § 3614(d)(1)(C); and
- e. Awards such additional relief as the interests of justice may require.

Dated: May 13, 2022

Respectfully submitted,

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