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(SE-3349)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

.....X
UNITED STATES OF AMERICA,

Plaintiff,
SEYBERT, J
-against-

Civil Action No. **CV 08 3834**

75 MAIN AVENUE OWNERS CORP. and
BOARD OF DIRECTORS, 75 MAIN AVENUE
OWNERS CORP.,

COMPLAINT

(, J.)
(, M.J.)

Defendants.

.....X
WALL M.J.

Plaintiff United States of America, by its attorney, BENTON J. CAMPBELL,

United States Attorney for the Eastern District of New York, Seth D. Eichenholtz, Assistant

United States Attorney, of counsel, for its complaint against defendants herein, alleges as

follows:

INTRODUCTION

1. This is an action brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 through 3619.

2. The United States brings this action on behalf of Complainants Joan Anzelone and Mary Pasko ("Complainants"), pursuant to 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 42 U.S.C.

§ 3612(o).

PARTIES

5. Plaintiff is the United States of America.

6. Defendants 75 Main Avenue Owners Corp. and the Board of Directors, 75 Main Avenue Owners Corp. (“defendants”), are the owners and managers of 75 Main Avenue, a 20-unit cooperative apartment building in Rockville Centre, New York (“75 Main Avenue”).

7. Complainant Joan Anzelone is a shareholder in 75 Main Avenue Owners Corp., and resides in Apartment A1 in 75 Main Avenue with her mother, Complainant Mary Pasko.

8. Complainant Mary Pasko is a 90-year old woman with physical and mental disabilities who resides with her daughter, Ms. Anzelone, in Apartment A1 in 75 Main Avenue.

9. Mary Pasko has depression, severe rheumatoid arthritis, hypertension, hearing loss and other disabilities, and is a person with disabilities as defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

FACTS

10. In 2002, Mary Pasko moved in with her daughter, Joan Anzelone, in Apartment A1 at 75 Main Avenue.

11. The building at 75 Main Avenue has a policy prohibiting residents from keeping pets in the building.

12. In 2005, Ms. Pasko was diagnosed with severe depression. In September 2006, she obtained a small dog. The dog’s presence helps alleviate Ms. Pasko’s depression. The dog also helps Ms. Pasko overcome her physical disabilities by alerting her to conditions and occurrences in the apartment around her.

13. Ms. Pasko's treating psychologist has stated that the dog's continued presence alleviates Ms. Pasko's depression and prevents it from getting worse.

14. On numerous occasions, starting with a letter dated January 17, 2007, Ms. Anzelone made written requests that 75 Main Avenue waive its no pets policy and allow Ms. Pasko to keep the dog as an assistance animal. Ms. Anzelone offered to provide medical documentation in support of her request.

15. Waiver of the no pets policy so that Ms. Pasko could keep the dog in the apartment is a reasonable accommodation necessary to afford Ms. Pasko and Ms. Anzelone equal opportunity to use and enjoy a dwelling.

16. Despite Ms. Anzelone's efforts, personally and through her attorney, to demonstrate Ms. Pasko's need for the dog to the defendants, the defendants refused to accept the offer of any documentation supporting her request and have not accommodated Ms. Pasko's disabilities by waiving the no pets policy.

17. In August 2007, the Board of Directors filed suit in New York State Supreme Court, Nassau County, to compel Ms. Pasko and Ms. Anzelone to remove the dog from Apartment A1 at 75 Main Avenue. That action was stayed when Ms. Anzelone filed an administrative discrimination complaint with the Department of Housing and Urban Development ("HUD").

18. On or about September 27, 2007, the complainants filed a timely, verified complaint with HUD alleging that defendants were violating the Fair Housing Act by denying their request to allow Ms. Pasko to keep the dog as an emotional support animal.

19. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD (“the Secretary”) conducted an investigation of complainants’ complaint and prepared a final investigative report.

20. Based on the information gathered in the HUD investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that defendants discriminated against the complainants and violated the Fair Housing Act.

21. On August 1, 2008, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging defendants with engaging in discriminatory housing practices in violation of the Fair Housing Act.

22. Defendants elected to have the charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a). Following this election, pursuant to 42 U.S.C. § 3612(o)(1), the Secretary authorized the Attorney General to file this action on behalf of the complainants.

VIOLATIONS OF LAW

23. Through the actions described above, Defendants have violated the Fair Housing Act, 42 U.S.C. § 3604 (f)(2)(A)-(B) and 42 U.S.C. § 3604 (f)(3)(B), by refusing to make reasonable accommodations in their rules, policies, practices, or services, when such accommodations were necessary to afford the complainants an equal opportunity to use and enjoy their dwelling.

24. As a result of defendants’ conduct, complainants are aggrieved persons as defined in 42 U.S.C. § 3602(i) and have suffered injuries as a result of the defendants’ actions.

25. Defendants’ discriminatory actions were intentional, willful, and taken in disregard of the rights of complainants.

REQUEST FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court enter an ORDER:

1. Declaring that Defendants' policies and practices, as alleged in this Complaint, violate the Fair Housing Act;
2. Enjoining Defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with them, from refusing to make the reasonable accommodation of allowing complainants to keep their dog in their apartment to afford them equal opportunity to use and enjoy their dwelling pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1);
3. Enjoining Defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with them, from refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy their dwellings pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1);
4. Awarding monetary damages to complainants pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1) for injuries caused by defendants' violations of the Act; and

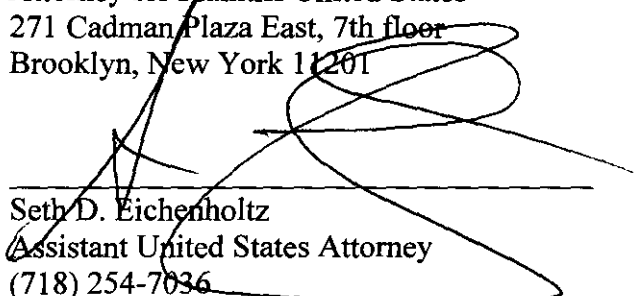
5. Awarding the United States such additional relief as is just and proper.

Dated: Brooklyn, New York

September 19, 2008

BENTON J. CAMPBELL
United States Attorney for the
Eastern District of New York
Attorney for Plaintiff United States
271 Cadman Plaza East, 7th floor
Brooklyn, New York 11201

By:


Seth D. Eichenholtz
Assistant United States Attorney
(718) 254-7036
Seth.Eichenholtz@usdoj.gov