

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
.....
UNITED STATES OF AMERICA,

Plaintiff,

-against-

WOODBURY GARDENS REDEVELOPMENT
COMPANY OWNERS CORPORATION,

Defendant.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

Civil Action 2012
CV-12-0711 ★

(SOBING ISLAND OFFICE
(Boyle, M.J.)

SETTLEMENT AGREEMENT AND ORDER

I. INTRODUCTION

1. The United States of America, through LORETTA E. LYNCH, United States Attorney, Eastern District of New York, Kevan Cleary, Assistant U.S. Attorney, of counsel, has agreed to enter into this Settlement Agreement to resolve the issues raised in the complaint brought by the United States of America against defendant Woodbury Gardens Redevelopment Company Owners Corporation ("Woodbury" or "Co-op") to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 through 3619 (the "Fair Housing Act"). The United States brought this complaint following a Determination of Reasonable Cause and Charge of Discrimination issued by the Secretary of Housing and Urban

Development and a timely notice of election filed by the defendant Woodbury. See 42 U.S.C. § 3612(o). In the complaint herein, the United States alleges that defendant Woodbury has violated the Fair Housing Act by refusing to allow Sandra Biegel, since deceased, who had multiple serious health conditions, to keep a dog which, as alleged in the complaint, helped to alleviate the severity of her multiple medical conditions. Defendant Woodbury expressly denies any wrongdoing and maintains it has always complied with the Fair Housing Act.

II. STATEMENT OF AGREEMENT

2. The parties agree that the controversy outlined above should be resolved without further litigation. This Settlement Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by the parties or agents of the parties, that is not contained in this Settlement Agreement will be enforceable under its provisions.

3. It is therefore stipulated and agreed, by and between the parties to the above-entitled action as follows:

III. GENERAL INJUNCTION

4. Defendant Woodbury, its board of directors, agents, and employees with respect to Woodbury are hereby enjoined from:

- i. Discriminating on the basis of disability in violation of 42 U.S.C. § 3604(f) by failing to make reasonable accommodations in rules, policies, practices, or services, when such reasonable accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling; and
- ii. Taking actions that interfere with persons in the exercise or enjoyment of their right to seek a reasonable accommodation, or on account of their having exercised or enjoyed their right to seek a reasonable accommodation pursuant to the Fair Housing Act.

IV. GENERAL PROVISIONS

5(a). Defendant Woodbury hereby adopts the following written policy that permits a resident in their housing units with a disability, as defined in section 802(h) of the Act, 42 U.S.C. § 3602(h),¹ to keep an assistance animal in his or her residential unit and on the premises notwithstanding any pet policy to the contrary:

¹ Although the FHA refers to the protected class as persons with "handicaps," the term "disabilities" is synonymous and generally preferred. See *Bragdon v. Abbott*, 524 U.S. 624, 631 (1998).

- 1.) Any Shareholder/resident with a disability, as defined in Section 802(h) of the Fair Housing Act, 42 U.S.C. § 3602(h), who requires an assistance animal shall provide a request in writing to the Co-op's Board of Directors ("Board") by sending same to the Co-op's Managing Agent. If the requestor's disability or need to have an assistance animal is not known or readily apparent, the Co-op's Board or Managing Agent may request information necessary to evaluate if the request for an assistance animal may be necessary because of a disability. The information requested must be in the form of a letter from a licensed health care professional stating the patient has a particular disability; needs an assistance animal because of the patient's disability; and, establishes a reasonable relationship between the disability and the requested assistance animal.
- 2.) Upon receipt of the request for an assistance animal by someone who has both a

known or readily apparent disability and the need for an assistance animal, the Board shall make a determination within thirty (30) days and shall advise the requestor in writing of the Board's decision within ten (10) business days of the Board's decision. In the case where the requestor does not have a known or readily apparent disability or need for an assistance animal, the Board shall make a request for the letter from a licensed health care professional within ten (10) days of receipt of the request and upon receipt of the letter from a licensed health care professional, the Board shall make a determination within thirty (30) days of receipt of the required documentation and shall advise the requestor in writing of the Board's decision within ten (10) business days of the Board's decision.

