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US DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

★ FEB 14 2012 ★

.....X  
UNITED STATES OF AMERICA,

**BROOKLYN OFFICE**

Plaintiff,

Civil Action No.  
CV-12- \_\_\_\_\_

-against-

WOODBURY GARDENS REDEVELOPMENT  
COMPANY OWNERS CORPORATION,

COMPLAINT

Defendant.

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

12-0711

.....X

Plaintiff United States of America, by its attorney, LORETTA E. LYNCH, United States Attorney for the Eastern District of New York, Kevan Cleary, Assistant United States Attorney, of counsel, for its complaint against Defendant 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 ("the Act").

2. The United States brings this action on behalf of Complainants Jack Biegel and the Estate of Sandra Biegel ("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. Defendant Woodbury Gardens Redevelopment Company Owners Corporation is the corporate owner of Woodbury Gardens, a 214-unit housing cooperative for senior adults located in Woodbury, New York (“Woodbury Gardens”).

7. Complainant Jack Biegel is a shareholder in Woodbury Gardens and resides there at 1308 Clover Road, Woodbury, New York.

8. Complainant Estate of Sandra Biegel is the estate of Jack Biegel’s spouse, who resided in Woodbury Gardens with her husband until her death on October 18, 2007.

## FACTS

9. Prior to her death, Sandra Biegel had depression, anxiety, severe pulmonary hypertension, cirrhosis, and diabetes, among other diseases.

10. Due to her diseases, individually and in combination, Sandra Biegel was severely limited in her ability to ambulate, had markedly decreased vision and hearing and was in constant severe respiratory distress. Her depression and anxiety exacerbated her physical illnesses, including her respiratory disease.

11. Because of her diseases, individually and in combination, Sandra Biegel was a person with disabilities under the Act, 42 U.S.C. § 3602(h).

12. On November 23, 2005, Jack and Sandra Biegel moved into an apartment at 1308 Clover Road in Woodbury Gardens.

13. The Biegels’ apartment unit is a “dwelling” within the meaning of the Act, 42 U.S.C. § 3602(b).

14. Prior to the Biegels' purchase of their apartment, Woodbury had implemented "Co-op House Rule No. 10," which stated in relevant part, "No bird or animals shall be kept harbored in the building unless the same in each instance have been expressly permitted [.]'" ("No Pet Policy").

15. Sometime prior to August 7, 2006, the Biegels acquired a miniature schnauzer. The Biegels' dog provided emotional comfort and support to Ms. Biegel, reducing her depression and anxiety and helping her to better cope with her physical ailments, including helping to relax her strained breathing.

16. By letter dated September 20, 2006, Defendant demanded that the Biegels remove their dog from their apartment by October 15, 2006, under penalty of monthly fines and possible eviction.

17. On or about October 11, 2006, the Biegels' adult son sent an e-mail to Defendant, requesting a meeting with the Woodbury Gardens Board of Directors ("the Board") and an extension of the deadline. In that e-mail, the Biegels' son advised Defendant that his mother, Sandra Biegel, was "an invalid" with severe physical and mental disorders.

18. In response to that e-mail, the Board convened a special meeting on October 12, 2006. At that meeting, Jack Biegel and his son advised Defendant that Sandra Biegel was very ill and that their dog "helps keep her healthy."

19. At the same special meeting on October 12, 2006, the Biegels' son explained to Defendant that the dog's companionship was "therapeutic" to his "ill mother" because she suffered from chronic and severe depression. Complainants' son pleaded with the Board to make an exception to its No Pet Policy for his mother's welfare and mental stability.

20. Jack Biegel and his son also presented the Board with a letter from a clinical social worker, dated October 5, 2006, explaining that Ms. Biegel had depression and that her dog lifted her spirits and alleviated her depression.

21. By letter dated November 1, 2006, Defendant insisted that Sandra Biegel submit to a medical examination by a doctor selected by Defendant. Defendant also demanded that Sandra Biegel submit her medical records for "examination."

22. Ms. Biegel, who at that time was very frail, was on oxygen twenty-four hours a day and was unable to leave her home without an ambulance, instead provided Defendant with three additional letters from her doctors attesting to her dire medical need for her dog's companionship.

23. The first of those letters, dated November 7, 2006, from one of Sandra Biegel's treating physicians, noted that she had multiple physical disorders, and stated "[a]s her medical doctor, it is my professional opinion that her pulmonary hypertension can be worsened by the removal of her companion. Not having her pet present in her home could cause her labored breathing to worsen."

24. By letter dated November 9, 2006, the Biegels submitted a letter to the Board from Sandra Biegel's pulmonary specialist, advising Defendant that Sandra Biegel's dog relaxed her, raised her spirits and helped with her depression. The doctor concluded that her dog's companionship was a medical necessity.

25. By letter dated November 20, 2006, another of Sandra Biegel's treating physicians stated that "...the patient suffers from a chronic medical condition and a high anxiety level. Her pet helps relieve her anxiety and helps with her over all emotional well-being."

