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BROOKLYN OFFICE

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

.....x
UNITED STATES OF AMERICA,

Plaintiff,

Civil Action No. **09 3896**
CV-09 _____

-against-

SUNRISE VILLAS, LLC, ANNA MARIA
DANIELS, and LISA DANIELS,

COMPLAINT

HURLEY, J.

Defendants.

(, J.)
(, M.J.)

WALL, M.J.

.....x

Plaintiff United States of America, by its attorney, BENTON J. CAMPBELL,
United States Attorney for the Eastern District of New York, Kelly Horan Florio, Assistant
United States Attorney, of counsel, alleges:

SUMMARY OF THIS ACTION

1. This is a civil action brought by the United States for injunctive relief, monetary damages for aggrieved persons, and civil penalties under 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. ("the Fair Housing Act"). As described below, defendants Sunrise Villas, LLC ("Sunrise Villas"); Anna Maria Daniels; and Lisa Daniels have engaged in and continue to be engaged in a pattern and practice of discrimination by refusing to rent apartments owned by Sunrise Villas to potential renters with disabilities who require the use of service animals.

2. As set forth below, testing conducted by Long Island Housing Services ("LIHS") demonstrates that the defendants discriminated against persons with disabilities who require

service animals. LIHS sent three testers to Sunrise Villas who, in the course of attempting to rent apartments, mentioned that a certified service dog would be residing in the apartment. All three testers were informed that no animals were permitted on the Sunrise Villas property.

3. Defendants' conduct violates the Fair Housing Act, and should be declared unlawful. Defendants should be permanently enjoined from this conduct, and appropriate monetary relief should be awarded.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to the Fair Housing Act at 42 U.S.C. §§ 3612(o) and 3614(a), and pursuant to 28 U.S.C. §§ 1331 and 1345.

5. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and (c). Defendant Sunrise Villas maintains its apartment complex and office in this district. Further, the events giving rise to this complaint occurred in this district.

6. The Attorney General is authorized to commence this civil action to enforce the provisions of the Fair Housing Act by 42 U.S.C. §§ 3612(o) and 3614(a).

PARTIES

7. Plaintiff is the United States of America.

8. Defendant Sunrise Villas LLC is the owner of a 100 unit apartment complex called Sunrise Villas (the "Complex"), which has its main office located at 500 Leonard Court, Lindenhurst, New York 11757.

9. Defendant Anna Maria Daniels is employed by Sunrise Villas, LLC as general manager of the Complex. In that position, she is involved with leasing apartments in the Complex.

10. Defendant Lisa Daniels is employed by Sunrise Villas, LLC as assistant manager of the Complex. In that position, she is involved with leasing apartments in the Complex.

11. LIHS is a not-for-profit corporation which functions as a fair housing advocacy and counseling organization. One of the means by which LIHS attempts to promote racial integration and equal housing opportunity is testing. Testing includes, among other things, sending individuals with specific prepared profiles to an apartment complex to attempt to rent apartments and evaluating the complex's response to the testers.

FACTS

12. The Complex is an age-restricted complex for individuals 55 years old or older.

13. The Complex has a written policy prohibiting renters from keeping pets of "any kind" and prohibiting pets to be permitted on the Complex premises. This policy is specifically expressed within the standard lease document used by Sunrise Villas, LLC for renting units within the Complex.

14. Between February 2007 and March 2008, LIHS sent three different testers to the Complex to attempt to rent an apartment. Each tester was given a background profile to use when inquiring about available apartments at the Complex.

A. Tester A

15. Tester A had a profile of a 55 year old seeking a one or two bedroom apartment in order to be close to work. Tester A's profile required that a certified service dog also occupy the premises.

16. On February 5, 2007, Tester A met with, upon information and belief, defendant Anna Maria Daniels, to discuss renting an apartment in the Complex.

17. While at the Complex, Tester A viewed two available apartments and received a rental application.

18. During the meeting with Anna Maria Daniels at the Complex, Tester A informed Ms. Daniels that Tester A would be getting a service dog.

19. Tester A explained to Anna Maria Daniels that a service dog was an animal trained to assist an individual with a medical condition.