- 3.) If the Board permits the request for an assistance animal and the Board receives a written complaint from a resident that the assistance animal has caused substantial

damage to the Co-op's property or assaulted or otherwise harmed a resident or a resident's guest or has affected a resident's quiet enjoyment of his/her unit, the Board should write to the complaining resident that the animal that has been complained about is an assistance animal belonging to a person with a disability and is protected by law, and that the Board looks forward to meeting with the affected parties to find an amicable solution.

4. No fees, charges or attorneys' fees will be charged to the resident making the request for an accommodation in connection with paragraphs "1" through paragraph "3" above.
5. (a) Woodbury cannot condition the approval of an accommodation on the assistance animal having certain training or certifications, unless specifically required by law. The parties understand and agree that there do not exist such laws at this time.

5. (b) For the purposes of this section:

1. An "assistance animal" means an animal that does work or performs tasks for the benefit of a person with a physical disability or that ameliorates the effects of a mental or emotional disability, and

2. A "licensed health care professional" means a person licensed by a public regulatory authority to provide medical care, therapy, or counseling to persons with mental or emotional disabilities, including, but not limited to, doctors, psychiatrists, psychologists, or social workers.

5(c). The policy set forth in 5(a) has been adopted by defendant Woodbury upon execution of this Consent Decree.

6. Defendant Woodbury shall, not later than thirty (30) days after the execution of this Consent Decree, notify in writing each resident of defendant Woodbury's Residential Units of the adoption and implementation of the policy referred to in 5(a), above. The notification shall be sent via first-class mail to each household.

7. Defendant Woodbury shall, not later than thirty (30) days after the adoption of the policy referenced in 5(a),

apprise each of defendant Woodbury's employees, agents, or any other persons who have responsibility for the management of defendant Woodbury's Residential Units of such persons' obligations under this Consent Decree, including but not limited to 5(a) of this Consent Decree, and under the Fair Housing Act, 42 U.S.C. § 3601, *et seq.* Defendant Woodbury shall furnish each such employee, agent, or other person covered by this paragraph a copy of this Consent Decree.

8. New employees or new agents who have responsibilities related to the management of defendant Woodbury's Residential Units shall (a) be apprised of the contents of this Consent Decree, including but not limited to 5(a) of this Consent Decree, and of their obligations under the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, when their employment or agency commences; and (b) be provided copies of this Consent Decree and the policy required by 5(a) of this Consent Decree.

V. MANDATORY EDUCATION AND TRAINING

9. Within ninety (90) days of the entry of this Consent Decree, defendant Woodbury and its employees, agents, or any other persons who have responsibilities related to the management of their Residential Units shall attend, at defendant Woodbury's expense, a training program regarding the disability discrimination provisions of federal, state, and local fair

housing laws. The training shall be conducted by a qualified third party, approved by the United States, and unconnected to defendant Woodbury or their employees, agents, or counsel.

10. Defendant Woodbury must notify the United States Attorney of the name(s), address(es), and telephone number(s) of the trainer(s) as well as the time and location of each such training program at least thirty (30) days prior to the program.

VI. REPORTING AND RECORD-KEEPING REQUIREMENTS

11. Defendant Woodbury shall, no later than 15 days after occurrence, provide to the United States Attorney notification and documentation of the following events:

A. If any resident has requested permission to keep an assistance animal in their apartment and that request has been denied, or if any resident who has previously been granted permission to keep an assistance animal in their unit has been notified that a resident has made a complaint about that animal such that the Board has written to the complaining resident offering to amicably resolve the issue.

B. The written notification to residents of defendant's Residential Units, required in paragraph 6, above;

2 All notifications required by this Consent Decree to be sent to the United States or counsel for the United States shall be addressed to: "Chief, Civil Division, U.S. Attorney's Office, 271 Cadman Plaza East, Brooklyn, New York 11201."

C. The training attended pursuant to Section V, including a certification executed by the trainer(s) confirming attendance.

12. For three (3) years defendant Woodbury shall preserve all records relating to the following:

A. Complaints against them or their agents or employees of discrimination in housing on the basis of disability;

B. All sales records maintained in the normal course of their business - including, but not limited to, inquiry logs, applications, tenant files, leases, and all records relating to actual or threatened evictions - created from the date of the entry of this Consent Decree;

C. The receipt and processing of requests for reasonable accommodation of animals by residents of defendant Woodbury.

13. If the U.S. Attorney's office believes there is a violation of this Consent Decree, upon reasonable notice to defendant Woodbury, the U.S. Attorney's Office for the Eastern District of New York shall be permitted to inspect and copy any of defendant Woodbury's records relating to defendant Woodbury's compliance with the terms of this Consent Decree, provided,

however, that the U.S. Attorney's Office shall endeavor to minimize any inconvenience and administrative burden to defendant Woodbury from such inspections.

