

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

CV 00 656

(Gershon, J; Caden, M.)

RECEIVED  
In Chambers of  
U.S.D.J. Gershon

APR 20 2000

U.S. DISTRICT COURT  
EASTERN DISTRICT  
NEW YORK

APR 20 10 11 AM '00

CONSENT ORDER

The United States initiated this action on behalf of Jan Zabierek, pursuant to sections 812(o) and 814 of the Fair Housing Act, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 et seq. ("the Act"), alleging that defendants engaged in discrimination on the basis of disability. The complaint specifically alleges that defendants refused to make reasonable accommodations in their "no pets policy" for Mr. Zabierek, who, because of his disability, needs a dog. Defendants and the United States wish to avoid costly and protracted litigation and agree that the controversy should be resolved without the necessity of an evidentiary hearing. The parties therefore have consented to the entry of this Order as indicated by the signatures appearing below.

It is hereby ORDERED, ADJUDGED and DECREED that:

I.

The term of this Order shall be six years from the date of entry.

II.

Defendants, their agents, employees, successors, and all persons in active concert or participation with any of them ("defendants") shall not violate the Fair Housing Act, 42 U.S.C. § 3604, et seq. by a) discriminating on the basis of disability against any person in any aspect of the occupancy or sale of a dwelling, including maintaining a "no pets policy" which discriminates against residents with disabilities who require animals; or b) failing to make a reasonable accommodation in the rules, policies, practices or services, when such an accommodation is necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling.

III.

Within sixty (60) days after the date of this Order, defendant shall:

A. Post and maintain fair housing sign(s) in a form approved by the Secretary of the Department of Housing and Urban Development<sup>1</sup> in any offices on the premises of Aero Owners, Inc. and at the business offices of Vision Enterprises Management Corporation.

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<sup>1</sup> See 24 C.F.R. Part 110.

B. Include the words "Equal Housing Opportunity" or the fair housing logo in all advertising conducted by defendants Aero Owners and Vision Enterprises, Inc. in connection with the sale or rental of units by Aero Owners, in newspapers, telephone directories, radio, television or other media, and on all billboards, signs, pamphlets, brochures and other promotional literature. These words should be prominently placed and easily legible. In addition, all newspaper and radio advertising placed by these defendants in connection with the sale or rental of units by Aero Owners shall conform to the practices set forth by HUD in 24 C.F.R. Part 109. Although those provisions have been rescinded, compliance with those guidelines shall be considered compliance with this Order.

C. Include the following statement on all applications or forms utilized by defendants with regard to the sale or rental of dwellings:

We do not discriminate on the basis of handicap, race, color, religion, sex, familial status or national origin.

D. The provisions of this section are intended to apply only to transactions involving the sale or rental of dwellings, and not to employment transactions or other transactions which do not directly involve the sale or rental of dwellings.

IV.

Upon execution of this Order, defendants shall

A. permit Mr. Zabierek to own and keep the dog he currently owns, or any successor, as required by his physicians for his disability; and

B. take all necessary steps to withdraw the pending eviction proceeding, Index No. L&T 56157/99 in Queens County Housing Court, and to have that action dismissed with prejudice;

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V.

Defendants shall make available to all current and future residents of Aero Owners, Inc., an application for reasonable accommodation substantially similar to that set forth as Attachment A and which shall also contain the fair housing logo (See 24 CFR Part 109). Defendants shall circulate this form to all residents and annex this application to materials routinely given to new residents. Defendants shall designate a specific employee or agent whose duty it shall be to process requests for reasonable accommodations as delineated herein. That agent shall maintain a log reflecting the name, address and phone number of the individual making a request; the type of request and the response to the request.

The agent designated herein shall attend, at defendants' expense, a training program regarding federal, state and local

fair housing laws within two months of the execution of this Order. Any agent hired or assigned to assume these responsibilities shall attend, at defendants' expense, such a training program prior to assuming these duties.

VI.

Within ninety days of the date of entry of this Order, at defendants' expense, a representative of Vision Enterprises Management Corporation, Jullio Villas, Fay Berg, and no less than three of the current Board of Directors shall attend a training program regarding federal, state and local fair housing laws.

For a period of six years from the date of entry of this Order, the Board shall, at all times, consist of at least two members who have attended a training program regarding federal, state and local fair housing laws.

VII.

In settlement of all claims for damages alleged against defendants in this action, the United States shall recover from defendant and defendants shall pay the sum of seven thousand dollars (\$7,000), for which the defendants are jointly and severally liable. Defendants shall deliver to the Financial Litigation Unit of the United States Attorney's Office (at the address for counsel for the United States listed below), within fifteen days of the date on which the United States sends counsel for the defendants the entered Consent Order, a check in the

amount of \$7,000 made payable to Jan Zabierek.

The United States shall mail the check to Mr. Zabierek within ten days of receipt of check from the defendant or receipt of the executed release, whichever is later. A copy of the Release to be executed is annexed as Exhibit B.

The United States shall mail the executed releases to defendants within ten days of receipt of the check required by this Order.

#### VIII.

Defendants shall not require Mr. Zabierek to contribute to any assessment levied upon residents for payment of the monies owed under this Order or for attorneys' fees accrued in connection with this action or in the Housing Court action.

