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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

UNITED STATES OF AMERICA,

Plaintiff,

-against-

4 ANCHORAGE LANE OWNERS, INC. and
TOTAL COMMUNITY MANAGEMENT CORP.,

Defendants.

COMPLAINT

CV 11 - 3209
Jury Trial Demanded

Civil Action No. **BIANCO, J.**

LINDSAY, M.J.

Plaintiff, United States of America, by its attorney, LORETTA E. LYNCH,
United States Attorney for the Eastern District of New York, Ameet B. Kabrawala, Assistant
United States Attorney, of counsel, for its complaint herein, alleges as follows:

INTRODUCTION

1. This is an action brought by the United States of America ("plaintiff" or 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, *et seq.*

2. The United States brings this action on behalf of Complainant Herbert Zayer ("Zayer" or "Complainant"), pursuant to 42 U.S.C. § 3612(o), against 4 Anchorage Lane Owners, Inc. and Total Community Management Corp. (collectively, "defendants"). As set forth below, defendants, which own and/or manage the cooperative housing development complex in which Mr. Zayer resides, have failed to reasonably accommodate Mr. Zayer's disability by providing him with a dedicated parking space close to his residence.

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), as defendants are located in this judicial district and the events or omissions giving rise to the claims occurred in this judicial district.

PARTIES

5. Plaintiff is the United States of America.

6. Defendant 4 Anchorage Lane Owners, Inc. owns a cooperative housing development, which consists of two sections, Anchorage Lane and Harbour Lane, located in Oyster Bay, New York 11771 (collectively, the “developments”). The developments are a “dwelling,” as defined by the Fair Housing Act, 42 U.S.C. § 3602(b).

7. Defendant Total Community Management Corp. maintains the developments.

8. Complainant Herbert Zayer resides at 12 Harbour Lane, within the developments. Mr. Zayer has a “handicap,” as defined by the Fair Housing Act, 42 U.S.C. § 3602(h).

FACTS

9. The Harbour Lane section of the developments in which Mr. Zayer resides contains 34 residential units with 38 parking spaces for residents and visitors, two of which display handicapped parking signage. Defendants have a policy of not assigning or reserving parking spaces for residents.

10. Mr. Zayer has neuropathy, a neurological disorder that substantially limits his mobility, and is a person with a disability. His impairments make him unable to walk long distances or up hills, and require him to use a walker or wheelchair and have access to an

accessible parking space near his residence at all times. Mr. Zayer possesses a handicap parking permit that enables him to park in handicap-designated parking spaces.

11. There are two parking spaces near Mr. Zayer's residence that display handicap parking signage, but they do not comply with the federal accessibility guidelines for handicap parking spaces. Further, because of defendants' policy of not assigning or reserving parking spaces for residents, these spaces are not assigned to or reserved for any particular resident. Accordingly, both of the spaces are sometimes unavailable to Mr. Zayer. As a result, defendants have prevented Mr. Zayer from the equal opportunity to use and enjoy his dwelling.

12. Mr. Zayer has requested that defendants assign him exclusive use of the handicapped-accessible parking space closest to his residence. Mr. Zayer's request constitutes a reasonable accommodation necessary to afford him equal opportunity to use and enjoy his dwelling.

13. Despite knowledge of Mr. Zayer's disability, defendants have refused to assign Mr. Zayer a designated accessible parking space.

14. On or about April 6, 2010, Mr. Zayer filed a verified complaint with the United States Department of Housing and Urban Development ("HUD") alleging that defendants were violating the Fair Housing Act by denying him a reasonable accommodation.

15. After completing an investigation and attempting conciliation without success, pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD (the "Secretary") prepared a final investigative report. In his report, the Secretary determined that reasonable cause existed to believe that defendants had discriminated against Mr. Zayer.

16. On February 9, 2011, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging defendants with engaging in a discriminatory housing practice in violation of the Fair Housing Act.

17. On or about March 2, 2011, 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 Mr. Zayer.

VIOLATIONS OF LAW

18. By their above-described conduct, defendants have:

- a. Discriminated against Mr. Zayer 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 the Fair Housing Act, 42 U.S.C. § 3604(f)(2)(A); and
- b. Refused to make reasonable accommodations in rules, policies, practices, or services, when such an accommodations may be necessary to afford Mr. Zayer equal opportunity to use and enjoy his dwelling, in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(B).

19. As a result of defendants' conduct, Mr. Zayer is an aggrieved person as defined in 42 U.S.C. § 3602(i) and has suffered injuries as a result of defendants' actions.

20. Defendants' discriminatory conduct was intentional, willful, and taken in disregard of Mr. Zayer's rights.

REQUEST FOR RELIEF

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


1. Declaring that defendants' actions and their policies and practices, as alleged in this complaint, violate the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*;
2. Enjoining defendants, their officers, employees, agents, successors, and any other persons in active concert or participation with them, from discriminating against any person with a disability in any aspect of the sale, rental, use or enjoyment of a dwelling;
3. Enjoining defendants from refusing to make the reasonable accommodation of assigning Mr. Zayer the handicapped-accessible parking space closest to his residence;
4. Awarding monetary damages to Mr. Zayer, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and
5. Awarding additional relief that is appropriate.

Dated: Brooklyn, New York
July 5, 2011

Respectfully yours,

LORETTA E. LYNCH
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Attorney for Plaintiff
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By:


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