

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
JEREMIAH STADTLANDER,)	
)	
Intervenor- Plaintiff)	Civil Action No. 09-0237-CG-N
)	
v.)	
)	
WARREN VILLAGE (MOBILE) LIMITED)	
PARTNERSHIP, WARREN PROPERTIES,)	
INC., FRANK R. WARREN, LAURIE)	
WEAVER AND EVELYN GRAVES)	
)	
Defendants.)	
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FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

The United States of America alleges as follows:

NATURE OF ACTION

1. This is a civil action brought by the United States to enforce the Fair Housing Act, 42 U.S.C. § 3601, *et seq.* (“the Act”), on behalf of Jeremiah Stadtlander.

JURISDICTION AND VENUE

2. This court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o).

3. Venue is proper under 28 U.S.C. § 1391(b) and 42 U.S.C. § 3612(o), in that the events or omissions giving rise to this action occurred in this judicial district.

PARTIES

4. Defendant Warren Village (Mobile) Limited Partnership owns Warren Village

Apartments located at 6427 Airport Boulevard in Mobile, Alabama.

5. Defendant, Frank R. Warren, is the general partner of Warren Village (Mobile) Limited Partnership and the owner of Warren Properties, Inc.

6. Defendant Warren Properties, Inc. operates Warren Village, a 198-unit rental property located at 6427 Airport Boulevard in Mobile, Alabama. The units at Warren Village are “dwellings” within the meaning of 42 U.S.C. § 3602(b).

7. At all relevant times, Defendant Laurie Weaver was the property manager of Warren Village Apartments.

8. At all relevant times, Defendant Evelyn Graves was employed by Warren Properties, Inc. as the area supervisor for several properties, including Warren Village. In that capacity, she was responsible for approving requests from existing tenants to transfer from one unit to another, and for supervising Defendant Laurie Weaver.

FACTUAL ALLEGATIONS

9. At all times relevant to the allegations contained herein, due to a traumatic spinal injury, Jeremiah Stadtlander was paraplegic and was substantially limited in his ability to walk and climb stairs. As a result of his impairments, Mr. Stadtlander required the use of crutches and braces to walk and required the use of physical therapy equipment. Thus, Mr. Stadtlander is a person with disabilities or “handicaps” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(h).

10. On or about August 18, 2007, Mr. Stadtlander’s mother, Ruha’mah Stadtlander, along with her thirteen year old son, Shmuel Stadtlander, and Mr. Carroll, applied for a rental unit at the subject property on behalf of Jeremiah Stadtlander and Mr. Carroll.

11. At the time of application, Ms. Stadtlander and Mr. Carroll spoke with Warren Properties employee Cynthia Seals (“Seals”) and explained that Mr. Stadtlander, due to his disability, required a three-bedroom, first-floor unit near the front of the apartment complex close to the bus stop.

12. Seals informed Ms. Stadtlander and Mr. Carroll that no such units were presently available; however, she assured them that one would likely become available in a few weeks.

13. On August 18, 2007, Ms. Stadtlander and Mr. Carroll inspected unit #195, a two-bedroom unit on the second floor, near the front of the property. With the understanding that he and Mr. Stadtlander would be permitted to move to a three-bedroom ground floor unit at the front of the complex soon, Mr. Carroll signed a lease for unit #195.

14. On or about August 20, 2007, Ms. Stadtlander and Mr. Carroll met with Defendant Weaver and reiterated Mr. Stadtlander’s need for a downstairs unit due to his mobility impairment. They further explained their need for a three-bedroom unit so that Mr. Stadtlander could use his physical therapy equipment, and they reemphasized the need for a unit near the front of the property for Mr. Stadtlander’s daily public transportation access. Shmuel Stadtlander was also present during this meeting.

15. During the August 20, 2007, meeting, Ms. Weaver assured Ms. Stadtlander and Mr. Carroll that a three-bedroom, downstairs unit would become available in two to three weeks and that Mr. Stadtlander and Mr. Carroll would be placed on a waiting list for that unit.

