UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, Plaintiff, v. THE CHICOPEE HOUSING AUTHORITY and MONICA BLAZIC, in her capacity as Executive Director of the Chicopee Housing Authority, Defendants.	**CIVIL ACTION NO: 3:21-cv-10649-KAR** **AMENDED COMPLAINT** Leave to file granted on 12/20/21

AMENDED COMPLAINT

The United States of America, by and through its attorney, Nathaniel R. Mendell, Acting United States Attorney for the District of Massachusetts, brings this suit against the Chicopee Housing Authority and Monica Blazic, in her capacity as Executive Director of the Chicopee Housing Authority, for discriminating based on race, national origin, and disability, in violation of the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990.

NATURE OF ACTION

1. This is a civil action to enforce the Fair Housing Act ("FHA"), 42 U.S.C. § 3601, *et seq.*, Section 504 of the Rehabilitation Act of 1973 ("Section 504"), 29 U. S. C. § 794, *et seq.*, and Title II of the Americans with Disabilities Act of 1990 ("Title II of the ADA"), 42 U.S.C. § 12131, *et seq*.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, 42

U.S.C. §§ 3612(o) and 3614(a), 28 U.S.C. §§ 2201 and 2202, and 28 U.S.C. § 12133.

3. Venue is proper in this judicial district pursuant to 42 U.S.C. § 139l(b), because the events giving rise to this action occurred in this judicial district.

PARTIES

4. The Plaintiff is the United States of America.

5. Defendant Chicopee Housing Authority ("CHA") is a public housing agency that owns and operates federally- and state-funded public housing projects in Chicopee, Massachusetts.

6. CHA is a recipient of federal financial assistance within the meaning of Section 504, 29 U.S.C. § 794(b)(1)(B), and is a public entity within the meaning of Title II of the ADA, 42 U.S.C. § 12131(1). It operates dwellings within the meaning of the FHA, 42 U.S.C. § 3602(b).

7. Defendant Monica Blazic is CHA's Executive Director and makes final decisions on behalf of CHA including whether to grant reasonable accommodation requests, whether to transfer tenants between units, and whether to rent housing to applicants. Blazic has served as Executive Director of CHA at all times relevant to this case.

FACTUAL ALLEGATIONS

Race and National Origin Discrimination

8. Since at least 2013, Blazic has made statements with respect to the rental of CHA dwellings demonstrating that she prefers White tenants to Black and Hispanic tenants. Blazic's statements have included words to this effect:

a. Making discriminatory comments about potential Puerto Rican tenants, in or around 2017, including: "Those people need to stay in Springfield and Holyoke and not come in my housing";

b. Using racial slurs about current and potential Black tenants when trying to justify

having a police presence at public meetings, in or around 2014, stating: "Those niggers are going to bring their gang members in";

c. Making discriminatory comments about Black and Hispanic residents, in or around 2015, such as, "I don't know why they don't just get themselves sterilized," and "the Spanish have sex like rabbits";

d. Referencing Hispanic tenants, who were hosting family members during holiday seasons, by stating, "The spics are making noise," and "They are acting like they're in Puerto Rico";

e. Telling a Hispanic resident's son, in or around 2015, to "shut the fuck up" and "shut your mouth" when he began interpreting for family members who spoke only Spanish; and

f. In or around 2015, complaining about "how spics are keeping up their places," calling them "dirty," "filthy," and "slum rats."

9. For example, when a Hispanic woman who had moved into a two-bedroom unit later sought to apply for a four-bedroom unit to accommodate her children who would be coming to live with her, Blazic refused to give her an application. Blazic told the woman's attorney that "these people" just bring children so that they can move into larger apartments, and Blazic referred to the woman's children as "thugs." When the woman's attorney asked Blazic what she meant by "thugs," Blazic responded, "I think we all know what I mean."

10. As another example, when a former bilingual CHA employee spoke Spanish to the Spanish-speaking tenants in the front office, Blazic came out of her office, smacked her hand on the front counter, and said, "You need to speak English."

