

6. Defendant Hillside Park Real Estate, LLC (“Hillside”) owns and manages approximately 35 residential housing apartments, including the apartment at issue, located at 2 Simmons Drive, Oswego, New York 13126 (the “Subject Apartment”).

7. At all times relevant herein, Defendant Stephanie Castaldo-Gorgoni (“Castaldo”) was employed by Hillside as its property manager.

FACTS

8. Complainant is an individual with a disability, as defined by 42 U.S.C. § 3602(h).

9. Complainant’s impairments substantially limit her ability to go outside alone, drive, sleep, attend school, maintain employment, attend necessary medical appointments and care for her home.

10. In April 2015, Complainant contacted Hillside regarding the Subject Apartment, which was listed as an available rental on Hillside’s website.

11. Complainant was interested in renting the Subject Apartment because she was preparing to study at a nearby university.

12. On April 14, 2015, Complainant met with Castaldo and completed a rental application.

13. The rental application completed by Complainant stated that no pets of any kind are permitted in Hillside apartments.

14. On April 20, 2015, Complainant and Hillside executed a one-year lease agreement for the Subject Apartment, commencing on July 1, 2015 (the “Lease”).

15. The Lease contained a “no pets” clause which prohibited keeping animals of any kind within the Subject Apartment.

16. On June 6, 2015, Complainant obtained a male American Staffordshire terrier from the Port Jervis Humane Society as an emotional support animal (“ESA”).¹

17. Complainant’s ESA helps her manage and treat the symptoms of her disability.

18. On June 22, 2015, Complainant contacted Castaldo by email to determine whether the Subject Apartment would be ready for occupancy on July 1, 2015. Complainant also advised Castaldo that she would be bringing her ESA with her.

19. By email dated June 23, 2015, Castaldo advised Complainant that she would not be permitted to bring her ESA to the Subject Apartment and added, “I don’t plan to commence this lease.” Castaldo instructed Complainant to communicate with Hillside’s attorney.

20. By email dated June 25, 2015, Hillside’s attorney advised Complainant that her request for a waiver of Hillside’s “no pets” policy had been referred to his office for consideration. Hillside’s attorney requested that Complainant provide a signed letter from her treating physician stating, among other things, that an ESA was medically necessary to address her condition. Hillside’s attorney also stated that, if Complainant’s request was granted, Hillside “reserve[ed] the right to require a non-refundable pet security deposit and an additional monthly pet fee.”

21. Complainant responded on June 26, 2015, indicating that she would provide the additional medical documentation, but stating that she would not pay for any additional charges that were not assessed on non-disabled tenants.

22. On June 27, 2015, Complainant provided Hillside’s attorney with a letter from her therapist, a Licensed Clinical Social Worker, stating that Complainant’s disability interfered with

¹ An American Staffordshire terrier is one of several breeds of dog known generally as a “pit bull.”

her ability to function alone and expressing support for an ESA to assist Complainant in her daily living activities and in completing her education. The therapist's letter concluded with an offer for Hillside's attorney to contact her to discuss any further questions.

23. Hillside's attorney did not contact Complainant's therapist for further information.

24. Instead, by email dated July 6, 2015, Hillside's attorney requested that Complainant complete a 20-question questionnaire regarding her reasonable accommodation request. All but one of the questions pertained to the animal (description, temperament, licensure, vaccinations). Only one of the questions asked whether the dog "was prescribed as an Emotional Support Animal."

25. Complainant completed and returned the questionnaire the same day, along with a copy of her ESA's veterinary records and license from the Town of New Windsor, New York.

26. Also on July 6, 2015, Hillside's attorney acknowledged receipt of Complainant's additional information and advised her that the information would be forwarded to his client for review and consideration. Hillside's attorney further stated, "I will let you know if I need any further documentation in the meantime."

27. Hillside's attorney did not request any further documentation from Complainant. Instead, by letter dated July 21, 2015, Hillside denied Complainant's reasonable accommodation request to waive its "no pets" policy with regard to her ESA.

28. By email dated July 24, 2015, Complainant provided Hillside's attorney with a letter from her psychiatrist which stated, in part, that having an emotional support dog would be beneficial for Complainant's treatment. The letter concluded with an invitation to contact the psychiatrist with any questions.

29. Hillside's attorney did not contact Complainant's psychiatrist for further information.

30. Hillside did not contact Complainant for further information and she never had the opportunity to live in the Subject Apartment.

PROCEDURAL HISTORY

31. On or about October 26, 2015, Complainant filed a timely, verified complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Hillside and Castaldo were violating the Fair Housing Act by denying her request to waive Hillside's "no pets" policy with regard to her ESA emotional support animal.

32. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD (the "Secretary") conducted an investigation of Complainant's complaint and prepared a final investigative report.

33. Based on the information gathered in the HUD investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that Defendants discriminated against the Complainant and violated the Fair Housing Act.

34. On April 25, 2016, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in discriminatory housing practices in violation of the Fair Housing Act.

35. Defendants have elected to have the charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a). Following this election, pursuant to 42 U.S.C. § 3612(o)(1), the Secretary authorized the Attorney General to file this action on behalf of the Complainant.

FAIR HOUSING ACT CLAIMS

36. The United States incorporates by reference the preceding paragraphs of this Complaint.

37. Defendants Hillside and Castaldo discriminated against Complainant, a person with a disability, in the rental of a dwelling by denying her the opportunity to rent, or otherwise making unavailable or denying, the Subject Apartment to her because of her ESA, required because of her disability, in violation of 42 U.S.C. § 3604(f)(1)(A).

38. Defendants Hillside and Castaldo discriminated against Complainant, a person with a disability, in the terms, conditions, or privileges of sale or rental of a dwelling because of her disability, in violation of 42 U.S.C. § 3604(f)(2)(A).

39. Defendants Hillside and Castaldo refused to make a reasonable accommodation 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 a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

40. As a result of Defendants' conduct, Complainant is an aggrieved person as defined in 42 U.S.C. § 3602(i) and has suffered injuries as a result of Defendants' actions.

41. Defendants' discriminatory actions were intentional, willful, and taken in disregard of the rights of Complainant.

DEMAND FOR RELIEF

WHEREFORE, the United States requests that this Court:

1. Declare that Defendants' discriminatory housing practices as set forth above violate the Fair Housing Act;

2. Enjoin and restrain Defendants, their officers, employees, agents, successors, and all other persons or corporations in active concert or participation with Defendants, from:

- A. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of disability, in violation of 42 U.S.C. § 3604(f)(1);
- B. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2); and
- C. Refusing 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).

3. Order Defendants to take such affirmative steps as may be necessary to restore, as nearly as practicable, Complainant to the position she would have been in but for the discriminatory conduct;

4. Order Defendants to take such actions as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of their unlawful conduct, including implementing policies and procedures to ensure that no applicants or residents are discriminated against because of disability;

5. Award monetary damages to Complainant pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

6. Order such additional relief as the Court finds just and proper.

Dated: 9/8/2016

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Respectfully submitted,

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