16. On or about August 22, 2007, Mr. Stadtlander and Ms. Stadtlander met with Ms. Weaver so that Mr. Stadtlander could sign the lease. During this meeting, Mr. Stadtlander’s crutches and leg braces were plainly visible to Ms. Weaver.

17. Because unit #195 was located on the second floor of the subject property, without an elevator, Mr. Stadtlander had great difficulty entering and leaving his apartment, depriving him of an opportunity for full use and enjoyment of his dwelling. Mr. Stadtlander had to descend fifteen steps and ascend fifteen steps every time he left the apartment.

18. Because unit #195 was a two-bedroom unit, Mr. Stadtlander stored his physical therapy equipment in a first-floor storage room.

19. On or about September 3, 2007, unit #5, a two-story, three-bedroom town house with a first-floor entrance near the front of the subject property became vacant. Unit #5 had sufficient ground floor living area for Mr. Stadtlander, and would also accommodate his physical therapy equipment.

20. On or about September 9, 2007, Mr. Stadtlander slipped and fell while ascending the steps to unit #195 and sustained bruising from the fall.

21. On or about September 10, 2007, Ms. Stadtlander contacted Ms. Weaver to inform her that Mr. Stadtlander had fallen on the steps and asked Ms. Weaver when Mr. Stadtlander would be granted a transfer. Ms. Stadtlander also informed Ms. Weaver that a two-bedroom, ground-floor unit would be acceptable. Ms. Weaver replied that Mr. Stadtlander would have to wait.

22. On or about September 18, 2007, while making a rent payment, Mr. Carroll inquired about the availability of any three-bedroom, first-floor units near the front of the property that might be vacant. Mr. Carroll was informed that none were available.

23. In or about the middle of September 2007, Mr. Carroll spoke with a Warren Properties employee, requesting that he and Mr. Stadtlander be transferred to unit #5, the three-bedroom town house unit with a first-floor entrance.

24. Mr. Carroll specifically told the Warren Properties employee that Mr. Stadtlander needed a first-floor unit due to his mobility-impairment. The employee with whom Mr. Carroll spoke told him that she would speak with Ms. Weaver about the request.

25. In their conversations with Ms. Weaver in August and September 2007, Ms. Stadtlander and Mr. Carroll clearly communicated the need for a transfer to unit #5 based on Mr. Stadtlander's disability. Ms. Weaver understood the request for unit # 5 as a request for a reasonable accommodation.

26. Ms. Stadtlander and Mr. Carroll clearly communicated to Ms. Weaver that they were able to afford the rent required to reside in unit #5.

27. Upon information and belief, unit #5 was available for occupancy at the time Ms. Stadtlander and Mr. Carroll requested a transfer to the unit.

28. In response to the request for unit #5, Ms. Weaver told Ms. Stadtlander and Mr. Carroll that their request to be transferred to unit #5 was denied. Ms. Weaver questioned Mr. Stadtlander's need for a three-bedroom unit, but no written or other explanation was given for the denial.

29. On or about October 18, 2007, while making a rent payment, Mr. Carroll inquired about the availability of any three-bedroom, first floor units located near the front of the property. Mr. Carroll was informed that none were available.

30. On or about October 19, 2007, Ms. Stadtlander contacted Ms. Weaver to discuss Mr. Stadtlander's transfer request. At that time, Ms. Weaver explained to Ms. Stadtlander that Warren Properties' new policy did not allow any transfers of current tenants.

31. Upon information and belief, during Mr. Stadtlander's tenancy, a current non-

disabled tenant was allowed to transfer from a three-bedroom to a two-bedroom unit because the tenant could no longer afford the rent in the larger unit.

32. On or about November 18, 2007, while making a rent payment, Mr. Carroll again inquired about the availability of any three-bedroom, first-floor units located at the front of the property. Mr. Carroll was informed that none were available.

33. In or about the middle of November 2007, but prior to November 29, 2007, Mr. Stadlander slipped and fell as he was descending the steps from unit #195.

34. On or about November 29, 2007, as a direct and proximate cause of the aforementioned fall, Mr. Stadlander was admitted to Providence Hospital in Mobile, Alabama, with an infection in his leg and an abscess. Mr. Stadlander's treatments included drainage of the infected area of his leg, removal of pulverized bone, and long term intravenous antibiotics.