11. Blazic prohibited tenants from speaking Spanish in the office unless they filled out

a form requesting to speak Spanish. Even when employees knew that a particular tenant spoke only Spanish, Blazic prohibited employees from speaking Spanish with the tenant unless the tenant first filled out a form.

12. In yet another example, a Hispanic woman applied to live at CHA and had been on the waiting list for years. She met with Blazic twice to come off the waiting list. In these meetings, Blazic consistently referred to her as "you people," which the woman understood to be because she is Hispanic. She eventually withdrew her application to live at CHA because of how Blazic treated her.

13. These incidents are part of Defendants' longstanding pattern and practice of illegal discrimination based on race and national origin.

14. Defendants' conduct causes tenants and potential tenants to suffer fear, anxiety, and emotional distress, and inhibits their ability to enjoy their housing, and has led at least one person to decide not to live at CHA.

Disability Discrimination

15. Since 2010, Ms. Clover King has resided in apartment 2C at 1302 Memorial Drive in Chicopee, Massachusetts ("the subject property"). Ms. King's residence is a studio apartment that has 246 square feet of space, containing a bedroom and kitchen in the same room without any wall or doorway separating them. The apartment is on the second floor without elevator access.

16. Ms. King has been diagnosed with end stage renal disease, asthma, and ankylosing spondylitis, a form of arthritis. Ms. King's disabilities limit her major life activities, including her ability to care for herself, walk and climb stairs, breathe, and survive without regular medical treatment, including dialysis.

17. Ms. King is a person with a disability within the meaning of the Fair Housing Act,

42 U.S.C. § 3602(h).[1]

18. Because of Ms. King's disabilities, she has difficulty breathing and walking up stairs. Thus, living on the first floor or on a floor accessible by elevator is medically necessary to accommodate her disabilities.

19. Ms. King's renal failure requires regular dialysis treatment performed at home daily, in an apartment with a sanitary space separate from the kitchen or bathroom to accommodate her medical equipment.

20. Until 2021, because Ms. King's apartment did not include a separate bedroom, which is necessary for in-home dialysis treatment, Ms. King's medical providers prescribed her dialysis treatment only three times per week at a clinic.

21. Patients who receive dialysis three times a week rather than daily face significantly higher rates of morbidity and mortality. Daily dialysis treatment is not available at a clinic. Thus, a one-bedroom unit with sufficient space to accommodate her medical equipment was medically necessary to accommodate Ms. King's disabilities.

22. On May 10, 2017, Ms. King submitted a written reasonable accommodation request to CHA seeking a unit transfer to a one-bedroom unit on the first floor or on a floor accessible by elevator. The request was accompanied by a letter from Ms. King's primary care physician certifying her medical needs. The letter stated that Ms. King needs a one-bedroom apartment on the first floor or accessible by elevator because of her disabilities.

23. CHA issued Ms. King a letter, also dated May 10, 2017, informing her that she was eligible for a transfer and that she would be placed on a waitlist for an appropriate unit. In the

[1] The Fair Housing Act uses the terms "handicap" and "handicapped," which are considered antiquated terms. This Complaint uses the terms "disability" or "disabled" instead. Those terms have the same meaning as "handicap" or "handicapped," as defined in the Fair Housing Act.

approval letter, CHA explained that Ms. King was being placed on a waitlist for a one-bedroom unit in either the Cabot Manor or Canterbury Arms projects.

24. Between October 2017 and March 2021, CHA offered at least ten leases for one-bedroom, wheelchair-accessible apartments to new move-in applicants, eight of whom did not submit initial applications until several months after Ms. King was approved for a transfer.

25. In February, March, and April 2019, Ms. King provided CHA with additional verifications of her disability-related need to transfer to a one-bedroom unit in an accessible location. This included letters from four different medical providers. Each letter supported Ms. King's need to transfer to a one-bedroom unit on the first floor or accessible by elevator, with sufficient space to accommodate her medical equipment. The letters also described the detrimental impact of delaying the needed transfer.

