

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

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| (1) UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. <u>17-1233-M</u> |
| |) | |
| (1) CHRISTINE IRVIN, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

COMPLAINT

The United States of America alleges as follows:

NATURE OF ACTION

1. The United States brings this action 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. §§ 3601-3619 (“Fair Housing Act” or “FHA”). This action is brought on behalf of Nicola Mariott pursuant to 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o).
3. Venue is proper in this District under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the United States’ claims occurred there and because the Defendant resides there.

THE PARTIES AND THE SUBJECT PROPERTY

4. Shady Oaks Mobile Home Park, located at 9900 SE 44th Street, Oklahoma City, Oklahoma (“the Subject Property”), is a mobile home park consisting of approximately twenty lots. It is located in the Western District of Oklahoma.
5. The lots at the Subject Property are offered for lease for the placement thereon of mobile homes and other moveable residences such as recreational vehicles and travel trailers. The lots are approximately 40 feet by 80 feet and surrounded by a 4-foot-high chain-link fence.
6. The lots at the Subject Property are “dwellings” within the meaning of 42 U.S.C. § 3602(b).
7. Defendant Christine Irvin (“Ms. Irvin”) is the owner of the Subject Property and resides there. At all relevant times, she was responsible for the operation and management of the Subject Property.
8. Ms. Irvin’s son, Jim Irvin, also resides at the Subject Property. At all relevant times, he handled maintenance at the Subject Property and otherwise assisted Ms. Irvin in the management of the Subject Property.
9. At all relevant times, Nicola Mariott (“Ms. Mariott”) is and was a person with a disability as defined by the FHA, 42 U.S.C. § 3602(h). She has been diagnosed with severe general anxiety and depression, is treated regularly by a licensed psychiatrist, and receives Supplemental Security Income (“SSI”) benefits. Her disability substantially limits several of her major life activities, including her

ability to work, to communicate and socialize with others, to care for herself, and to sleep.

FACTUAL ALLEGATIONS

10. Ms. Mariott leased a lot at the Subject Property and relocated her moveable residence there in September 2010. She lived at the Subject Property from that time until June 2016.
11. During the application process, Ms. Mariott disclosed to Ms. Irvin that her only source of income was SSI benefits.
12. At all relevant times, the Subject Property had a written policy permitting residents to keep one “small dog” per family (“the Policy”). The Policy does not further define “small dog.”
13. In 2015, Ms. Mariott and her treating psychiatrist, Dr. Clayton Morris (“Dr. Morris”), discussed her working with an assistance animal to help alleviate the effects of her disability. In December 2015, Ms. Marriot adopted a six-week-old, Blue Heeler-Labrador Retriever mixed-breed dog named Bell.
14. One of Ms. Mariott’s neighbors had a Blue Heeler dog and she had observed that dog living in the park for several months. Based on this observation, Ms. Mariott believed that, because Bell was a similar breed, she would be acceptable under the Policy.
15. From December 2015 to April 2016, Ms. Mariott worked and bonded with Bell as an assistance animal. Bell’s companionship alleviated the effects of Ms. Mariott’s

disability by, among other things, allowing her to feel safe in her home, helping her sleep at night, and encouraging her to leave the house more often.

16. On or about April 16, 2016, Ms. Irvin approached Ms. Mariott and informed her that Bell was “getting too big,” or words to that effect, to live at the Subject Property, and that she would need to remove Bell from the Subject Property.

17. On or about April 19, 2016, Ms. Mariott gave Ms. Irvin a letter from Dr. Morris dated April 18, 2016. The letter stated that Ms. Mariott had been diagnosed with an anxiety disorder and that she used an assistance animal to help deal with her anxiety and stress in a positive way. The letter included a telephone number and an invitation to call Dr. Morris with any questions. When she gave Ms. Irvin the letter, she requested a reasonable accommodation by asking that Bell be allowed to remain at the Subject Property despite the Policy. She informed Ms. Irvin that she had a disability and that she believed the law allowed her to have an assistance animal. She encouraged Ms. Irvin to call Dr. Morris.

