

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL ACTION NO. _____
)	
v.)	
)	COMPLAINT and
BRUCE R. EDWARDS, as Trustee of The Bruce)	JURY DEMAND
R. Edwards Revocable Trust of 2004 and in his)	
personal capacity,)	
)	
Defendant.)	
_____)	

The United States of America alleges as follows:

NATURE OF ACTION

1. The United States brings this action to enforce 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.* (“Fair Housing Act”). This action is brought on behalf of Gerard Suarez, pursuant to 42 U.S.C. § 3612(o), as well as 42 U.S.C. § 3614(a).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3612(o) and 3614(a).
3. Venue is proper in this District under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the United States’ claims occurred there, and the property that is the subject of this action is located there.

PARTIES AND PROPERTY

4. The Subject Property, known as Jayjec Apartments, is located at 23 River Street in Jaffrey, New Hampshire. The property is a three-story building with first floor

commercial space, two self-contained apartment units, and a boarding house with seven bedrooms that share a kitchen and two bathrooms (“boarding house”).

5. The Bruce R. Edwards Revocable Trust of 2004 owns the Jayjec Apartments. Defendant Bruce R. Edwards serves as its Trustee.
6. Defendant Edwards manages the Jayjec Apartments. Defendant has operated the Jayjec Apartments since approximately 1985.
7. The Jayjec Apartments are “dwelling[s]” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

FACTUAL ALLEGATIONS

8. Gerard Suarez is the father of a daughter who is currently two years old. Mr. Suarez shares custody of his daughter with his ex-girlfriend. At all relevant times, Mr. Suarez had visitation with his daughter on Tuesday and Thursday evenings from 5:00 p.m. to 7:30 p.m. and every weekend from Friday afternoon to Sunday afternoon.
9. On October 25, 2011, Mr. Suarez submitted a rental application to Defendant to rent a room in the boarding house.
10. Defendant asked Mr. Suarez to sign a six-month lease for his room. The lease included twelve “House Rules.” Rule Six stated: “No pets or children are allowed to live in the building.”
11. Mr. Suarez signed the lease on October 25, 2011, and moved into Room 6 of Defendant’s boarding house on October 27.
12. As soon as Mr. Suarez moved into the boarding house, his daughter began to visit him there. She continued to visit without incident for approximately a year and a half.

13. From approximately February 28 to March 13, 2013, Mr. Suarez's ex-girlfriend was incarcerated, and Mr. Suarez's daughter resided with him at the boarding house for the entire period.
14. In March 2013, Defendant allegedly received complaints from two other tenants in the boarding house about Mr. Suarez's daughter making noise.
15. On April 12, 2013, Mr. Suarez received a letter from Defendant with the subject line "Re: Eviction Notice." The letter stated:

Following our conversation, as of today you are behind in rent \$1,569 and I have notification the Town will pay \$330, leaving a balance of \$1,239. I can no longer tolerate your situation and request that you move out by April 26, 2013. Please make arrangements to pay your overdue rent by that date.

As of this date, 4/12/13, I must enforce your lease that no children are allowed to stay in the building. I am receiving constant complaints so you must find other arrangements for your daughter on weekends.

Non-compliance will result in legal action.

16. Around the time of the letter, Defendant also told Mr. Suarez in person that he would have to find other arrangements for his daughter on weekends and that she could no longer stay at the boarding house.
17. On previous occasions, Defendant has not required tenants to leave the boarding house because of noise complaints. For example, in October 2006 and September 2008, Defendant sent two letters regarding noise complaints to one tenant to ask that the tenant change his behavior. On neither occasion was the tenant told to immediately leave the boarding house as a result of the noise complaint. Mr. Suarez was not given a similar opportunity to address the noise complaints and to continue having his daughter visit him at the boarding house.

18. Because of Defendant's statements that Mr. Suarez's daughter was no longer permitted to visit him at the boarding house and that non-compliance would result in legal action, Mr. Suarez sought out other locations where he could spend the weekend with his daughter. On Saturdays, he drove his daughter 30 to 40 minutes to his mother's house in Keene, New Hampshire, or his sister's house in Stoddard, New Hampshire. Mr. Suarez and his daughter spent Saturday nights there, and then drove back to the boarding house in Jaffrey on Sundays. Defendant's actions imposed economic and emotional costs on Mr. Suarez.
19. Mr. Suarez continued his practice of taking his daughter to stay with his family on weekends until he moved out of the boarding house on July 3, 2013.

HUD ADMINISTRATIVE PROCESS

20. On or around June 3, 2013, Mr. Suarez filed a timely Fair Housing Complaint with the United States Department of Housing and Urban Development ("HUD"), alleging, among other things, that Defendant Bruce Edwards had engaged in housing discrimination on the basis of familial status.
21. Pursuant to 42 U.S.C. § 3610, the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based upon 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 Defendant violated the Fair Housing Act. Therefore, on September 26, 2013, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the above-named Defendant with engaging in discriminatory practices on the basis of familial status.

22. On October 16, 2013, Mr. Suarez elected to have the claims asserted in the HUD Charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a). On October 17, 2013, the Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on Mr. Suarez's complaint.
23. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence civil action, pursuant to 42 U.S.C. § 3612(o).

COUNT I

24. Plaintiff re-alleges and incorporates by reference the allegations set forth above.
25. By the actions set forth above, Defendant has discriminated against Mr. Suarez by:
 - a. Discriminating in the terms, conditions, or privileges of rental of a dwelling because of familial status, in violation of 42 U.S.C. § 3604(b); and
 - b. Making statements with respect to housing indicating a preference, a limitation, or discrimination based on familial status, in violation of 42 U.S.C. § 3604(c).
26. Mr. Suarez is an "aggrieved person" within the meaning of 42 U.S.C. § 3602(i), and has suffered injuries as a result of Defendant's discriminatory conduct.
27. The discriminatory actions of Defendant were intentional, willful, and taken in disregard of the federally protected rights of Mr. Suarez.

COUNT II

28. Plaintiff re-alleges and incorporates by reference the allegations set forth above.
29. By the actions set forth above, Defendant has engaged in:
 - a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, in violation of 42 U.S.C. § 3614(a); or

- b. A denial to a group of persons rights granted by the Fair Housing Act, which denial raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).
30. In addition to Mr. Suarez, other persons may have been injured by Defendant's discriminatory actions and practices as described above. Such individuals are "aggrieved persons" under the Fair Housing Act, 42 U.S.C. §§ 3602(i) and 3614(d)(1)(B).

PRAYER FOR RELIEF

WHEREFORE, the United States of America prays for relief as follows:

1. A declaration that the discriminatory conduct of Defendant as set forth above violates the Fair Housing Act;
2. An injunction against Defendant, his agents, employees, successors, and all other person in active concert or participation with any of them from:
 - a. Discriminating on the basis of familial status, in violation of the Fair Housing Act;
 - b. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Defendant's past unlawful practices to the position they would have been in but for the discriminatory conduct; and
 - c. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of Defendant's unlawful practices.
3. An award of monetary damages to Mr. Suarez pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1) and 3614(d)(1)(B);

4. An award of monetary damages to each additional person aggrieved by Defendant's discriminatory housing practices, pursuant to 42 U.S.C. § 3614(d)(1)(B); and

5. A civil penalty against Defendant in order to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C) and 28 C.F.R. § 85.3(b)(3).

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

Dated: December 16, 2013

Respectfully submitted,

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