

PARTIES

4. The Plaintiff is the United States of America, which brings this action on behalf of Esteban Hernandez, Aileen Hernandez, and their minor child (collectively “Complainants”). The Complainants are “aggrieved persons” as defined by the Fair Housing Act, 42 U.S.C. § 3602(i).
5. At all times relevant to the Complaint, the Defendant, John DeRaffele, was the owner of a four-family rental property at 27 Loring Street in Springfield, Massachusetts (“Subject Property”).
6. The Subject Property is a dwelling within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

FACTUAL ALLEGATIONS

7. The Complainants lived with Ana Collazo, Complainant Aileen Hernandez’s mother, in her apartment at the Subject Property, between April 2015 and August 2015.
8. Defendant DeRaffele rented the apartment at the Subject Property to Ana Collazo pursuant to a lease (the “Lease”).
9. The Lease, signed on November 8, 2011, by both Defendant and Ana Collazo, contains a rider stating that her apartment “doesn’t have Lead Certificates as of 1/1/09 and Children under (6) years old are not allowed to reside in the premises.”
10. The lease rider also required Ana Collazo to acknowledge that (1) “no one is pregnant in the family,” (2) “if someone living on the premises becomes pregnant they will vacate the premises prior to the birth of baby,” (3) “Tenant will not permit any day care or babysitting during the day or evening for any children under 6 years of age,” and (4) “Tenant has full awareness and knowledge of the Lead Paint Laws and will not in any

way circumvent the provisions of the Lead Laws of the State of Mass., or City of Springfield or County in any way in order to provide shelter to any child 6 years of age or younger.”

11. Massachusetts lead paint laws require landlords to remove or cover lead paint hazards in homes where any children under six live, and prohibit refusing to rent such premises to families with children because the premises may contain lead. M.G.L. c. 111, §§ 197, 199A.
12. Defendant DeRaffele has included a rider with identical discriminatory language in the leases of other tenants residing at the Subject Property.
13. Ana Collazo speaks Spanish primarily. She does not speak English fluently. As a result, she communicated all her needs as a tenant to Defendant’s on-site supervisor, Jose Sequila, who speaks Spanish.
14. Before the Complainants moved into her apartment, Ana Collazo asked Defendant’s on-site supervisor, Jose Sequila, for permission to allow the Complainants to live in her unit while they looked for permanent housing. Sequila granted this permission.
15. Sometime in June 2015, Esteban Hernandez asked the Defendant about renting a vacant unit at the Subject Property. During this conversation, Esteban Hernandez stated that his monthly income was less than \$1,000.
16. Defendant DeRaffele told Hernandez that he would not rent the apartment to him because of insufficient income.
17. During the week of June 27, 2015, Esteban Hernandez started a new job that met Defendant DeRaffele’s stated standard of paying more than three times the monthly rent of the unit.

18. On July 8, 2015, Esteban Hernandez again asked the Defendant about renting a vacant unit at the Subject Property. He told the Defendant that his income with the new job was at least three times the monthly rent of \$750, and therefore, he met the Defendant's income requirements.
19. During the July 8, 2015 conversation, Defendant DeRaffele asked for the age of any children who would be living in the apartment. Esteban Hernandez responded that he had a two-year old son, and his wife was pregnant.
20. After learning of the age of the child and of the pregnancy, Defendant said that he could not rent the apartment to the Complainants because it was not lead certified.
21. The subject property remained vacant through about November 2015, at which point it was rented to a household with no pregnant women and no children under eighteen.
22. On July 13, 2015, the Complainants filed a fair housing complaint with the Massachusetts Commission Against Discrimination ("MCAD") alleging discrimination based on familial status.
23. On July 17, 2015, the Defendant received a copy of this complaint from the MCAD.
24. On July 22, 2015 Ana Collazo received a handwritten letter from Defendant DeRaffele dated July 18, 2015, stating she was in violation of her lease because she had three unauthorized occupants in her apartment. The letter warned her that she had ten days to cure the violation before eviction proceedings would begin.
25. On July 23, 2015, Complainants filed a second fair housing complaint with the MCAD, alleging that the Defendant's eviction threat constituted retaliation for filing a housing discrimination complaint.

