

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

20-CV-6949

v.

MIDTOWN MOTEL, LLC,  
DAVID OLDFIELD,  
BARBARA OLDFIELD,

Defendants.

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### **COMPLAINT**

The United States of America, for its complaint against Defendants Midtown Motel, LLC, David Oldfield, and Barbara Oldfield, alleges as follows:

#### **NATURE OF ACTION**

1. This is an action brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, *et seq.* (“Fair Housing Act” or “FHA”).

2. The United States brings this action for injunctive relief and monetary damages on behalf of Complainant Cheryl Martinez pursuant to the Fair Housing Act. 42 U.S.C. § 3612(o).

3. The United States alleges that Defendants discriminated in the rental of a dwelling and in the terms and conditions of tenancy because of a tenant’s disability<sup>1</sup> by refusing to make reasonable accommodations in rules, policies, practices or services when

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<sup>1</sup> The FHA uses the term “handicap,” *see* 42 U.S.C. § 3602(h), but consistent with modern usage, the government uses the term “disability” in this Complaint.

such accommodations may be necessary to afford a person equal opportunity to enjoy a dwelling, in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(f)(1), (f)(2) and (f)(3).

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 42 U.S.C. § 3612(o).

### **PARTIES**

6. Plaintiff is the United States of America.

7. This action is commenced on behalf of Cheryl Martinez (“Complainant” or “Ms. Martinez”), an individual currently residing in Monroe County, New York. At the time of the alleged discrimination, Complainant resided with her husband in Dansville, New York.

8. Complainant is a person with a disability within the meaning of 42 U.S.C. § 3602(h). At the relevant time, Complainant was receiving treatment for anxiety with panic disorder, PTSD and depression.

9. Complainant’s psychiatric conditions substantially limit one or more of her major life activities, including her ability to interact with others, to care for herself, to breathe, to walk, and to sleep.

10. In 2012, Ms. Martinez was receiving care for the above conditions from her primary care physician, Dr. Anton Bazarov, M.D. In or about 2012, Dr. Bazarov recommended that Ms. Martinez acquire an emotional support animal as part of her therapeutic care plan.

11. In October of 2012, Ms. Martinez acquired Spanky, an American Staffordshire Terrier, as an emotional support animal. Since that time, Spanky has provided emotional support to Ms. Martinez that has ameliorated the effects of her disabilities.

12. At all times relevant to this Complaint, Defendant Midtown Motel, LLC owned and operated property located at 80 Main Street, Dansville, NY (“subject property”). The subject property consists of a converted motel building with eleven efficiency apartments, each rented monthly.

13. At all times relevant to this Complaint, Defendants David and Barbara Oldfield were the owners of Defendant Midtown Motel, LLC. Defendants David and Barbara Oldfield managed the subject property and determined and implemented rental policy for the subject property.

14. The subject property is a dwelling, as defined by 42 U.S.C. § 3602(b).

### **FACTS**

15. In May 2015, Complainant’s treating physician, Anton Bazarov, M.D., wrote a letter stating that Complainant received treatment for anxiety with panic disorder, PTSD and depression and further stating that an emotional support animal was a necessary component of Complainant’s therapeutic plan. He noted that Complainant had an emotional support dog and that “as a result her symptoms from the above disorders are under control.” Dr. Bazarov opined “[t]he dog must stay/live with [Complainant] at all times in order to keep her symptoms under control.”

16. In November 2016, Complainant, who was homeless and searching for affordable housing, learned about an available rental unit located on the subject property.

17. In and around this time, Complainant was working with the staff of the Livingston County Department of Social Services (“LCDSS”) to secure payment of rent, and Defendants were in communication with LCDSS concerning Complainant’s housing.

18. On December 16, 2016, Complainant met with an employee of the subject property who was known to her as “Bob” and who Complainant believes was a maintenance worker and/or superintendent.

19. After receiving authorization from Respondent Barbara Oldfield, “Bob” showed Complainant unit #6 in the subject property.

20. On December 16, 2016, Bob gave Ms. Martinez a key to unit #6 and advised her that she could move into the unit immediately. Complainant moved some of her property inside the rental unit that day.

21. Paragraph 10 of the rental agreement for the units at the subject property reads:

No pets are allowed on premises. Absolutely No Pets even visiting. Under no circumstances will tenant allow a guest, visitor, associate, or family member to bring any animal onto premises for any reason.