14. Defendant Woodbury shall submit annually, on the anniversary date of the entry of this Consent Decree a list of any denials of a request for an assistance animal; which information shall include:

- i. the name and address of the requestor;
- ii. date of request;
- iii. kind of animal requested;
- iv. documents that were submitted as part of the request; and
- v. reason for denial.

This shall not be read to modify the fifteen (15) days reporting obligations set forth in Paragraph 11 above.

VII. Compensation to Complainant

15. Defendant Woodbury agrees to pay forthwith to Jack Biegel the total sum of Fifty-Eight Thousand Seven Hundred Fifty Dollars (\$58,750.00) in United States currency. The check for said sum shall be made payable to "Meir Moza, as attorney". In consideration thereof, Jack Biegel, individually, and as Executor of the Estate of Sandra Biegel, deceased, agrees to provide an executed Release of any and all claims against

defendant Woodbury and its Board of Directors (past and present and individually), officers (past and present and individually), employees (past and present and individually), managing agent (past and present and individually) arising out of the events that gave rise to this case, in the form annexed hereto as Appendix A.

VIII. ADMINISTRATION OF SETTLEMENT AGREEMENT

16. The Court shall retain jurisdiction for three years for the purpose of enforcing the terms of this Settlement Agreement. The Settlement Agreement shall be binding on defendant Woodbury and any of its employees, representatives, officers, heirs, assigns, subsidiaries, or successors in interest.

17. At the end of three (3) years, there shall be no further obligation for defendant Woodbury to report as required in Article VI and this matter is hereby dismissed with prejudice, and without costs, attorneys' fees, disbursements or expenses to any party, or to Jack Biegel or the Estate of Sandra Biegel, deceased.

18. The parties to this Settlement Agreement shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Settlement Agreement prior to bringing such matters to the Court for

resolution. The United States shall not bring any matter involving compliance with this Settlement Agreement to the Court for resolution unless it reasonably believes that defendant Woodbury has materially violated the provisions of this Settlement Agreement and has provided Thirty (30) Day Notice of Default and Notice to Cure.

19. This Settlement Agreement, when fully executed, will resolve all the issues between the United States, defendant Woodbury, its past and present Board of Directors, officers, employees and agents, and Jack Biegel or the Estate of Sandra Biegel respecting the subject matter of the complaint herein. It is understood that nothing in this Stipulation is intended to inure or be construed in any manner as an admission by any of the Parties hereto of any liability, wrongdoing, and violation of the law or unlawful conduct whatsoever.

20. The Estate of Biegel and Jack Biegel on the one hand and defendant Woodbury on the other warrant and represent that on the date of their execution of this Consent Decree, they are not aware of any other claims, suits or disputes amongst said parties, and/or by and between said parties' directors, officers, fiduciaries, employers; agents; successors and assigns.

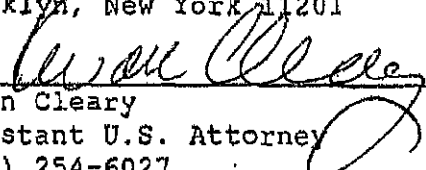
21. This Stipulation is complete and is the only agreement of the Parties relating in any way to the subject matter hereof. No statements, promises or representations have been made by any party to any other or relied upon and no consideration has been offered, promised, accepted or held out other than as may be expressly provided herein and/or other documents referenced herein.

22. Nothing in this Agreement is intended to confer or limit any right, remedy, obligation or liability upon any person or entity other than the parties hereto and their respective successors.