26. On April 16, 2019, Ms. King filed a fair housing complaint with the Massachusetts Commission Against Discrimination alleging discrimination based on disability. On May 10, 2019, this complaint was transferred to the United States Department of Housing and Urban Development ("HUD"). At this time, HUD began investigating Ms. King's complaint under the Fair Housing Act, as well as CHA's compliance with Section 504 and Title II of the ADA.

27. In August 2019, while HUD was investigating Ms. King's complaint, CHA offered her a transfer to a different unit.

28. Ms. King viewed the unit, accompanied by her therapist. The apartment was visibly infested with cockroaches and had a foul odor, similar to that of spoiled food. It had only a half kitchen. The therapist found that it was too small for Ms. King's needs and substantially smaller than Ms. King's current apartment.

29. After viewing the unit, Ms. King reported to CHA that this unit was not suitable for

her medical needs but stated that she wanted to stay on the waitlist.

30. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD (the "Secretary") investigated Ms. King's complaint, attempted conciliation without success, and prepared a final investigative report. Based on information gathered in the investigation, the Secretary found that reasonable cause existed to believe that Defendants have engaged in illegal discriminatory housing practices.

31. On March 11, 2021, the Secretary issued a Charge of Discrimination ("Charge"), pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in discriminatory practices against Ms. King, in violation of the Fair Housing Act.

32. On the same day, HUD issued a letter of findings, which concluded that CHA was not in compliance with Section 504 and Title II of the ADA. Specifically, HUD found that Ms. King's matter was not an isolated incident, and "in practice, CHA does not prioritize transfers necessary to reasonably accommodate persons with disabilities" and that "new applications for public housing are routinely prioritized above transfers for persons with disabilities, *even when the new applications were submitted after the transfer request*." (emphasis in the original).

33. On March 19, 2021, Ms. King elected to have the claims asserted in the Charge resolved in a civil action heard in federal district court pursuant to 42 U.S.C. § 3612(a).

34. On March 19, 2021, the Chief Administrative Law Judge issued a Notice of Election of Judicial Determination and terminated the administrative proceeding on Ms. King's complaint.

35. Following this Notice of Election, the Secretary authorized the United States Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

36. Ms. King was finally offered a suitable apartment in March 2021, only after HUD

had issued a Charge of Discrimination against CHA in the matter. Ms. King has accepted this apartment and has moved into this unit.

37. On April 10, 2021, CHA requested a review of HUD's Section 504 and ADA findings. On July 8, 2021, HUD issued a letter that sustained HUD's March 11, 2021 Letter of Findings, and constituted a Formal Determination of noncompliance under both Section 504 and the ADA., pursuant to 24 C.F.R. § 8.56(h).

38. Following issuance of the Letter of Findings and Formal Determination of noncompliance, HUD sought CHA's voluntary compliance and resolution of the outstanding violations, as required by Section 504 and the ADA. 29 U.S.C. § 794a; 24 C.F.R. § 8.57(e); 42 U.S.C. § 12133; 28 C.F.R. § 35.172(c). Efforts at resolution were unsuccessful.

39. On August 16, 2021, HUD referred this matter to DOJ for enforcement pursuant to 24 C.F.R. § 8.57(a)(1) and 28 C.F.R. § 35.174.

40. Ms. King's example is not an isolated matter and is representative of deficiencies in CHA's reasonable accommodation and transfer process. For example, at least two other tenants with disabilities have been on the CHA waiting list to transfer to first floor or elevator-accessible units for several years and are, as of the filing of this amended complaint, still waiting. One has been on the wait list since 2014 and another since 2015. During this time, CHA placed new residents without disabilities in units that could have accommodated these tenants.

41. These examples and that of Ms. King show that CHA has a practice of postponing reasonable accommodation transfer requests while admitting new residents who submit their applications after the transfer requests.