20. Anna Maria Daniels repeatedly told Tester A that no pets were allowed at the Complex.

21. Tester A explained to Anna Maria Daniels that a service dog was not a pet.

22. Anna Maria Daniels told Tester A that no animals were allowed on Complex property.

23. Tester A asked Anna Maria Daniels if Ms. Daniels meant that someone with a disability could not bring a service animal to the property. Anna Maria Daniels confirmed Tester A's interpretation.

B. Tester B

24. Tester B's profile was of a person with epilepsy seeking a one or two bedroom apartment who required a certified service dog.

25. On August 27, 2007, Tester B called the Complex office and spoke with, upon information and belief, Anna Maria Daniels. Ms. Daniels informed Tester B that a one bedroom apartment was available at the Complex and arranged an appointment for Tester B to visit the Complex on August 29, 2007.

26. Tester B called the Complex a second time on August 27, 2007 and, upon information and belief, spoke to Anna Maria Daniels again. Tester B informed Ms. Daniels that Tester B had a certified service dog. Ms. Daniels informed Tester B that no pets were allowed in the Complex. Tester B informed Ms. Daniels that the dog was not a pet, but rather a service animal needed for medical reasons. Ms. Daniels informed Tester B that she would check as to whether the Complex would permit the service animal and told Tester B they would discuss it further on August 29, 2007.

27. On August 29, 2007, Tester B repeatedly called the Complex and left voice messages trying to ascertain whether the Complex had made a decision regarding Tester B's service animal. Those messages were not returned.

28. On August 30, 2007, Tester B called the Complex again and reached, upon information and belief, Anna Maria Daniels. Ms. Daniels informed Tester B that the Complex did not permit any animals, including medical pets, except "seeing-eye" dogs.

C. Tester C

29. Tester C's profile was of a 59 year old man trying to find a one or two bedroom apartment for his diabetic sister who had a certified service dog trained in "Diabetic Alert."

30. On March 19, 2008, Tester C visited the Complex and met with, upon information and belief, defendant Lisa Daniels. Ms. Daniels informed Tester C that the Complex did have available apartments.

31. Tester C asked Lisa Daniels if there was an extra charge for service dogs. Ms. Daniels stated that there were no dogs allowed.

32. Tester C explained that he was talking about a certified service dog which helped his sister, and not a pet. Ms. Daniels stated that she would check as to whether Sunrise Villas would permit such animals.

33. Tester C viewed some available apartments on his own at the Complex. When he returned to the rental office, Lisa Daniels informed him that her boss had said no dogs were permitted at the Complex. Tester C asked Lisa Daniels if she had mentioned to the boss that this was a certified service dog and was told yes, but that no dogs were allowed.

PROCEDURAL HISTORY

34. On or about July 2, 2008, LIHS filed a timely, verified complaint with the United States Department of Housing and Urban Development (“HUD”) alleging that defendants were violating the Fair Housing Act because the “No Pets Policy” discriminates against persons with disabilities who need service animals.

35. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD (“the Secretary”) conducted an investigation of LIHS’s complaint, 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)(1), determined that reasonable cause existed to believe that defendants had violated the Fair Housing Act.

37. On or about July 20, 2009, 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.

38. Defendants elected, on or about August 11, 2009, to have the charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a). Following this election, pursuant to 42 U.S.C. § 3612(o)(1), the Secretary authorized the Attorney General to file this action on behalf of the complainant.

FIRST CLAIM FOR RELIEF
(On Behalf of LIHS for Violation of 42 U.S.C. § 3604(f)(1))

39. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 38 of this Complaint as if they were fully set forth in this paragraph.

40. In each of the testing scenarios involving Testers A, B, and C, defendants violated § 804(f)(1) of the Fair Housing Act, 42 U.S.C. § 3604(f)(1), by denying or otherwise making unavailable the rental of a dwelling because of disability at the Complex.

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

42. LIHS is an aggrieved person, as that term is defined in § 802(i) of the Fair Housing Act, 42 U.S.C. § 3602(i), because LIHS was forced to expend funds employing the above-mentioned testers and investigating the alleged discriminatory practices of the defendants.