26. Despite Sandra Biegel's critical medical condition and uncontroverted evidence that she required an emotional support animal, Defendant refused to waive its No Pet Policy, and by letter dated February 14, 2007, informed Mr. and Ms. Biegel that they would be charged legal fees with interest for harboring a dog in their unit.

27. By letter dated March 2, 2007, Mr. and Ms. Biegel, through their attorney, again requested a reasonable accommodation allowing Ms. Biegel to keep her emotional support dog.

28. In response, by letter dated March 27, 2007, Defendant threatened the Biegels with eviction for keeping their dog.

29. In September 2007, faced with threats by Defendant to evict them from their home and impose fines and assessments on them during a time when Ms. Biegel was dying, the Biegels gave up the dog.

30. The Biegels' dog's removal from the Biegel home caused Sandra Biegel great emotional distress and aggravated her already extremely poor health.

31. On October 18, 2007, barely one month after her dog was removed, Sandra Biegel died.

32. After Ms. Biegel's death, Defendant continued to demand that Mr. Biegel pay fines and legal fees associated with Defendant's improper efforts to remove the Biegels' dog from their home.

33. On March 21, 2008, Defendant again demanded that Mr. Biegel pay attorney's fees, fines and interest. Defendant threatened to terminate Mr. Biegel's proprietary lease if he did not pay all of these charges.

34. On March 25, 2008, as a result of this pressure, Jack Biegel paid \$2,305.48 to Defendant. This amount included assessments related to the presence of the dog.

#### ADMINISTRATIVE CLAIM

35. On November 18, 2008, Jack Biegel filed a complaint on his own behalf, and on behalf of the estate of his deceased wife, Sandra Biegel, with the United States Department of Housing and Urban Development (“HUD”).

36. Mr. Biegel alleged that Woodbury Gardens failed to provide Sandra Biegel, a person with multiple disabilities, with a reasonable accommodation, in violation of the Act.

37. In particular, Mr. Biegel alleged that Woodbury Gardens unlawfully denied Sandra Biegel’s request to keep a medically necessary emotional support animal as a reasonable accommodation, and then Defendant intimidated, coerced and harassed the Biegels by, among other things, fining them and threatening them with eviction for keeping the animal.

38. After conducting an investigation and attempting conciliation without success, HUD determined, pursuant to 42 U.S.C. § 3610(g)(1) and (2), that reasonable cause existed to believe that a discriminatory housing practice had occurred.

39. On September 16, 2011, HUD issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendant with engaging in discriminatory housing practices in violation of the Act.

40. On October 5, 2011, Defendant 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 of HUD authorized the Attorney General of the United States to file this action on behalf of Complainants.

## VIOLATIONS OF LAW

41. Through the actions described above, Defendant has:
- A. Discriminated against a person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);
  - B. Refused to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B); and
  - C. Coerced, intimidated, threatened, or interfered with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.

42. As a result of Defendant's conduct, Complainants are aggrieved persons as defined in 42 U.S.C. § 3602(i) and have suffered injuries as a result of the Defendant's actions.

43. Defendant's discriminatory actions were intentional, willful, and taken in disregard of the rights of Sandra Biegel and Jack Biegel.

## REQUEST FOR RELIEF

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

- 1. Declaring that Defendant's policies and practices, as alleged in this Complaint, violate the Fair Housing Act;

2. Enjoining Defendant, its officers, employees, agents, successors, and all other persons or corporations in active concert or participation with Defendant, from:

A. Discriminating against a person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);

B. Refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B);

C. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of the Fair Housing Act, in violation of 42 U.S.C. § 3617;

D. Failing to communicate both by letter and on Defendant's and its management company's websites with all owners, residents and prospective purchasers of apartment units that Woodbury Gardens and its management company have a policy of making reasonable accommodations for persons with disabilities, including those with service, therapy and comfort animals;

E. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the Complainants to the position



they would have been in but for the discriminatory conduct, including refunding and removing all fines, assessments, or charges for attorneys levied on Complainants in connection with their keeping a comfort animal; and

F. Failing or refusing 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 Defendant's unlawful conduct, and implementing policies and procedures to ensure that no applicants or residents are discriminated against because of disability;

3. Awarding monetary damages to Jack Biegel and the Estate of Sandra Biegel, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

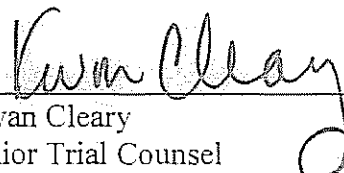
4. Awarding the United States such additional relief as is just and proper.

Dated: Brooklyn, New York

February 14, 2012

LORETTA E. LYNCH  
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:

  
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Kevan Cleary  
Senior Trial Counsel  
(718) 254-6027  
Kevan.Cleary@usdoj.gov