#### IX.

In the event that defendants shall fail or refuse to make the payment required by this Consent Order, plaintiff, in its sole discretion, may (1) seek to execute upon the judgment in the manner provided by the Federal Rules of Civil Procedure or (2) apply to the Court for an order vacating this Order. The Court shall vacate the Order upon plaintiff's demonstration that defendant defaulted in its payment obligations set forth herein. In the event that the Court shall vacate the Order, the action shall proceed through motion practice, discovery, trial and judgment as though this Order had not been entered, but defendant

shall pay to the United States the sum of \$1,000.00, plus such other costs as the Court shall assess.

X.

Six (6) months after the entry of this Order, and thereafter every year for a period of six years after entry of this Order, defendants shall deliver to counsel for the United States (at the address below) a signed affidavit describing compliance with the terms of this Order including the following information:

A. Written verification that any person required to do so has attended the fair housing education program pursuant to the terms of this Order; and

B. The name and title of the agent or employee designated to process applications for reasonable accommodation; and

C. A statement concerning the number of applications submitted for reasonable accommodations and the resolution of those requests.

XII.

Defendants, during the term of this Order, shall advise counsel for the United States in writing within thirty (30) days of receipt of any written administrative or legal complaint against defendants, or against any of defendants' employees, rental agents or residential rental properties, alleging housing discrimination.

MOVANT'S COUNSEL IS DIRECTED TO HAVE A  
COPY OF THIS ORDER ON ALL PARTIES UPON  
RECEIPT.

ORDERED this 26 day of April, 2000.

Maria Gerb

UNITED STATES DISTRICT JUDGE

The undersigned apply for and consent to entry of this Order:

For the United States:

LORETTA E. LYNCH  
United States Attorney

By: Marla W. Tepper Date: 4/19/00  
MARLA TEPPER (MT 7529)  
Assistant U.S. Attorney  
Civil Rights Litigation  
1 Pierrepont Plaza, 16th Floor  
Brooklyn, New York 11201  
718-254-6155

For the Defendants:

Hoey King Toker & Epstein by Glen H. Parker Date: 4/19/00  
Glen H. Parker, Esq.  
Hoey, King, Toker & Epstein  
55 Water Street, 28<sup>th</sup> Floor  
New York, New York 10041

For Aero Owners, Inc.:

Samuel Zanger Date: 4/17/00  
Vice President

For Vision Enterprises Management Corporation:



Leonard Zaryn Date: 4/18/00  
Vice President

Fay Berg Date: 4/18/00  
Fay Berg



### APPLICATION FOR REASONABLE ACCOMONDATION

It is the policy of AERO OWNERS, INC. not to discriminate against anyone in any activities related to the sale or occupancy of its apartments or in the provision of services in connection with these apartments on the basis of handicap, race, color, religion, sex, familial status or national origin. It is the policy of AERO OWNERS, INC. to make reasonable accommodations necessary to afford present and future handicapped residents equal opportunities to use and enjoy their apartments.

To accommodate present and prospective owners and renters who are handicapped, AERO OWNERS, INC. will, among other things, make exceptions to its rules, policies and practices. 24 C.F.R. s 100.204(b), promulgated by the Department of Housing and Urban Development, gives two examples of reasonable accommodations. The first is that a blind applicant for housing who wishes to keep a Seeing Eye dog in a building with a no-pets policy will be permitted to do so. The second is that reasonable accommodations must be made for a mobility-impaired tenant who requests that a parking space near his unit be reserved. These are examples, but not the only types of reasonable accommodations that the law requires.

If you believe that you are entitled to such an accommodation from AERO OWNERS, INC. please specify the type of accommodation you are seeking and the basis for it in the space below. Attach copies of any medical or other documentation (such as disabled drivers' license) you wish AERO OWNERS, INC. to consider.

If you would like further information regarding this application, you may contact Mary Mytides at (718) 423-0700.

*2727 ext. 18*

1. Name:

2. Address:

3. Telephone:

4. Nature of request:

5. Documentation attached:

6. Other people who may be contacted concerning this request:

7. Date of request:

RELEASE

In consideration for the covenants and agreements made in the Consent Order entered in United States v. Aero Owners, Inc., et al, as well as in consideration of the payments required to be made thereunder, I hereby release all claims, including attorneys' fees, that I may have against Aero Owners, Inc., arising out of, or related to the aforesaid litigation concerning Aero Owners, Inc., et al.

I further understand that the release of claims shall be binding upon my heirs, successors, and any and all persons acting in concert with me. I further understand that I am releasing not only all the claims which were raised in the aforementioned lawsuit but all claims, of any kind, nature or description whatsoever against Aero Owners, Inc., et al., whether they be in contract, tort, or in the litigation referenced above, for any actions or events that have occurred or that may have accrued up until the date of this Release.

I also acknowledge that I have had the opportunity to review the terms of this Release with an attorney of my choosing, and to the extent that I have not obtained that legal advice, I voluntarily and knowingly waive my right to do so.

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Jan Zabierek

Sworn and subscribed to before me this  
day of 2000.

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Notary public