

FILED
IN CLERKS OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ FEB 1 2000 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v. *

CV 010 656

AERO OWNERS, INC.; VISION
ENTERPRISES MANAGEMENT CORPORATION;
FAY BERG,

COMPLAINT
CV-~~010 656~~

CADEN

Defendants.

THE UNITED STATES OF AMERICA ALLEGES:

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 3612(o).
2. This action is brought by the United States on behalf of Jan Zabierek, pursuant to §812(o) of the Fair Housing Act, as amended, 42 U.S.C. § 3612(o) ("The Act").
3. Defendant Aero Owners, Inc., is a cooperative apartment corporation, which, upon information and belief, is incorporated under the laws of the State of New York and operated through its Board of Directors. Aero Owners, Inc. is the lessor of approximately 287 cooperative apartments in Forest Hills, Queens. The corporation's business address is 42-40 Bell Boulevard, Suite 603, Bayside New York 11361.
4. Defendant Vision Enterprises Management Corporation ("Vision") is the management company for Aero Owners, Inc. Vision's business address is 42-40 Bell Boulevard, Suite 603, Bayside, New York 11361.

5. Defendant Fay Berg is president of the Board of Directors of Aero Owners, Inc.

6. Aero Owners, Inc.'s cooperative units are dwellings within the meaning of 42 U.S.C. § 3602(b).

7. Mr. Jan Zabierek and his wife reside at 105-24 63rd Drive, Apartment 4-N, Forest Hills, New York 11375 and have a proprietary lease to that apartment. The apartment is part of the cooperative apartment complex owned and managed by the defendants.

8. Upon information and belief, Mr. Zabierek suffers from a heart condition (coronary artery disease, myocardial infarction, and angioplasty). He also suffers from a depressive illness. He is therefore a "handicapped person" as defined by § 802(h) of the Fair Housing Act, as amended, 42 U.S.C. § 3602(h).

9. On or about March 5, 1999, Mr. Zabierek filed a timely verified housing discrimination complaint with the United States Department of Housing and Urban Development ("HUD"), pursuant to § 810 of the Fair Housing Act, 42 U.S.C. § 3610. The administrative complaint alleges that Mr. Zabierek needs a dog because of his disability. According to the complaint, defendants refused to make a reasonable accommodation to allow Mr. Zabierek to keep the dog. Rather, defendants refused to consider the medical evidence supporting the need for the dog, and took steps to evict Mr. Zabierek, unless he got rid of his dog.

10. Pursuant to the requirements of 42 U.S.C. § 3610(a) and (b), the Secretary of HUD ("the Secretary"),

conducted an investigation of the complaint, attempted conciliation without success and prepared a final investigative report. Based on the information gathered in this investigation, the Secretary, pursuant to 42 U.S.C. 3610(g)(1), determined that reasonable cause exists to believe that the discriminatory housing practices alleged by Mr. had occurred.

11. On December 14, 1999, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging that the defendants with engaging in discriminatory housing practices in violation of the Fair Housing Act.

12. On January 5, 2000, defendants elected to have the charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a).

13. Following this election, the Secretary, through HUD's General Counsel, authorized the Attorney General to file this action on behalf of Mr. Zabierek, pursuant to 42 U.S.C. § 3612 (o)(1).

14. In July 1998, on the recommendation of his medical doctor and psychiatrist, Mr. Zabierek purchased a dog to help in his mental rehabilitation. Defendants advised Mr. Zabierek, in September 1998, to remove the dog from his apartment. In November 1998, defendants continued to demand that Mr. Zabierek get rid of the dog, despite notification from Mr. Zabierek's doctors that the animal was essential for Mr. Zabierek's rehabilitation. Defendants persisted in insisting that Mr. Zabierek get rid of the dog. Ultimately, in January 1999,

defendants served Mr. Zabierek with a "notice to terminate" his tenancy.

15. In denying Mr. Zabierek's request to keep the dog, defendants claimed, inter alia, that Mr. Zabierek's proprietary lease prohibits pets or animals unless expressly permitted by Aero Owners, Inc. With regard to the letters from doctors supporting Mr. Zabierek's need for a dog, defendants contended that, "...we cannot make exceptions to the rule. If we do, everyone who wants a dog will provide us with similar letters."

16. Defendants, through the actions described above have refused to make a reasonable accommodation in their rules, policies, practices or services, when such an accommodation was necessary to afford Mr. Zabierek equal opportunity to use and enjoy a dwelling in violation of 42 U.S.C. § 3604(f).

17. As a result of defendants' conduct as described above, Mr. Zabierek has suffered damages.

18. Defendants' discriminatory actions were intentional, willful and taken in disregard of the Mr. Zabierek's rights.

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

1. Declares that defendants' discriminatory housing practices, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619.

2. Requires defendants to permit Mr. Zabierek to keep a dog, or to make other reasonable accommodations to allow him an equal opportunity to use and enjoy his residence.

3. Enjoins defendants, their agents, employees, successors and all other persons in active concert or participation with any of them from violating the Fair Housing Act in any way, including: a) discriminating on the basis of disability against any person in any aspect of the occupancy or sale of a dwelling, including failing to consider an individual's medical needsⁱⁿ assessing a request for a reasonable accommodation; b) maintaining a prohibition against pets which discriminates against persons with disabilities; and c) failing to make reasonable accommodations for persons with disabilities as required by the Federal Fair Housing Act.

4. Awards such damages as will fully compensate Mr. Zabierek for injuries caused by defendants' discriminatory conduct, pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1); and

5. Awards punitive damages to Mr. Zabierek pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1).

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

Dated: Brooklyn, New York
January 31, 2000

Respectfully submitted,

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