

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,
Plaintiff,

v.

BIRDIE WREN,
Defendant.

Civil Action No. 1:13-cv-8284

filed electronically

COMPLAINT

The United States of America alleges as follows:

Nature of the Action

1. This action is brought by the United States to enforce Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601-3631, as amended by the Fair Housing Amendments Act of 1988 (“the Fair Housing Act” or “the FHA”). This action is brought on behalf of C.C. and her minor child, M.L., pursuant to 42 U.S.C. § 3612(o), and is also brought pursuant to 42 U.S.C. § 3614(a).

Jurisdiction

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 3612(o) and 3614(a).
3. Venue is proper under 28 U.S.C. § 1391(b), because the events or omissions giving rise to the claims alleged herein occurred in the Northern District of Illinois and because the Defendant resides in the Northern District of Illinois.

4. Since at least 1992, Defendant Birdie Wren has been the owner and manager of a two-unit apartment building located at 7407 S. May Street, Chicago, Illinois 60621 (the “May Street” building). The May Street building and the two apartments contained therein are “dwellings” within the meaning of 42 U.S.C. § 3602(b).

Factual Allegations

5. The May Street property has a one-bedroom unit and a two-bedroom unit, upstairs and downstairs, respectively, that Birdie Wren has offered for rent to members of the public since approximately 1992.
6. Wren has not rented either of her May Street units to a family with children since approximately 1993.
7. In 2011, Wren advertised her one-bedroom unit for \$500 per month and her two-bedroom unit for \$800 per month on socialserve.com and/or on ilhousingsearch.org.
8. Wren kept a log recording the date and substance of phone calls she had with potential renters and recording the date and substance of in-person viewings of her rental units with potential tenants.
9. C.C. is a 26-year old HIV-positive woman from Chicago, who, in 2011, was seeking to move with her then four-year-old son to a neighborhood with less crime.
10. C.C. saw Wren’s one-bedroom rental listing in late 2011 and wanted to learn more because the rent was within her budget and because it was in a location she desired.
11. C.C. called Wren about the listing on December 2, 2011.
12. During the call, Wren asked C.C. if she had any children and C.C. responded that she had a four-year-old boy.

13. Wren then stated that she did not normally rent to people with children.
14. Wren asked C.C. about her ability to pay the rent for the apartment and C.C. stated that she could cover it using disability benefits she was receiving through Supplemental Security Income (SSI) from the Social Security Administration.
15. Wren asked C.C. to disclose the nature of her disability and C.C. disclosed that she was HIV-positive.
16. Wren, in a disgusted tone of voice, replied said that she was not interested in renting to C.C. and could not have someone with that condition living there, or words to that effect, and in that manner ended the conversation. Wren responded in this manner because C.C. was HIV positive and/or because C.C. had a minor child.
17. Wren noted the December 2, 2011, call with C.C. in her log and wrote that “She agreed that she [sic] HIV positive.”
18. Although Wren had also written down C.C.’s phone number on her log, she did not call her and never spoke with her again.
19. Wren requires tenants of her May Street rentals to sign an addendum to their leases which states: “ROOMS ARE FOR SINGLES ONLY, UNLESS APPROVED BY MANAGEMENT. NO EXCEPTIONS. WE MUST KNOW WHO IS LIVING ON THE PREMISES” and “IF YOU FAIL TO COMPLY WITH THESE RULES YOU WILL IMMEDIATELY, BE ASK (sic) TO LEAVE!!!!!!! PLEASE SIGN AND DATE THIS ADDENDUM ASSURING MANAGEMENT THAT YOU UNDERSTAND AND WILL COMPLY WITH THESE RULES.” (emphasis in original).

20. In December 2011, a prospective resident inquired about renting the two-bedroom apartment for herself and her three children, ages 8, 7 and 2 years old.
21. After stating that the woman had too many children for the unit, Wren did not return the prospective tenant's repeated subsequent phone calls inquiring about the apartment.

HUD Administrative Process

22. On May 8, 2012, C.C. filed a timely fair housing complaint with the Department of Housing and Urban Development ("HUD") alleging, among other things, that Wren discriminated against her due to her disability (HIV-positive). C.C.'s amended her fair housing complaint on August 6, 2013, to include an additional allegation of discrimination based on familial status.
23. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based upon the information gathered in the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred. Therefore, on September 24, 2013, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the above-named defendant with engaging in discriminatory practices, based on disability and familial status, in violation of the Fair Housing Act.
24. On October 17, 2013, C.C. elected to have the claims asserted in the HUD Charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a). On October 18, 2013, the

Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on C.C.'s complaint.

25. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

Fair Housing Act Violations

Count I

26. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-25, above.
27. By the actions and statements referred to in the foregoing paragraphs, Defendant has:
- a. Discriminated in the rental of, or otherwise made unavailable or denied, a dwelling to a person because of a disability, in violation of the Fair Housing Act, 42 U.S.C. § 3604(f);
 - b. Refused to negotiate for the sale or rental of, or otherwise made unavailable or denied, a dwelling to any person because of familial status, in violation of the Fair Housing Act, 42 U.S.C. § 3604(a); and
 - c. Made statements, or caused to be printed or published statements, with respect to the rental of a dwelling indicating a preference, limitation or discrimination based on disability and familial status, or indicating an intention to make such a preference, limitation or discrimination, in violation of the Fair Housing Act, 42 U.S.C. § 3604(c).

28. Complainant C.C. and her minor child have suffered damages as a result of Defendant's conduct.
29. Defendant's actions described in the preceding paragraphs were intentional, willful, and taken in disregard for the rights of others, including C.C. and her minor child.

Count II

30. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-29, above.
31. Through Defendant's conduct based on familial status, which is described above, Defendant has:
 - a. Engaged in a pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, in violation of 42 U.S.C. § 3614(a); or
 - b. Denied to a group of persons of rights granted by the Fair Housing Act, which raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).
32. In addition to C.C. and her minor child, other persons have been injured by Wren's discriminatory actions and practices, as described above, and are aggrieved persons within the meaning of 42 U.S.C. § 3614(d)(1)(B).

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the court enter an ORDER that:

1. Declares that Wren's conduct, as alleged herein, violates the Fair Housing Act;
2. Enjoins Wren, her officers, employees, agents, successors and all other persons in active concert or participation with her, from further:
 - a. Making unavailable or denying a dwelling to any person because of disability and familial status;
 - b. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, C.C. and her minor child, and any aggrieved person to the position they would have been in but for Wren's unlawful conduct; and,
 - d. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct.
3. Awards monetary relief, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3614(d)(1)(B), to C.C. and her minor child, and any aggrieved person.

The United States further prays for such additional relief as the interests of justice may require.

Dated: November 18, 2013

ERIC H. HOLDER, Jr.
Attorney General

ZACHARY T. FARDON
United States Attorney
Northern District of Illinois

/s/ Jocelyn Samuels
JOCELYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division

PATRICK JOHNSON
Assistant United States Attorney
Northern District of Illinois
United States Attorney's Office
219 S. Dearborn St., 5th Floor
Chicago, Illinois 60604
Phone: (312) 353-5327
Patrick.Johnson@usdoj.gov

/s/ Steven H. Rosenbaum
STEVEN H. ROSENBAUM
Chief

/s/ Roger T. Severino
TIMOTHY J. MORAN
Deputy Chief
ROGER T. SEVERINO
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Northwestern Building, 7th Floor
Washington, D.C. 20530
Phone: (202) 353-9732
Fax: (202) 514-1116
Roger.Severino@usdoj.gov

Service of the complaint will be effected by waiver of service