FIRST CLAIM FOR RELIEF

Violation of the Fair Housing Act Based on Engaging in a Pattern or Practice of Discrimination on the Basis of Race and National Origin and the Denial of Rights Granted by the Fair Housing Act

42. The allegations set forth above are incorporated by reference.

43. Defendants, through the above-referenced actions, have:

a. Made statements with respect to the sale or rental of dwellings that indicate a preference, a limitation, or discrimination based on race and national origin, in violation of 42 U.S.C. § 3604(c);

b. Engaged in coercion, intimidation, threats, or interference with persons in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged others in the exercise or enjoyment of, rights granted or protected by 42 U.S.C. §§ 3603-3606 of the Fair Housing Act, in violation of 42 U.S.C. § 3617;

c. Engaged in a pattern or practice of resistance to the full enjoyment of rights secured by the Fair Housing Act, based on race and national origin, in violation of 42 U.S.C. § 3614(a); and

d. Denied rights granted by the Fair Housing Act to a group of persons that raises an issue of general public importance, based on race and national origin, in violation of 42 U.S.C. § 3614(a).

44. Non-white and Hispanic tenants and applicants have been injured by the Defendants' discriminatory conduct. These persons are "aggrieved persons" as defined in 42 U.S.C. § 3602(i) and have suffered damages as a result of the Defendants' conduct.

45. The Defendants' conduct was intentional, willful, and taken in reckless disregard of the rights of the aggrieved persons.

SECOND CLAIM FOR RELIEF

Violation of the Fair Housing Act on Behalf of Ms. Clover King

46. The allegations set forth above are incorporated by reference.

47. Defendants, through the above-referenced actions, have:

a. Discriminated in the rental of, or otherwise made unavailable or denied, a dwelling to Ms. King because of a disability, in violation of 42 U.S.C. § 3604(f)(l)(A);

b. Discriminated in the terms, conditions, or privileges of sale or rental of a dwelling of Ms. King, in violation of 42 U.S.C. § 3604(f)(2)(A); and

c. Refused to make reasonable accommodations in rules, policies, practices, or services, which were necessary to afford Ms. King an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

48. As a result of CHA's discriminatory policies and actions, Ms. King has suffered harm, including, but not limited to, physical pain and suffering, out-of-pocket expenses, and emotional distress. She is an "aggrieved person" as defined in 42 U.S.C. § 3602(i) and has suffered damages as a result of the Defendants' conduct.

49. The Defendants' conduct was intentional, willful, and taken in reckless disregard of the rights of Ms. King.

THIRD CLAIM FOR RELIEF

Violation of the Fair Housing Act Based on Engaging in a Pattern or Practice of Discrimination on the Basis of Disability and the Denial of Rights Granted by the Fair Housing Act

50. The allegations set forth above are incorporated by reference.

51. Defendants, through the above-referenced actions, have:

a. Discriminated in the rental of, or otherwise made unavailable or denied, dwellings to tenants based on disability, in violation of 42 U.S.C. § 3604(f)(l)(A);

b. Discriminated in the terms, conditions, or privileges of sale or rental of dwellings of tenants based on disability, in violation of 42 U.S.C. § 3604(f)(2)(A);

c. Refused to make reasonable accommodations in rules, policies, practices, or services, which were necessary to afford tenants with disabilities an equal opportunity to use and enjoy dwellings, in violation of 42 U.S.C. § 3604(f)(3)(B);

d. Engaged in a pattern or practice of resistance to the full enjoyment of rights secured by the Fair Housing Act, based on disability, in violation of 42 U.S.C. § 3614(a); and

e. Denied rights granted by the Fair Housing Act to a group of persons that raises an issue of general public importance, based on disability, in violation of 42 U.S.C. § 3614(a).

52. Tenants with disabilities have been injured by the Defendants' discriminatory conduct. These persons are "aggrieved persons" as defined in 42 U.S.C. § 3602(i) and have suffered damages as a result of the Defendants' conduct.

53. The Defendants' conduct was intentional, willful, and taken in reckless disregard of the rights of these aggrieved persons.