26. On July 27, 2015, Defendant filed a federal lawsuit in the District of Massachusetts against the MCAD, the MCAD investigator, and the Complainants, seeking damages of \$1,000,000 [Docket No. 3:15cv30128]. He alleged that by filing a fair housing complaint based on untruthful allegations, the Complainants violated his constitutional rights. The Court dismissed the action in its entirety sua sponte (*appeal denied*, 1st Cir. No. 16-1024).
27. On July 30, 2015, Ana Collazo and the Complainants received a letter from the Defendant's attorney instructing them to vacate the property by September 1, 2015, or face eviction.
28. Fearing eviction, the Complainants vacated the property on or about September 1, 2015.
29. The MCAD referred the two complaints to the United States Department of Housing and Urban Development ("HUD") pursuant to an agreement between the two agencies.
30. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD ("Secretary") conducted an investigation of the complaints, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered in the investigation, the Secretary found that reasonable cause existed to believe the Defendant had engaged in illegal discriminatory housing practices.
31. On April 22, 2016, the Secretary issued a Charge of Discrimination ("Charge"), pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendant DeRaffele with engaging in discriminatory practices in violation of the Fair Housing Act.
32. On April 28, 2016, the Defendant elected to have the claims asserted the Charge resolved in a civil lawsuit, pursuant to 42 U.S.C. § 3612(a).

33. On April 28, 2016, the HUD Administrative Law Judge issued a Notice of Election to Proceed in United States District Court and terminated the administrative proceeding.
34. By this Notice of Election, the Secretary authorized the United States Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

COUNT I
(Discrimination against Hernandez Family)

35. The allegations of paragraph 1 through 31 are incorporated by reference.
36. The Defendant, through the above-referenced actions:
 - a. refused to rent to the Hernandez family an otherwise available apartment after they made a bona fide offer, or otherwise made unavailable or denying, a dwelling because of familial status, in violation of 42 U.S.C. § 3604(a);
 - b. discriminated against the Hernandez family in the terms, conditions or privileges of rental of a dwelling because of familial status, in violation of 42 U.S.C. ' 3604(b);
 - c. made or caused to be made, printed, or published any notice or statement, with respect to the rental of a dwelling that indicates a preference, limitation, or discrimination, or intention to make any such preference, limitation, or discrimination, because of familial status, in violation of 42 U.S.C. § 3604(c);
 - d. represented to the Hernandez family that a dwelling was not available for rental because of familial status, when the dwelling was in fact so available, in violation of 42 U.S.C. § 3604(d); and
 - e. retaliated against the Hernandez family for having filed fair housing complaints with the MCAD by threatening to evict Ana Collazo unless she required the Hernandez family to move out of her dwelling, and by filing a lawsuit, seeking \$1,000,000 from the

Hernandez family because they filed a fair housing complaint against him, both in violation of 42 U.S.C. § 3617.

COUNT II
(Pattern or Practice of Discrimination)

37. Paragraphs 1 through 31 are incorporated by reference.
38. The Defendant's discrimination on the basis of familial status, as described above, constitutes:
- a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, in violation of 42 U.S.C. § 3614(a); and/or
 - b. A denial of rights granted by the Fair Housing Act to a group of persons, which raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).
39. In addition to Complainants, there may be other victims of Defendant's discriminatory actions and practices who are "aggrieved persons" as defined in 42 U.S.C. § 3602(i). These persons may have suffered damages as a result of Defendant's discriminatory conduct.
40. Defendant's actions and statements described in the preceding paragraphs were intentional, willful, and taken in disregard for the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court enter an order:

- A. Declaring that the Defendant's discriminatory policies and practices, as set forth above, violated the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*;
- B. Enjoining the Defendant, his agents, employees, successors, and all other persons in active concert or participation with him from discriminating on the basis of familial status, in violation of the Fair Housing Act;

- C. Ordering the Defendant to take such affirmative steps as may be necessary to restore, as nearly as practicable, the Complainants and all other aggrieved persons to the position they would have been in but for the discriminatory conduct;
- D. Ordering the Defendant 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 his unlawful conduct, including implementing policies and procedures to ensure that no applicants or residents are discriminated against because of familial status;
- E. Awarding monetary damages to the Complainants, pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1) and 3614(d)(1)(B)
- F. Awarding monetary damages to all other aggrieved persons, pursuant to 42 U.S.C. § 3614(d)(1)(B);
- G. Assessing civil penalties against the Defendant in the amounts authorized by 42 U.S.C. § 3614(d)(1)(c), to vindicate the public interest; and,
- H. Ordering such additional relief as the interests of justice may require.

The United States demands trial by jury.

Respectfully submitted,

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