As a result of this investigation, including the use of testers, which revealed discriminatory conduct on the part of the defendants, LIHS has suffered damages.

SECOND CLAIM FOR RELIEF
(On Behalf of LIHS for Violation of 42 U.S.C. § 3604(f)(2))

43. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 42 of this Complaint as if they were fully set forth in this paragraph.

44. In each of the testing scenarios involving Testers A, B, and C, defendants violated the Fair Housing Act at 42 U.S.C. § 3604(f)(2), by discriminating regarding the provision of services or facilities in connection with the rental of a dwelling because of disability.

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

46. LIHS is an aggrieved person, as that term is defined in the Fair Housing Act at 42 U.S.C. § 3602(i), and has suffered damages as a result of defendants' conduct.

THIRD CLAIM FOR RELIEF
(On Behalf of LIHS for Violation of 42 U.S.C. § 3604(f)(3))

47. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 46 of this Complaint as if they were fully set forth in this paragraph.

48. In each of the testing scenarios involving Testers A, B, and C, defendants violated the Fair Housing Act at 42 U.S.C. § 3604(f)(3), by refusing to make reasonable accommodations to the "No Pets Policy" necessary for a person with a disability requiring use of service animals to use and enjoy the Complex.

49. LIHS is an aggrieved person, as that term is defined in the Fair Housing Act at 42 U.S.C. § 3602(i), and has suffered damages as a result of defendants' conduct.

FOURTH CLAIM FOR RELIEF
(Pattern or Practice of Discrimination)

50. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 49 above.

51. Defendants' conduct, as described above, constitutes:

- a. a pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619, in violation of 42 U.S.C. 3614(a); and/or
- b. a denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619, which denial raises an issue of general public importance.

52. There may be persons in addition to LIHS who have been injured by, and may have suffered damages as a result of, the defendants' conduct. All of these persons are "aggrieved persons" within the meaning of 42 U.S.C. § 3602(i).

53. The discriminatory actions of the defendants were intentional, willful, and taken in disregard of the federally protected rights of others.

FIFTH CLAIM FOR RELIEF
(Injunctive Relief)

54. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 53 of this Complaint as if they were fully set forth in this paragraph.

55. As a result of defendants' violations of the Fair Housing Act at 42 U.S.C. § 3604(f), the United States is entitled to injunctive relief against defendants, declaring that the

defendants' discriminatory conduct as set forth above violates the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq. and enjoining the defendants and their agents and employees from unlawfully discriminating on the basis of disability in the rental of a dwelling, pursuant to 42 U.S.C. § 3614(d)(1)(A).

REQUEST FOR RELIEF

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

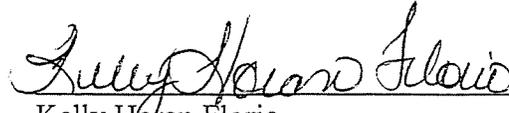
- A. Declaring that the defendants' discriminatory conduct as set forth above violates the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq.;
- B. Enjoining the defendants and their agents and employees from:
 - (1) unlawfully discriminating on the basis of disability in the rental of a dwelling, pursuant to 42 U.S.C. § 3604(f)(1);
 - (2) unlawfully discriminating in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling because of a disability, in violation of 42 U.S.C. § 3604(f)(2); or
 - (3) failing or refusing to make reasonable accommodations as required by 42 U.S.C. § 3604(f)(3).
- C. Awarding monetary damages to all persons harmed by defendants' discriminatory practices, including LIHS, pursuant to 42 U.S.C. § 3612(o)(3) and 42 U.S.C. § 3614(d)(1)(B);
- D. Assessing a civil penalty against the defendants in order to vindicate the public interest pursuant to 42 U.S.C. § 3614(d)(1)(C); and

E. Granting such further relief that is just and proper.

Dated: Brooklyn, New York
September 9, 2009

BENTON J. CAMPBELL
United States Attorney for the
Eastern District of New York
Attorney for Plaintiff United States
271 Cadman Plaza East, 7th floor
Brooklyn, New York 11201

By:

A handwritten signature in cursive script, reading "Kelly Horan Florio", written over a horizontal line.

Kelly Horan Florio
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