FOURTH CLAIM FOR RELIEF

Violation of Section 504 of the Rehabilitation Act of 1973

54. The allegations set forth above are incorporated by reference.

55. Defendants, through the above-referenced actions, have:

a. Failed to grant requests for reasonable accommodations in rules, policies, practices, or services, when such accommodations were necessary to afford persons with disabilities an equal opportunity to use and enjoy dwellings, as required by Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, *et seq.,* and HUD's Section 504 regulations, including 24 C.F.R. §§ 8.3, 8.24, 8.28, and 8.33; and

b. As a recipient of federal funds, administered its programs in a way that subjected qualified individuals with disabilities to discrimination, in violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, *et seq.,* and HUD's Section 504 implementing regulations, 24 C.F.R. part 8 and part 40.

56. In addition to Ms. King, there are other victims of Defendants' discriminatory actions or practices. These persons may have suffered actual injury and damages as a result of Defendant's discriminatory conduct.

57. The Defendants' conduct was intentional, willful, and taken in reckless disregard of the rights of these other victims.

FIFTH CLAIM FOR RELIEF

Violation of the Americans with Disabilities Act

58. The allegations set forth above are incorporated by reference.

59. Defendants, through the above-referenced actions, have:

a. Failed to make reasonable modifications in policies, practices, and procedures, in violation of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, and its implementing regulations, 28 C.F.R. § 35.130(b)(7); and

b. Denied qualified individuals with disabilities an opportunity to participate in or benefit from benefits and services that are equal to, and as effective as, those afforded others, in violation of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, and its implementing regulations, 28 C.F.R. §§ 35.130(b)(1)(ii) and 35.151.

60. In addition to Ms. King, there are other victims of Defendants' discriminatory actions or practices. These persons may have suffered actual injury and damages as a result of Defendant's discriminatory conduct.

61. The Defendants' conduct was intentional, willful, and taken in reckless disregard of the rights of these other victims.

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

A. Declaring that the discriminatory conduct of Defendants as set forth above violates the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*; the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*; and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, *et seq.*;

B. Enjoining the Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from discriminating against any person because of race or national origin, in violation of the Fair Housing Act;

C. Enjoining the Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from discriminating against any person because of disability, in violation of the Fair Housing Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act;

D. Ordering the Defendants to take such affirmative steps as may be necessary to restore, as nearly as practicable, all persons harmed by Defendants' discriminatory conduct, including Ms. King, to the position they would have been in but for the discriminatory conduct;

E. Ordering Defendants to take such actions 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 their unlawful conduct, including implementing policies and procedures to ensure that no applicants or tenants are discriminated against because of race, national origin, or disability, including, among other things, implementing effectively a reasonable accommodation policy and granting requests for reasonable accommodations and modifications;

F. Awarding monetary damages to all persons harmed by Defendants' discriminatory practices, including Ms. King, pursuant to the Fair Housing Act and its implementing regulations, Title II of the ADA and its implementing regulations, and Section 504 of the Rehabilitation Act of 1973 and its implementing regulations;

G. Assessing a civil penalty against Defendants in an amount authorized by U.S.C. § 3614(d)(1)(c) and 28 C.F.R. § 85.3(b)(3) to vindicate the public interest; and

H. Ordering such additional relief as the interests of justice may require.

The United States demands trial by jury.

Dated: December 21, 2021

Respectfully submitted,

NATHANIEL R. MENDELL
Acting United States Attorney
District of Massachusetts

/s/ Gregory J. Dorchak
GREGORY J. DORCHAK
BBO No. 692246
MICHELLE LEUNG
Assistant U.S. Attorneys
One Courthouse Way, Suite 9200
Boston, MA 02210
[redacted]

MERRICK B. GARLAND
Attorney General of the United States

/s/ Kristen Clarke
KRISTEN CLARKE
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

/s/ Michael S. Maurer
SAMEENA SHINA MAJEED, Chief
MICHAEL S. MAURER, Deputy Chief
Housing and Civil Enforcement Section
U.S. Department of Justice
150 M Street, NE
Washington, DC 20002

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Gregory J. Dorchak
Gregory J. Dorchak
Assistant U.S. Attorney