

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
MILLIKIN UNIVERSITY and)	
RICHARD DUNSWORTH,)	<u>COMPLAINT</u>
)	
Defendants)	

The United States of America alleges:

INTRODUCTION

1. This action is brought by the United States to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (Fair Housing Act), 42 U.S.C. §§ 3601-3619.
2. The United States brings this action on behalf of Catherine Nielsen, pursuant to Section 812(o) of the Fair Housing Act, 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).
4. Venue is proper in the Urbana Division of the Central District of Illinois, since the events giving rise to this claim occurred in Macon County, Illinois, which is in the Urbana Division. 28 U.S.C. § 1391(b)(2).

PARTIES AND SUBJECT PROPERTY

5. Defendant Millikin University is a coed, independent four-year university with undergraduate studies in Arts & Sciences, Business, Fine Arts and Professional Studies and graduate studies in Business Administration and Nursing. At all times relevant to the allegations contained herein, defendant Millikin University owned and operated Oakland Hall, now known as Dolson Hall, at 210 N. Oakland Avenue, Decatur, Illinois.
6. At all times relevant to the allegations contained herein, defendant Richard Dunsworth was the Vice President for Enrollment at Millikin University, and had authority to determine whether Ms. Nielsen could continue to reside in Oakland Hall.
7. Residences in Oakland Hall are dwellings within the meaning of Section 802(b) of the Fair Housing Act, as amended, 42 U.S.C. § 3602(b).
8. At all times relevant to the allegations contained herein, Ms. Nielsen was disabled as defined under the Fair Housing Act, as amended, 42 U.S.C. § 3602(h). She had, and continues to have, a seizure disorder that causes epileptic episodes. She was, and still is, legally blind.

ALLEGATIONS

9. In 2004, Ms. Nielsen began to attend Millikin University.
10. In 2004, Ms. Nielsen submitted a student housing application for the 2004-2005 school year, and submitted with this application a physician's note stating that she

had a seizure disorder and required a housing unit that was quiet and air-conditioned.

11. In 2004-2005, Ms. Nielsen was placed in New Hall. This was poorly-heated and noisy. She had numerous epileptic episodes. Ambulances had to be called on several occasions. In response, Millikin University required Ms. Nielsen to sign a legal waiver that she would not hold the University liable for any injury on campus that was due to her medical conditions.
12. Ms. Nielsen complained about New Hall to Sara Watterson, now known as Sara Lytle, who was the Director of Residence Life at Millikin University. Ms. Watterson had authority over student housing.
13. For 2005-2006, Ms. Nielsen was placed in Oakland Hall. Oakland Hall has fully accessible units and is equipped with the most advanced HVAC (heating, ventilation and air-conditioning) system at Millikin University's dormitories.
14. Oakland Hall met Ms. Nielsen's needs because it was fully accessible, because it had a good HVAC system, elevators and bright lighting (which reduced her risk of injury due to her poor vision). While Ms. Nielsen was at Oakland Hall, the frequency of her epileptic episodes decreased substantially.
15. In or about July of 2004, Ms. Nielsen contacted Paws with a Cause ("PWAC"), a nonprofit organization dedicated to training service dogs for people with disabilities. On or about April 15, 2005, Donna Nixon from PWAC conducted a needs assessment and concluded that Ms. Nielsen was a suitable candidate for a seizure dog.

16. Seizure dogs can support disabled owners by sensing and alerting the owner to epileptic episodes before they occur and by protecting the owners from injury during and after epileptic seizures.
17. On or about April of 2005, Donna Nixon from PWAC contacted Sara Watterson to inform her that Ms. Nielsen would be provided with a service dog. Sara Watterson responded that there would be no problem, or words to that effect. Ms. Nielsen also informed Sara Watterson on several occasions in January of 2005 that she was in the process of obtaining a service animal.
18. On or about January 7, 2006, PWAC contacted Ms. Nielsen to inform her that her service dog - named River - was ready for delivery. Because Millikin University was closed for the winter break, Ms. Nielsen notified Millikin University about her service dog on or about January 17, 2006.
19. On the next day, Millikin University informed Ms. Nielsen that she would have to leave Oakland Hall, asserting that the service dog would adversely affect students with allergies who lived in Oakland Hall.
20. The service animal was not a threat to the health or safety of any student who lived in Oakland Hall.
21. On or about January 20, 2006, Donna Nixon from PWAC arrived at Oakland Hall with the service dog and canine equipment. When Ms. Nixon and Ms. Nielsen were in the process of bringing in canine equipment to Ms. Nielsen's room, officials of Millikin University informed Ms. Nixon that all of Ms. Nielsen's belongings should be moved to another dormitory because of students with

allergies living in Oakland Hall. Donna Nixon explained that a single dog would not affect a person with allergies unless there was a direct contact, but Millikin University continued to demand that Ms. Nielsen leave Oakland Hall.

22. Later on January 20, 2006, Donna Nixon examined the room at Blackburn Hall that Millikin University had offered to Ms. Nielsen as alternative housing and concluded it was unsuitable and hazardous to Ms. Nielsen, who is legally blind, and to her service dog, because of various features, including a wall heater with no front plate, a 4" lip to the shower, exposed wires, holes in wall, lack of an elevator and an exterior door that led to a railroad crossing nearby. Due to this assessment, and because of her belief that her rights were being violated, Ms. Nielsen rejected the alternative room offered.
23. Finally, on January 20, 2006, Donna Nixon, Ms. Nielsen and Ms. Nielsen's mother met with Millikin University officials, including defendant Dunsworth. In this meeting, defendant Dunsworth indicated that he had the decision-making authority to determine Ms. Nielsen's housing. In the meeting, defendant Dunsworth admitted he was not personally aware of any student in Oakland Hall who was allergic to animal dander. Nevertheless, defendant Dunsworth refused to allow Ms. Nielsen to stay with her service dog in the subject property, either permanently or temporarily. As the consequence, Donna Nixon took the service dog back to Ms. Nielsen's mother's house.

