

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)

Case No.:

GERARD JOYCE, KATIE JOYCE,)
DANIEL JOYCE, NORMANDY)
HOLDINGS, LLC, LOFTS AT THE MILL,)
LP, and LOFTS GP, LLC,)
)
Defendants.)

COMPLAINT

(electronically filed)

The United States of America alleges as follows:

1. The United States brings this action pursuant to 42 U.S.C. §§ 3612(o) and 3614(a) to enforce the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3631.
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 3612(o) and 3614(a).
3. Venue is proper in the District Court for the Middle District of Pennsylvania under 42 U.S.C. § 3612(o) and 28 U.S.C. § 1391(b) in that the events or omissions giving rise to this action occurred in this district.
4. At all times relevant to this complaint, defendants Gerard Joyce, Katie Joyce, Daniel Joyce, Normandy Holdings, LLC, Lofts at the Mill, LP, and Lofts GP, LLC (collectively, "the Defendants") have owned, operated, solicited leases for, and/or managed a 74-unit residential rental property, The Mill, a/k/a Lofts @ the Mill

and Suites @ the Mill, located at 800 James Ave., Scranton, PA 18510 (hereinafter, "The Mill").

5. The Mill is a dwelling within the meaning of 42 U.S.C. § 3602(b).

GENERAL ALLEGATIONS

6. On or about July 28, 2004, Gerard Joyce submitted an application to the Zoning Hearing Board of the City of Scranton seeking a Special Exception to convert existing office space at 800 James Ave., Scranton, PA 18510, into over 100 mostly loft-style residential apartments, now known as The Mill.
7. On August 11, 2004, the Zoning Hearing Board held a public hearing on the application where seventeen neighbors voiced their objections to the project by citing fears from increased traffic, to fear of student apartments adding noise throughout the night, to parking problems.
8. Gerard Joyce subsequently offered that he would accept a condition on the Special Exception permit requiring that all residential tenants at The Mill be at least twenty-one years old.
9. The Scranton Zoning Hearing Board approved the permit application after adopting Gerard Joyce's minimum-age proposal but modified it so that all "children of the tenant[s]" at The Mill were exempted from the restriction.
10. On April 21, 2005, April 28, 2005, and May 5, 2005, the Aquinas student newspaper at the University of Scranton published a full-page ad that advertised The Mill's housing as "Loft Apartments . . . For Adults 21 & Over."

11. On July 20, 2006, Jeanne Brolan of United Neighborhood Centers, a fair housing organization, informed Daniel Joyce that she saw an ad for The Mill in the Electric City newspaper that clearly violated the Fair Housing Act's prohibition on familial status discrimination in advertising because the ad specified a requirement that all tenants be over 21 years old.
12. On July 21, 2006, Ms. Brolan mailed a letter to the Electric City newspaper requesting that the ad for The Mill be removed because of its discriminatory language.
13. On July 26, 2006, Tim Holmes of Electric City called Ms. Brolan and informed her that The Mill's ad had in fact been pulled because of its discriminatory language and that he had informed Daniel Joyce of this development.
14. On or about July 27, 2006, Ms. Brolan forwarded Daniel Joyce contact information for HUD's regional office and mailed him a copy of relevant portions of the Fair Housing Act.
15. The Defendants, however, continued to publish and distribute flyers/placards containing a "21 yrs. or older" restriction for The Mill and continued to distribute brochures for The Mill with the same restrictive language to prospective tenants.
16. Over the Fall of 2006 and Spring of 2007 the Defendants paid for five ads for The Mill that appeared in The Wood Word, the student newspaper at Marywood University, that also specified that "all occupants must be 21 yrs. or older."
17. Pursuant to a request from the Department of Housing and Urban Development's Office of Systemic Investigations, the Fair Housing Council of Montgomery

County conducted a series of tests between January 16, 2007 and February 17, 2007 to evaluate the Defendants' compliance with the Fair Housing Act. The testing revealed that the Defendants engaged in housing practices that discriminate on the basis of familial status at The Mill, including making or causing to be made statements with respect to the rental of a dwelling that indicate any preference, limitation, or discrimination based on familial status, or an intention to make such preference, limitation, or discrimination.