18. On April 21, 2016, Ms. Irvin came to Ms. Mariott’s residence and again informed her that Bell was “getting too big,” or words to that effect, and that she would need to remove Bell from the Subject Property. Ms. Mariott again requested a reasonable accommodation to the Policy by asking that Bell be allowed to remain at the Subject Property and explaining that she had a disability and that she believed the law allowed her to have an assistance animal. Ms. Irvin accused Ms. Mariott of lying about her disability and her disability-related need for an

assistance animal. Ms. Irvin told Ms. Mariott that she would have to remove Bell from the Subject Property or move out.

19. Later on April 21, Ms. Mariott went in person to the Fair Housing and Equal Opportunity office of the U.S. Department of Housing and Urban Development (“HUD”). Ms. Mariott spoke with a HUD employee who provided her with printed material about the FHA and assistance animals. Ms. Mariott also filed with HUD a complaint of housing discrimination pursuant to 42 U.S.C. § 3610(a).
20. On April 21, after visiting the HUD office, Ms. Mariott went to Ms. Irvin’s office and provided her with the printed information about the FHA and assistance animals and a document indicating that she had filed a complaint with HUD about Ms. Irvin’s conduct. Ms. Mariott asked Ms. Irvin to reconsider her demand that she remove Bell from the Subject Property. Ms. Irvin refused and told Ms. Mariott that she would have to find another place to live.
21. Later on April 21, Mr. Irvin, at the direction of Ms. Irvin, called Ms. Mariott. Ms. Mariott explained to Mr. Irvin that she had a disability, that Bell was an assistance animal, and that she believed the law allowed her to have such a dog. She further explained that she had formed a bond with Bell and that giving her up would cause a setback in the treatment of her disability, and requested that Bell be allowed to remain at the Subject Property. She also asked Mr. Irvin to contact Dr. Morris to verify her disability and her need to keep Bell as an assistance animal.
22. During this telephone conversation, Mr. Irvin represented to Ms. Mariott that he was one of the owners of the Subject Property. He told Ms. Mariott that she could

use a small dog for her treatment, that he did not believe that she needed to keep Bell, and that she did not need a large dog because she was not blind. He also stated that Ms. Mariott could have written the letter from Dr. Morris herself.

23. During the same telephone conversation, Mr. Irvin told Ms. Mariott that he would not have rented to her if he knew she had a disability and that she would have to find another place to live if she did not remove Bell from the Subject Property.

24. Ms. Irvin was in the trailer with Mr. Irvin during the conversation related above. She listened to Mr. Irvin's side of the conversation and at times instructed him what to say to Ms. Mariott.

25. On or about April 23, 2016, Ms. Mariott mailed a letter to Ms. Irvin. In the letter, Ms. Mariott stated that she has a disability, requested a reasonable accommodation to the Policy so that Bell could remain at the Subject Property, and asked that Ms. Irvin provide a written response to her request by May 5, 2016. Ms. Mariott again included the letter from Dr. Morris. Ms. Irvin received this request on or about April 25, 2016.

26. On or about April 25, 2016, Mr. Irvin approached Ms. Mariott outside her home. He asked if she had decided to remove Bell from the Subject Property, questioned why she needed this specific assistance animal, and inquired whether she could obtain a small dog as an assistance animal. In response, Ms. Mariott offered to provide another letter from Dr. Morris.

27. On or about April 26, 2016, Ms. Mariott mailed to Ms. Irvin an updated letter from Dr. Morris dated April 18, 2016. The letter stated that Ms. Mariott had been

diagnosed with an anxiety disorder, that she “uses her emotional support dog Bell as part of her treatment,” and that “Bell helps her feel safe and protected.” The letter further stated that Bell is “an important part of [Ms. Mariott’s] treatment,” that Bell has helped Ms. Mariott “more than medication,” and that losing Bell would cause a “significant setback in [Ms. Mariott’s] treatment.” The letter included a telephone number and an invitation to call Dr. Morris with any questions.

28. Despite the invitation to do so, neither Ms. Irvin nor Mr. Irvin contacted Dr.

Morris to inquire about or verify Ms. Mariott’s disability or her disability-related need for an assistance animal.

29. Over the next several days, Mr. Irvin called Ms. Mariott and left at least two voice messages on her phone in which he asked that she contact him and Ms. Irvin.