22. The rental agreement does not contain a provision that allows exceptions as a reasonable accommodation for a person with a disability.

23. Respondents do not have a written or established policy or procedure for making reasonable accommodations for individuals who require service or emotional support animals because of a disability.

24. On or about December 23, 2016, Complainant spoke to Defendant Barbara Oldfield on the telephone while retrieving her emotional support dog from her relative’s residence.

25. During this phone call, Complainant told Defendant Barbara Oldfield that she had an emotional support dog that she intended to live with in the rental unit, together with her husband.

26. Complainant also told Defendant Barbara Oldfield that she possessed a letter from her physician, Dr. Bazarov, that supported her need for an emotional support dog.

27. Defendant Barbara Oldfield told Complainant that she did not allow pets in the subject property.

28. Respondent Barbara Oldfield told Complainant that she and her husband had to vacate the rental unit or they would be evicted.

29. After being told that she could not live in the rental unit, Complainant became symptomatic, anxious and upset.

30. On December 30, 2016, Complainant and her husband moved from the subject property to reside with family and friends while they continued to search for permanent housing that would accept Spanky.

31. As a result of Defendants' actions, Complainant suffered damages, including but not limited to physical and emotional distress, inconvenience, frustration, and loss of a housing opportunity.

32. On June 15, 2016, six months before Ms. Martinez's experience at the Midtown Motel, a housing discrimination tester employed by Legal Assistance of Western New York ("LawNY"), a non-profit law firm that specializes in providing free legal aid to people with civil legal problems, contacted Defendants in response to a June 9, 2016 advertisement that offered "Apartments for Rent. Efficiency, Dansville w/living room/bedroom combo," but with "no pets" allowed.

33. The housing tester spoke to Defendant Barbara Oldfield about leasing a rental unit with his emotional support animal, a small Labrador dog, and was told that no dogs would be permitted on the premises.

### **PROCEDURAL BACKGROUND**

34. On or about November 17, 2017, Ms. Martinez filed a complaint with the U.S. Department of Housing and Urban Development (“HUD”) alleging that she was discriminated against on the basis of her disability by the Oldfields. On November 27, 2019, the complaint was amended to add Midtown Motel, LLC as a respondent.

35. As required by the Fair Housing Act, 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted an investigation of the complaint made by Complainant, attempted conciliation without success, and prepared a final investigative report.

36. Based on the information gathered in the HUD investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause exists to believe that illegal discriminatory housing practices by the Defendants occurred. On September 24, 2020, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination pursuant to 42 U.S.C. § 3610(g), charging the Defendants with discrimination under the Fair Housing Act.

37. On October 7, 2020, Defendants Barbara and David Oldfield elected to have the claims asserted in HUD’s Charge of Discrimination resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a).

38. On October 8, 2020, a HUD Administrative Law Judge issued a Notice of Election and terminated the administrative proceedings on the HUD complaint filed by

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

39. The United States now timely files this Complaint pursuant to the Fair Housing Act, 42 U.S.C. § 3612(o).

### **FAIR HOUSING ACT VIOLATIONS**

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

41. Defendants Midtown Motel, LLC, Barbara Oldfield, and David Oldfield violated 42 U.S.C. § 3604(f)(1) by making housing unavailable to Complainant on the basis of her disability when they threatened Complainant Cheryl Martinez with eviction because of her emotional support animal. 42 U.S.C. § 3604(f)(1).

42. Defendants violated 42 U.S.C. § 3604(f)(2) by subjecting Complainant to different and less favorable terms, conditions, or privileges of sale or rental of the subject property on the basis of Complainant Cheryl Martinez's disability by refusing to allow her to live at the rental unit because of her emotional support animal. 42 U.S.C. § 3604(f)(2).

43. Defendants violated 42 U.S.C. § 3604(f)(3) by failing to modify their policies upon learning that Complainant's dog was an assistance animal, and such accommodation would have provided Ms. Martinez an equal opportunity to enjoy the dwelling as tenants without disabilities. 42 U.S.C. § 3604(f)(3).

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

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

**REQUEST 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 interests of justice require.

**DEMAND FOR A JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the United States demands trial by jury in this matter of all issues so triable.

**DATED:** November 5, 2020  
Rochester, New York

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