

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ALAN J. TABIN,

Defendant.

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No. 99-30062-FHF

U.S. DISTRICT COURT  
DISTRICT OF MASS.

COMPLAINT

1. This action is brought by the United States on behalf of the complainant, Maria Rivera, pursuant to Section 812(o) of the 1968 Fair Housing Act, as amended, 42 U.S.C. § 3612(o).

2. This Court has jurisdiction over this action under 28 U.S.C. § 1345 and 42 U.S.C. § 3612(o).

3. The defendant, Alan J. Tabin, is an individual residing at 7 Skyline Drive, South Hadley, Massachusetts, who owns and manages a three-bedroom apartment at 1833 Northampton Street, Holyoke, Massachusetts ("subject dwelling").

4. The subject dwelling is a dwelling within the meaning of 42 U.S.C. § 3602(b).

5. Complainant Maria Rivera ("Rivera") is the mother of three children, two of whom were younger than six years of age at the times relevant to the complaint. At all times relevant to the complaint, Rivera was the recipient of rental subsidies under

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Section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f ("Section 8").

6. In December, 1995, Rivera sought to rent the subject dwelling from the defendant. During their initial conversation, the defendant told Rivera that the apartment would be available as of January 1, 1996. During the same conversation, Rivera told the defendant that she had three children, two of whom were younger than six years of age, and was receiving Section 8 rental subsidies.

7. On or about January 26, 1996, the defendant informed Rivera that he would not rent the apartment to her because he was unwilling to comply with the Section 8 lead-based paint requirements applicable to renting to families with children younger than age six.

8. On or about January 26, 1996, Rivera contacted the Housing Discrimination Program ("HDP") in Holyoke, Massachusetts, about her efforts to rent the subject dwelling. HDP is a nonprofit organization, which, among other things, gathers information concerning rental practices by having individuals pose as prospective tenants (hereinafter "testers").

9. In February 1996, the defendant advertised the availability of the subject dwelling in the Springfield Union News.

10. On or about February 7, 1996, a HDP tester called the number listed in the advertisement to inquire about the availability of the apartment. After the tester stated that she participated in the Section 8 program and was the single mother of three children, ages one, three and five, the individual responding to her inquiry stated that he could not rent the apartment to her because he did not have a "lead paint certificate."

11. On or about February 7, 1996, a second HDP tester called the number listed in the newspaper to inquire about the availability of the apartment. This tester spoke to an individual who identified himself as the defendant. After the tester informed the defendant that her children were older than six years of age, the defendant told her that the apartment likely would be available March 1, 1996. The defendant also told the second HDP tester that he could not rent to a previous applicant because she had a two-year-old child and he did not have a lead paint certificate.

12. On or about August 5, 1996, Rivera filed a complaint with the Department of Housing and Urban Development ("HUD") alleging discrimination on the basis of familial status in violation of the Fair Housing Act, 42 U.S.C. § 3601-3619.

13. Pursuant to the requirements of 42 U.S.C. §§ 3610(a)(1)(A)(iii) and (b), the Secretary of HUD (the "Secretary") investigated the complaint, attempted conciliation without success and prepared a final investigative report. Based on information obtained in the investigation, the Secretary determined that reasonable cause existed to believe that discriminatory housing practices had occurred.

14. On February 2, 1999, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. §3610(g)(2)(A), charging the defendant with engaging in discriminatory housing practices in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a), (b) and (c).

15. On or about February 23, 1999, the defendant made a timely election to have the claim asserted and decided in a civil action.

16. Following the election, the Secretary authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

17. The defendant, through the actions referenced in paragraphs six through eleven, (a) refused to rent the subject dwelling based on familial status in violation of 42 U.S.C. § 3604(a); (b) discriminated in the conditions and privileges of the rental of the subject dwelling based on familial status in violation of 42 U.S.C. § 3604(b); and (c) made statements with

respect to the rental of a dwelling that indicated a preference or intention to make such a preference or to discriminate on the basis of familial status in violation of 42 U.S.C. § 3604(c).

18. Maria Rivera is an aggrieved person as defined in 42 U.S.C. § 3602(i), and has suffered damages as a result of the defendant's conduct described above.

19. The defendant's discriminatory actions were intentional, willful and taken in disregard for the rights of Rivera.

WHEREFORE: the United States prays that the Court enter an ORDER that:

1. Declares that the discriminatory housing practices of the defendant as set forth above violate the Fair Housing Act;

2. Enjoins the defendant and all other persons in active concert or participation with him, from discriminating on the basis of familial status against any person in any aspect of the rental of a dwelling;

3. Awards such damages as would fully compensate Maria Rivera for emotional distress, mental anguish, and other injuries caused by the defendant's discriminatory conduct, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1);

4. Assesses a civil penalty against the defendant in order to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C); and

5. Awards such additional relief as the court may deem appropriate.

Respectfully submitted,

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Dated: March 25, 1999

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