18. In a March 28, 2007 interview with a HUD investigator, Daniel Joyce admitted that he had personally informed "a couple" of applicants with children that children were not allowed at The Mill.
19. On July 19, 2007, Kim Kendrick, HUD's Assistant Secretary for Fair Housing and Equal Opportunity, filed a verified housing discrimination complaint (HUD Form 903) on behalf of the HUD Secretary, as authorized by 42 U.S.C. § 3610(a) and 54 Fed. Reg. 13121, alleging that the Defendants violated the Fair Housing Act, 42 U.S.C. §§ 3601-3631.
20. On May 2, 2008, HUD issued a determination of reasonable cause to believe that a discriminatory housing practice had occurred and charged the Defendants with discrimination pursuant to 42 U.S.C. § 3610(g).
21. On May 22, 2008, the Defendants made a timely election to have their claims resolved in federal court, pursuant to 42 U.S.C. § 3612(a).
22. On May 28, 2008, the Administrative Law Judge issued a Notice of Election and terminated the administrative proceeding on the HUD complaint.

23. 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).

COUNT I

24. Plaintiff, United States of America, realleges and incorporates by reference the allegations set forth in paragraphs 1 through 23 above.

25. By the conduct set forth above, the Defendants have:

- a. Refused to negotiate for the rental of, or otherwise made unavailable or denied a dwelling to a person because of familial status, in violation of 42 U.S.C. § 3604(a);
- b. Made statements and/or caused to be made, printed or published statements and/or advertisements with respect to the rental of a dwelling that indicate a preference, limitation or discrimination based on familial status, and an intention to make such a preference, limitation or discrimination based on familial status, in violation of 42 U.S.C. § 3604(c).

26. Upon information and belief, there are victims of Defendants' discriminatory conduct or actions that are aggrieved persons within the meaning of 42 U.S.C. § 3612(o).

27. The Defendants' discriminatory conduct or actions as set forth above was intentional, willful, and taken in disregard for the rights of others.

COUNT II

28. Plaintiff, United States of America, realleges and incorporates by reference the allegations set forth in paragraphs 1 through 27 above.
29. By the conduct set forth above, the Defendants have engaged in:
- 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
 - b. A denial to a group of persons rights granted by the Fair Housing Act, which denial raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).
30. Upon information and belief, there are victims of Defendants' discriminatory conduct or actions that are aggrieved persons within the meaning of 42 U.S.C. § 3614(d)(1)(B).
31. The Defendants' discriminatory conduct or actions as set forth above was intentional, willful, and taken in disregard for the rights of others.

WHEREFORE, the United States prays for relief as follows:

- 1. A declaration that the conduct of the Defendants, as set forth in this Complaint, violates the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3631;
- 2. An injunction against the Defendants, their agents, employees, and successors, and all other persons in active concert or participation with them, from:
 - a. Discriminating on the basis of familial status in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3631;

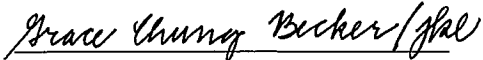
- b. Failing or refusing to notify the public that dwellings owned or operated by the Defendants are available to all persons on a nondiscriminatory basis; and
 - c. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, any aggrieved persons to the position they would have been in but for the discriminatory conduct;
3. An award of monetary damages to any aggrieved persons pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c) and 3614(d)(1)(B); and
 4. A civil penalty against each named Defendant in an amount authorized by 42 U.S.C. § 3614(d)(1)(C), in order to vindicate the public interest.

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

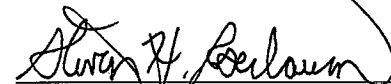
Dated: June 23, 2008


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