35. On or about December 1, 2007, unit #5 was rented to another family. Upon information and belief, the tenants that moved into unit #5 were not disabled.

36. On or about December 4, 2007, Mr. Stadlander underwent the first of several surgeries to treat the infection in his leg for which he had been admitted on November 29, 2007.

37. On or before December 14, 2007, Defendant Graves was aware of Mr. Stadlander's mobility impairment and of his request for a reasonable accommodation. Despite that knowledge, Defendant Graves refused to make or allow to be made the reasonable accommodation.

38. Sometime in mid to late December, Mr. Carroll informed an employee of Warren Properties that he and Mr. Stadlander would accept a two-bedroom, ground-floor unit.

39. Sometime in mid-February 2008, Mr. Stadlander was released from the hospital

and confined to a wheelchair.

40. On or about February 13, 2008, Mr. Stadtlander and Mr. Carroll moved from Warren Properties to a single-family house.

41. The requested accommodation to transfer Mr. Stadtlander to a first-floor unit in the front of the building complex and a waiver of Defendants' no-transfer rule were necessary in order to afford Mr. Stadtlander an equal opportunity to use and enjoy their dwelling.

42. On or about February 22, 2008, May 27, 2008 and July 16, 2008, original and amended complaints were filed with the United States Department of Housing and Urban Development ("HUD"), alleging that Warren Properties, Inc., Laurie Weaver and Evelyn Graves had discriminated against Jeremiah Stadtlander on the basis of disability, in violation of the Fair Housing Act.

43. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. On March 3, 2009, based on the information gathered in the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred on the basis of disability.

44. Therefore, on March 11, 2009, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the Defendants with engaging in discriminatory practices against Jeremiah Stadtlander on the basis of disability, in violation of the Fair Housing Act, 42 U.S.C. § 3604 (f)(2) and (f)(3).

45. On or about March 30, 2009, Mr. Stadtlander elected to have the claims asserted

in HUD's Charge of Discrimination resolved in a civil action, pursuant to 42 U.S.C. § 3612(a). On the same date, the Chief Administrative Law Judge issued a Notice of Election and Judicial Determination and terminated the administrative proceeding on the complaint.

46. 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).

FAIR HOUSING ACT VIOLATIONS

47. The Defendants, through the actions referred to above, have:

- a. discriminated against Mr. Stadtlander in the rental, or otherwise made unavailable or denied, a dwelling to him because of Mr. Stadtlander's disability, in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(1);
- b. discriminated against Mr. Stadtlander in the terms, conditions, or privileges of rental of a dwelling or in the provision of services or facilities in connection with a dwelling, because of his disability, in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(2); and
- c. refused to make reasonable accommodations in their rules, policies, practices or services, when such accommodations were necessary to afford Mr. Stadtlander equal opportunity to use and enjoy his dwelling, in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(B).

48. Mr. Stadtlander is an aggrieved person, as defined in 42 U.S.C. § 3602(i), and has suffered damages as a result of the Defendants' discriminatory conduct as described above.

49. The discriminatory actions of the Defendants were intentional, willful, and taken in disregard of Mr. Stadtlander's federally protected rights.

PRAYER FOR RELIEF

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

1. Declares that the Defendants' discriminatory policies and practices as set forth above violate the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*;
2. Enjoins the Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from discriminating on the basis of disability in violation of the Fair Housing Act; and
3. Awards monetary damages to Jeremiah Stadtlander pursuant to the Act, 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

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

THE UNITED STATES DEMANDS TRIAL BY JURY.

Respectfully submitted:

KENYEN R. BROWN
UNITED STATES ATTORNEY

Dated: March 17, 2010.

By */s/ Gary Alan Moore*
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Dated: March 17, 2010.

By */s/ Deidre Colson*
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CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2010, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will effect service of this pleading to the following counsel of record: Thomas O. Gaillard; James B. Rossler; Daniel A. Hannan; Henry Brewster; Josh Wilson; Alicia Jacob.

/s/ Gary Alan Moore

Gary Alan Moore
Assistant United States Attorney