Because she felt intimidated by Mr. Irvin and because she had asked that Ms. Irvin respond to her request in writing, she did not return his calls.

30. On May 20, 2016, Ms. Irvin received by certified mail a notice from HUD explaining that Ms. Mariott had filed a complaint against her.

31. On May 21, 2016, Ms. Irvin issued Ms. Mariott a notice of eviction (“the Notice”) and taped it to Ms. Mariott’s door.

32. The Notice demanded that Ms. Mariott vacate the Subject Property within thirty (30) days, that is, by June 20, 2016. As grounds for the demand, the Notice cited “[f]ailure to comply with rental agreement” and “[n]o resolution due to failure to communicate with property owner.”

33. Believing she had nowhere else to live and that she would be evicted if she did not remove Bell from the Subject Property, Ms. Mariott identified a family that was willing to adopt Bell, which they did on May 31, 2016.
34. In June 2016, Ms. Mariott mailed her monthly rent check to Ms. Irvin.
35. On or about June 15, 2016, Ms. Mariott went to speak to Ms. Irvin. Ms. Mariott told Ms. Irvin that she had removed Bell from the Subject Property and requested to remain at the Subject Property. Ms. Irvin refused to discuss the Notice and told Ms. Mariott that she had to move by June 20, 2016.
36. On or about June 19, 2016, Ms. Irvin returned to Ms. Mariott the rent check she had mailed earlier that month. Ms. Mariott again asked that Ms. Irvin allow her to remain at the Subject Property. Ms. Irvin informed Ms. Mariott that she could no longer rent to her and that she did not want to discuss the matter further.
37. On June 20, 2016, Ms. Mariott moved out of the Subject Property.

HUD ADMINISTRATIVE PROCESS

38. On or around April 21, 2016, Ms. Mariott filed a timely complaint against the Defendant with HUD. The complaint was amended on or around January 11, 2017, and on or around March 14, 2017.
39. Pursuant to 42 U.S.C. § 3610, 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 in the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that

reasonable cause existed to believe the Defendant violated the Fair Housing Act. Therefore, on August 10, 2017, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the above-named Defendant with engaging in discriminatory housing practices on the basis of disability.

40. On August 18, 2017, Ms. Mariott elected to have the claims asserted in the HUD Charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a). On August 21, 2017, the Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on Ms. Mariott's complaint.

41. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).

42. On September 13, 2017, the United States and the Defendant executed an agreement that tolled the expiration of any statute of limitations in this action until October 17, 2017. On October 16, 2017, the United States and the Defendant executed a second agreement tolling the expiration of any statute of limitations in this action until November 17, 2017.

FAIR HOUSING ACT VIOLATIONS

43. By the actions set forth above, Defendant Christine Irvin has:

- a. Discriminated in the rental, or otherwise made unavailable or denied a dwelling to a renter because of a disability of that renter, in violation of 42 U.S.C. § 3604(f)(1);

- b. Discriminated in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of a disability of that renter, in violation of 42 U.S.C. § 3604(f)(2);
 - c. Refused to make reasonable accommodations in rules, policies, practices, or services, when such an accommodation was necessary to afford a person with a disability equal opportunity to use and enjoy her dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B); and
 - d. Coerced, intimidated, threatened, or interfered with a person in the exercise or enjoyment of, or on account of her having exercised or enjoyed, rights granted by Section 804 of the FHA, in violation of 42 U.S.C. § 3617.
44. As a result of the Defendant's conduct, Ms. Mariott has been injured and is an "aggrieved person" as defined by 42 U.S.C. § 3602(i).
45. The discriminatory actions of the Defendant were intentional, willful, and taken in reckless disregard of the rights of Ms. Mariott.

PRAYER FOR RELIEF

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

- a. Declares that the Defendant's discriminatory conduct violates the Fair Housing Act;
- b. Enjoins the Defendant, her agents, employees, successors, and all other persons in active concert or participation with any of them from:

- i. Discriminating on the basis of disability, in violation of the Fair Housing Act;
 - ii. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Ms. Mariott to the position she would have been in but for the discriminatory conduct; and
 - iii. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future;
- c. Awards monetary damages to Ms. Mariott pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

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

Dated: November 16, 2017

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Respectfully submitted,

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