

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
)	
V.)	CIVIL ACTION No.:
)	
)	
DANNY OLMSTEAD)	
SHARON OLMSTEAD,)	
Defendants.)	

VERIFIED COMPLAINT

Plaintiff, the United States of America (hereinafter, "Plaintiff"), by its attorney, Nora R. Dannehy, United States Attorney for the District of Connecticut, and Ndidi N. Moses, Assistant United States Attorney, for its complaint against Defendants Danny Olmstead (hereinafter, "Danny") and Sharon Olmstead (hereinafter "Sharon") (hereinafter collectively, "Defendants"), alleges:

Nature of the Action

1. This is a civil action for injunctive relief and damages for an aggrieved party pursuant to 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.* (hereinafter, the "Fair Housing Act" or the "Act"). As explained more fully below, tests conducted by the Connecticut Fair Housing Center, a non-profit organization, (hereinafter, "CFHC" or the "Complainant"), showed that, in violation of the Act, Defendants made statements indicating a preference, limitation, or discrimination on the basis of familial status.

Jurisdiction and Venue

2. This Court has jurisdiction over the subject matter of this action pursuant to 42 U.S.C. § 3612(o) of the Fair Housing Act and 28 U.S.C. §§ 1331 and 1345.
3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because the alleged discriminatory conduct took place in the district. Further, the apartment at issue is located in a house that lies in this district.

The Parties

4. Defendants, a married couple, jointly own a house located at 11 Branch Road, Southbury, CT 06488 (hereinafter, "the subject property"). The house has a three-bedroom apartment that Defendants have used as a rental (hereinafter, the "Apartment").
5. Complainant CFHC is a non-profit organization within the state of Connecticut with a mission of ensuring equal opportunity housing.
6. Complainant CFHC employs staff attorneys and fair housing specialists for the purpose of investigating complaints of housing discrimination, counseling victims of discrimination, and providing training, education, and outreach to the public, as well as to housing providers.

Statutory Background

7. Section 804(c) of the Fair Housing Act prohibits, in pertinent part, the making, printing or publishing of any notice, statement or advertisement "with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination." 42 U.S.C. § 3604(c).
8. Under the Act, a dwelling is defined as "any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families." 42 U.S.C. § 3602(b).

Procedural History

9. On March 13, 2009, the Complainant filed a complaint with the United States Department of Housing and Urban Development ("HUD") alleging that Defendants had made statements with respect to the rental of a three-bedroom apartment that indicated a preference, limitation, or discrimination on the basis of familial status, in violation of the Fair Housing Act ("the Act") 42 U.S.C. §§ 3601-3619.
10. Pursuant to 42 U.S.C. § 3610(a) and 3610(b), the Secretary of HUD ("Secretary") conducted an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report.

11. Based on the information gathered in the course of the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that there was reasonable cause to believe that Defendants had violated the Fair Housing Act.

12. On or about September 2, 2009, the Secretary issued a charge of discrimination, pursuant to 42 U.S.C. § 3610(g)(1)-(2), charging Defendants with engaging in discriminatory housing practices in violation of the Fair Housing Act.

13. On or about September 16, 2009, the Defendants elected to have their charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a).

14. Pursuant to 42 U.S.C. § 3612(o)(1), the Secretary subsequently authorized the Attorney General to file this action on behalf of the Complainant.

Factual Background

15. On or about October 30, 2008, Defendants published an advertisement in the Town Times News, which contained the following language: "3BRs, 1bath, furnished apartment. No pets. No smokers. *Adults*. \$1200/mo." (Emphasis added.)

16. An employee of the Complainant read the advertisement in question, and on November 5, 2008, the Complainant began "testing" the property by using employees posing as potential renters.

17. Complainant's first tester (hereinafter, "Tester 1") called the phone number listed in the Town Times News advertisement on November 5, 2008. The individual who answered the phone was a male who identified himself as "Danny." He was later identified as Danny Olmstead.

18. Tester 1 and Danny discussed the subject property, and Danny mentioned that the rental property was a three bedroom unit on the second floor and that he lived on the first floor. Tester 1 and Danny agreed that Tester 1 could view the Apartment on Saturday, November 8, 2008 or Sunday, November 9, 2008.

19. On November 8, 2008, Tester 1 met Danny and his wife, Sharon, at the subject property. After showing Tester 1 the Apartment, Danny asked Tester 1 who would be living in the Apartment.

20. Tester 1 stated that her family, consisting of herself, her husband, and her two children, would reside in the Apartment.

21. Sharon then asked how old the children were, and Tester 1 replied that they were seven and nine years old.

22. Danny stated that he did not want children to occupy the Apartment. He stated that he did not want to be liable for children in the Apartment, because there was a swimming pool on the premises.

23. On November 19, 2008, Complainant's second tester (hereinafter, "Tester 2") spoke telephonically to Danny. Danny stated that the Apartment was still available, and Danny and Tester 2 discussed the Apartment.

24. During the course of their telephone conversation, Danny stated that he and his wife lived on the first floor of the Apartment, and there was a swimming pool in the backyard, and that because of liability issues with children and swimming pools, they were looking to rent to a single adult.

25. Tester 2 replied that she was hoping to live with a female roommate. Danny stated that this would be acceptable as long as both of them were adults. Tester 2 and Danny agreed to talk later and set up a time to view the Apartment.

Fair Housing Act Claims

Violation of 42 U.S.C. § 3604(c)

26. Paragraphs 1 through 25 above are repeated and realleged as if set forth fully herein.

27. The Apartment Defendants sought to rent is a "dwelling" as that term is defined under Section 802(b) of the Act. 42 U.S.C. § 3602(b).

28. Defendants violated Section 804(c) of the Fair Housing Act, 42 U.S.C. § 3604(c), by printing and making statements with respect to the rental of a dwelling indicating a preference, limitation, or discrimination on the basis of familial status.

29. Defendants' discriminatory actions were intentional, willful and taken in disregard of the Complainant's federally-protected rights.

30. As co-owner of the subject property, Defendant Sharon Olmstead is vicariously liable for the actions of her husband, Danny Olmstead.

31. Complainant is an aggrieved person, as that term is defined in Section 802(i) of the Fair Housing Act, 42 U.S.C. § 3602(i), because it was forced to expend funds employing the above-mentioned testers and investigating the alleged discriminatory practices of Defendants. As a result of its investigation, including the use of testers, which revealed discriminatory conduct on the part of Defendants, Complainant has suffered damages.

Prayer for Relief

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

(i) Declares that Defendants' conduct as alleged herein violates the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*

(ii) Enjoins Defendants, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating on the basis of familial status against any person in any aspect of the rental of a dwelling, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1);

(iii) Orders Defendants to take appropriate affirmative action to insure that the activities complained of above are not engaged in again by them or any of their agents, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1);

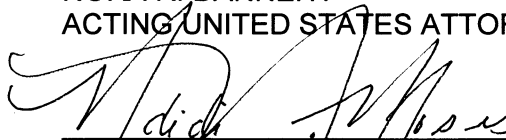
(iv) Awards monetary damages to Complainant pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

(v) Awards such additional relief as the interests of justice may require.

Dated: New Haven, Connecticut
October 16, 2009

Respectfully submitted,

PLAINTIFF
UNITED STATES OF AMERICA
NORA R. DANNEHY
ACTING UNITED STATES ATTORNEY



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