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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON CV '08 - 1104 10

United States of America,

Civil Case No. _____

Plaintiff,

v.

COMPLAINT

Ronald A. Lucas and
R.A. Lucas Developments, LLC

Defendants.

The United States of America, Plaintiff, by Karin J. Immergut, United States Attorney for the District of Oregon, and through Adrian L. Brown and Ronald K. Silver, Assistant United States Attorneys for the District of Oregon, for its Complaint, states and alleges as follows:

INTRODUCTION

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 - 3619.

2. The United States brings this action on behalf of Marilyn Dirks, pursuant to 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

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

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

THE PARTIES

5. Plaintiff is the United States of America ("United States").

6. Defendants R.A. Lucas Developments, LLC (hereinafter "R.A. Lucas, LLC") and Ronald A. Lucas (hereinafter Lucas) own and operate a fifteen-unit apartment complex located at 1691 Old Portland Road in St. Helens, Oregon (hereinafter Old Portland Road Apartments).

7. Defendant R.A. Lucas, LLC is the owner of record of the Old Portland Road Apartments.

8. Defendant Lucas manages the apartments from an off-site location and is

responsible for their day to day operations.

9. Marilyn Dirks has been a tenant in Unit #15 of the Old Portland Road Apartments since approximately November 20, 2006. Ms. Dirks' lease includes a no-pets policy. Unit #15 constitutes a dwelling within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

ALLEGATIONS

10. Marilyn Dirks has been diagnosed with depression, major depressive disorder, post traumatic stress disorder (PTSD) and other medical conditions, including arthritis and fibromyalgia. She receives financial assistance from the Social Security Administration for her disabilities. She is a person with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h).

11. In May 2007, Ms. Dirks' son was killed in a motor vehicle accident. Sometime during the summer of 2007, Ms. Dirks made an oral request to defendant Lucas to allow her to have a companion animal due to the stress she was experiencing. Defendant Lucas denied her request by telling her that the lease stated that there would be no cats or dogs, and told her she could get a fish or a bird. After Ms. Dirks told defendant Lucas that her doctor was going to write a letter supporting her request, defendant Lucas replied that anyone can get one of those letters.

12. In late November or early December 2007, Ms. Dirks submitted letters to defendant Lucas from two of her health care providers. The first letter, dated November 16, 2007, was from Ms. Dirks' mental health counselor, Sierra Mills. Her letter supported

Ms. Dirks' request for a small animal as being therapeutic for Ms. Dirks. The second letter, dated November 26, 2007, was from Ms. Dirks' treating physician, James Borden, MD. His letter stated that Ms. Dirks met "the definition of disability under the fair housing laws," and that, to enhance her ability to live independently and enjoy full use of her dwelling, he was prescribing a companion dog to assist Ms. Dirks with the functional limitations related to her disability.

13. Ms. Dirks never received a written reply to her request from defendant Lucas. Sometime in late November or early December 2007, defendant Lucas told Ms. Dirks that he did not care, he was not going to give in and that "we don't do anything for mental things anymore, just physical." He further told Ms. Dirks that if he let her have a dog, everyone would want one. Finally, he commented that he did not care if she was dying from stress and that if she had paperwork that she was legally blind, then it would be okay for her to have a dog.

14. On or about December 13, 2007, Michael Pijanowski, a legal aid attorney, sent a letter to defendant Lucas on Ms. Dirks' behalf requesting a reasonable accommodation and attaching the same two letters from her providers as described above in paragraph 12. Neither Mr. Pijanowski nor Ms. Dirks ever received any response to this letter, oral or written, from defendant Lucas.

15. On or about February 11, 2008, Marilyn Dirks filed a timely verified complaint with the U.S. Department of Housing and Urban Development ("HUD"), alleging that Ronald Lucas and R.A. Lucas Developments, LLC discriminated against her

because of her physical disability by refusing to grant her reasonable accommodation request for a waiver of their no pet policy.

16. On or about March 11, 2008, Ms. Dirks amended her HUD complaint to clarify that she is a person with a mental disability who needs a dog as a companion animal due to her disability and that defendants' refusal to grant her reasonable accommodation request is a violation of the Fair Housing Act as amended, 42 U.S.C. §§ 3601-3619.

17. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD ("the Secretary") conducted an investigation of Marilyn Dirks' complaint, attempted conciliation without success, and prepared a final investigative report.

18. 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 Ms. Dirks and violated the Fair Housing Act.

19. On August 18, 2008, 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.

20. On August 21, 2008, Ms. Dirks elected to have the charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a). Following this election the Secretary authorized the Attorney General to file this action on behalf of Marilyn Dirks, pursuant to 42 U.S.C. § 3612(o)(1).

21. On or about September 4, 2008, Ms. Dirks acquired a small companion dog to

assist her with her disability and is currently residing with her in her unit at the Old Portland Road Apartments. Since acquiring the dog, Ms. Dirks' sleeping, eating and mental health have improved significantly. Mr. Pijanowski notified defendant Lucas by letter of Ms. Dirks' actions but has not received a response as of the date of filing this action.

22. Through the actions described above, defendants have:

(a) discriminated against Ms. Dirks in the terms, conditions, or privileges of rental of a dwelling, because of a disability, in violation of 42 U.S.C. § 3604(f)(2); and

(b) refused 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).

23. As a result of defendants' conduct, Marilyn Dirks is an aggrieved person as defined in 42 U.S.C. § 3602(i) and has suffered injuries as a result of the defendants' actions.

24. Defendants' discriminatory actions were intentional, willful, and taken in disregard of the rights of Marilyn Dirks.

CONCLUSION

WHEREFORE, the United States prays that this Court enter an ORDER:

1. Declaring that defendants' policies and practices, as alleged in this

Complaint, violate the Fair Housing Act;

2. Enjoining defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with them, from:

(a) discriminating in the terms, conditions, or privileges of rental of a dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);

(b) failing or refusing to make reasonable accommodations as required by 42 U.S.C. § 3604(f)(3)(B); and

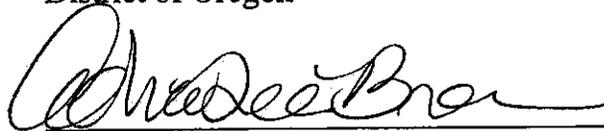
(c) failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Ms. Dirks to the position she would have been in but for the discriminatory conduct.

3. Awarding monetary damages to Marilyn Dirks for injuries caused by defendants' discriminatory conduct, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

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

Respectfully submitted this 22nd day of September, 2008

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