24. On or about January 27, 2006, Millikin University, through defendant Dunsworth, sent a letter to Ms. Nielsen reiterating that she could not live with a service dog in the subject property.
25. From approximately January of 2006 to February of 2006, Ms. Nielsen's service dog was delivered to campus every day for training and bonding exercises with Ms. Nielsen. The need to have the service dog delivered every day caused inconvenience and expense for Ms. Nielsen and reduced the usefulness of the service dog, because the bonding process was delayed and because the dog was not available to serve her at all times.
26. On or about February 14, 2006, Millikin University sent an electronic mail message to Ms. Nielsen acknowledging that she had submitted all the necessary medical documentation for her service animal. The email, however, reiterated that she could not live in Oakland Hall with a service animal.
27. On or about February 7, 2006, Donna Nixon brought the service dog into Oakland Hall for training purposes. Shortly after the service dog arrived, three employees of Millikin University confronted Ms. Nielsen in her room and escorted her and her service dog out of Oakland Hall to the sidewalk outside. Ms. Nielsen and her service dog had to wait outside for Ms. Nielsen's mother to pick them up because Millikin University refused to let them into the lobby of Oakland Hall.
28. After this incident, Ms. Nielsen commuted to school from home every day in an attempt to spend adequate bonding time with her service dog.

29. On or About March 1, 2006, Millikin University held a mediation session with Ms. Nielsen in order to resolve the issue of her housing. Millikin University continued to insist that Ms. Nielsen could not live in Oakland Hall with her service dog. Feeling she had no alternative, Ms. Nielsen agreed to move to another dormitory.
30. On or about March 7, 2006, Ms. Nielsen moved out of Oakland Hall and moved into Hessler Hall.
31. Ms. Nielsen's new room at Hessler Hall did not meet her disability-related needs. The room was too small and cramped for Ms. Nielsen and her service dog. The new room was located next to a recreational lounge with a ping-pong table, which was frequently the site of loud and competitive late-night matches. Vending machines were lined up against her room wall, frequently causing loud noises from kicking and slamming. Additionally, machines were sometimes tipped forward, generating sudden crashing noises. Furthermore, her new room was located near the main entrance and students without access cards often knocked loudly to attract attention. The conditions at her new room at Hessler Hall caused stress to Ms. Nielsen and made it difficult for her to sleep, aggravating her epileptic seizure disorder.
32. As a result of the relocation, Ms. Nielsen experienced increased incidents of epileptic episodes.

33. On or about March 21, 2006, Ms. Nielsen filed a housing discrimination complaint with the United States Department of Housing and Urban Development (HUD).
34. On or about August 25, 2006, Equip for Equality, a nonprofit organization chartered to advocate for disability rights, sent a letter to Millikin University and defendant Dunsworth, on behalf of Ms. Nielsen. The letter requested that defendants provide a reasonable accommodation to Ms. Nielsen to allow her to return to the subject property with her service dog. Defendants did not respond to the letter.
35. HUD conducted and completed an investigation of the complaint, based on the requirements of 42 U.S.C. § 3610(a) and (b).
36. HUD determined, based on 42 U.S.C. § 3610(g)(1), that there was reasonable cause to believe that there was housing discrimination based on disability. HUD issued its Determination of Reasonable Cause on September 18, 2009.
37. HUD issued its Charge of Discrimination on September 18, 2009, charging defendants with housing discrimination based on disability, in violation of the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*
38. On October 7, 2009, defendants made a timely election to have this matter resolved in federal court, based on 42 U.S.C. § 3612(a).
39. Thereafter, HUD authorized the Attorney General to file this civil claim, based on 42 U.S.C. § 3612(a)(1).

FAIR HOUSING ACT CLAIMS

40. Defendants' conduct, described in paragraphs 9 through 39 above, constitutes:
- a. discrimination in the rental, or otherwise making unavailable or denying, a dwelling to any renter because of a disability of that renter, in violation of 42 U.S.C. § 3604(f)(1)(A); and
 - b. a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).
41. As a result of Defendants' conduct, Catherine Nielsen is an aggrieved person as defined in Section 802(i) of the Fair Housing Act, 42 U.S.C. § 3602(i), and has suffered injury.
42. Defendants' conduct described herein was intentional, willful, and taken in disregard for the rights of Ms. Nielsen.

PRAYER FOR RELIEF

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

- (I) Declares that Defendants' conduct as alleged herein violates the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*
- (ii) Enjoins Defendants, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating on the basis of disability against any person in any aspect of the rental of a dwelling, pursuant to 42 U.S.C. § 3612(o)(3) and 3613(c)(1);

(iii) Awards monetary damages to Complainant pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

(iv) Awards such additional relief as the interests of justice may require.

Respectfully submitted,

JEFFREY B. LANG
Acting United States Attorney

By: s/ James A. Lewis

James A. Lewis, NC Bar No. 5470
Attorney for Plaintiff
United States Attorney's Office
318 South Sixth Street
Springfield, IL 62701
Telephone: 217/492-4450
Fax: 217/492-4888
email: jim.lewis2@usdoj.gov