Dated: Brooklyn, New York
November 8, 2012

LORETTA E. LYNCH
United States Attorney
Eastern District of New York
Attorney for Plaintiff
271 Cadman Plaza East
Brooklyn, New York 11201

By: _____


Kevan Cleary
Assistant U.S. Attorney
(718) 254-6027
kevan.cleary@usdoj.gov

Dated: Garden City, New York
November 9, 2012


SCHNEIDER MITOLA, LLP
Attorneys for Defendant
Woodbury Gardens Redevelopment
Company Owners Corporation
666 Old Country Road, Suite 412
Garden City, New York 11530

By: 

Marc H. Schneider, Esq.
(516) 393-5555

Dated: NASSAU, New York
November 7, 2012

WOODBURY GARDENS REDEVELOPMENT
COMPANY OWNERS CORPORATION


By: ELLEN BOLANN President of
the Board of Directors of Woodbury
Gardens Redevelopment Company
Owners Corporation

Dated: Mineola, New York
November 8, 2012

LAW OFFICE OF MEIR MOZA
Attorneys For Complainants Jack
Biegel, Individually, and as
Executor of the Estate of Sandra
Biegel, Deceased
217 Willis Avenue
Mineola, New York 11501

By: 

Meir Moza, Esq.

Dated: _____, New York
November ____, 2012

THE ESTATE OF SANDRA BIEGEL

MEIR MOZA
Notary Public, State of New York
No. 02206045059
Qualified in Queens County
Commission Expires 11/09/2017

Jack Biegel

By: _____, Executor/Executrix

Dated: _____, New York
November ____, 2012

Jack Biegel
JACK BIEGEL

CASE CLOSED,
SO ORDERED THIS 10th
DAY OF NOVEMBER, 2012.

HONORABLE ARTHUR D. SPATT
UNITED STATES DISTRICT JUDGE

GENERAL RELEASE

TO ALL WHOM THESE PRESENTS SHALL COME OR MAY CONCERN, KNOWN, THAT,

Jack Biegel, as executor of the Estate of Sandra Biegel and Jack Biegel, individually and their heirs; executors; beneficiaries, successors and assigns as RELEASORS, for a total of Fifty Eight Thousand Seven Hundred and Fifty Dollars and Zero Cents (\$58,750.00) and other good and valuable consideration received from Woodbury Gardens Redevelopment Company Owners Corp., receipt of which is acknowledged,


releases and discharges Woodbury Gardens Redevelopment Company Owners Corp. ("Co-op") and its: insurance carriers, including but not limited to, CNA, Global Specialty Lines; agents; successors; assigns; past and present; officers (in their individual capacity and in their capacity as officers); committee members (in their individual capacity and in their capacity as committee members); directors (in their individual capacity and in their capacity as directors); board members (in their individual capacity and in their capacity as board members); and property managers (in their individual capacity and in their capacity as property managers); parents; subsidiaries; affiliates and principals, as RELEASEES, from any and all claims, counterclaims, actions, rights, causes of action, suits, debts, dues, offsets, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, demands, liabilities, obligations, representations, and promises of actions of every kind and nature, variances, trespasses, damages and judgments whatsoever, whether known or unknown, suspected or unsuspected, fixed or contingents, existing or claimed to exist; both in law and equity, which against the RELEASEES, the RELEASORS, ever had, now have or hereafter have against the RELEASEES for, upon, or by reason of any matter, cause of action, or thing whatsoever from the beginning of the world to the date of the execution of this Release.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this RELEASE.

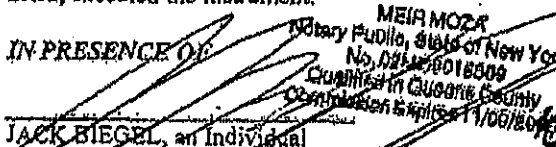
This RELEASE may not be changed orally.

IN WITNESS WHEREOF, the RELEASORS have hereunto set RELEASORS' hand and seal on the ____ day of _____, 2012

IN PRESENCE OF


JACK BIEGEL, as Executor of the Estate of Sandra Biegel

On the 8 day of Nov in the year 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Jack Biegel personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

IN PRESENCE OF 
MEIRA MOZA
Notary Public, State of New York
No. 02M02015009
Qualified in Queens County
Commission Expires 11/09/2016

JACK BIEGEL, an Individual

STATE OF NEW YORK)

COUNTY OF Nassau) ss:

On the 8 day of Nov in the year 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Jack Biegel personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

MEIRA MOZA
Notary Public, State of New York
No. 02M02015009
Qualified in Queens County
Commission Expires 11/09/2016
Notary Public