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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT
EASTERN DISTRICT
COMPLAINT

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action
No. 15-CV-

-against-

CITY OF NEW YORK,

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

Defendant.

MAUSKOPF, J.

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ORENSTEIN, M.

Plaintiff United States of America, by its attorney, ROBERT L. CAPERS, United States Attorney for the Eastern District of New York, Kelly Horan Florio and Michael J. Goldberger, Assistant United States Attorneys, of counsel, alleges, upon information and belief, as follows:

SUMMARY OF THIS ACTION

1. This is a civil action to enforce the provisions of Title II of the Americans with Disabilities Act of 1990 ("Title II" of the "ADA"), 42 U.S.C. §§ 12131-34. As set forth more fully below, defendant City of New York ("City") fails to provide appropriate auxiliary aids and services to individuals who are deaf or have hearing loss in the City's homeless shelter system for families with children (the "Family Shelter System"), in violation of Title II of the ADA and the Title II implementing regulation, 28 C.F.R. pt. 35.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 42 U.S.C. § 12133, and pursuant to 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper pursuant to 28 U.S.C. §§ 1391 because acts and events giving

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rise to this action have occurred in this District, and the City provides services to homeless families with children within this district.

PARTIES

4. Plaintiff is the United States of America.

5. Defendant is the City of New York (“the City”), a local governmental entity with authority over the boroughs of Staten Island, Brooklyn, Queens, Manhattan, and the Bronx, and is a public entity within the meaning of 42 U.S.C. § 12131.

6. The City, through the New York City Department of Homeless Services (“DHS”) and other City agencies, operates the Family Shelter System, which provides housing and services to homeless individuals and families within the five boroughs through various City agencies. The Family Shelter System includes approximately 145 shelters.

7. The City directly owns some of those shelters, but most are privately owned and operated pursuant to contract with the City. DHS oversees shelter operations for each shelter within the Family Shelter System, regardless of whether the shelter is owned by the City or a private housing provider.

8. The City also provides services, including social services, to assist shelter clients in transitioning to permanent housing.

A. The City’s Process for Placing Homeless Families With Children In Shelters

9. When a homeless family with children in New York City applies for shelter within the Family Shelter System, the family undergoes a multi-part intake process at DHS’ Prevention Assistance and Temporary Housing (“PATH”) center in the Bronx.

10. The intake process at PATH consists of four phases: (1) initial intake; (2) medical evaluation; (3) “diversion”; and (4) meeting with a family worker.

11. During the intake process, applicant families must provide detailed information to and engage in extensive interactive communications with DHS and other City employees.

12. The City does not provide appropriate auxiliary aids and services during this process to family shelter applicants who are deaf or have hearing loss. For example, the PATH Center frequently fails to provide a qualified sign language interpreter or other means of effective communication within a reasonable time frame, preventing the family from continuing and completing the application process on a timely basis.

13. Moreover, in lieu of a qualified interpreter or other effective means of communication, City workers have at times tried to use inappropriate, ineffective methods to communicate with applicants, including exchange of handwritten notes in discussing complicated and sensitive matters or asking a family member, sometimes a minor child, to act as an interpreter.

B. The Placement Process

14. Once a client applicant family completes the intake process, PATH sends an electronic notification to the City’s Housing Emergency Referral Operation system (“HERO”), a separate unit within DHS which is not located at PATH. HERO determines a family’s shelter placement based solely upon the information transmitted by PATH employees.

15. Generally, PATH does not inform HERO whether an individual in a family has a disability or requires auxiliary aids and services.

16. As a result, the City, through HERO, often places applicant families with deaf members or members with hearing loss in shelters without appropriate auxiliary aids and services, denying them equal opportunity to participate in and benefit from services, such as housing and job placement assistance, which it provides to families whose members are not deaf or do not have hearing loss.

C. RK's¹ Experience With the Family Shelter System

17. RK is a deaf woman who communicates primarily through American sign language.

18. When RK became homeless, she and her daughter, then age four, went to the PATH facility to apply for shelter within the Family Shelter System.

19. She informed employees at PATH that she is deaf and communicates primarily through sign language and requested an interpreter.

20. PATH employees did not provide her with a qualified interpreter or access to any other means of effective communication. Rather, they attempted to communicate with RK using written notes and by relying on RK's minor daughter as a sign language interpreter.

21. These methods took so long that DHS was unable to complete the intake process on the same day that RK applied. As a result, DHS placed RK and her daughter into a hotel overnight. RK and her daughter were required to return to PATH the following day to complete the intake process.

22. Ultimately, the City placed RK and her daughter at the Woodruff Family Residence in Brooklyn ("Woodruff"), a four-story apartment building privately owned and

¹ RK is identified by initials only in this Complaint to protect her confidentiality.

operated as a shelter within the Family Shelter System. The City later transferred RK and her daughter from Woodruff to the Bushwick Family Residence in Brooklyn (“Bushwick”), another family shelter within Family Shelter System.

23. RK requested that both Woodruff and Bushwick staff provide her with a qualified sign language interpreter, as needed, so that she could communicate with employees of the shelter or with City workers. She also requested a visual notification device, such as a flashing light, in her residence to function as a doorbell and fire alarm.

24. She never received any of these appropriate auxiliary aids or services. Instead, RK was forced to try to communicate with staff at both shelters in writing, through gestures, or by using her four-year old daughter as an interpreter. She relied upon her daughter to let her know when the doorbell rang or a fire alarm sounded.

25. The City’s failures to provide RK with appropriate auxiliary aids and services denied her an equal opportunity to participate in and enjoy the benefits of the full array of social service programs available to hearing shelter residents. This included, among other things, an equal opportunity to participate in and enjoy the benefits of the job placement assistance and assistance in finding permanent housing that the City offers to shelter residents.

CLAIM FOR RELIEF

26. The United States realleges and incorporates paragraphs 1 through 25 of the Complaint by reference in this paragraph.

27. The acts, omissions, policies, and practices described above constitute discrimination on the basis of disability in violation of Title II of the ADA. Among other things, the City has failed and continues to fail to provide RK and other persons who are deaf or

have hearing loss with an opportunity to benefit from the aids, benefits, or services that is equal to that afforded to persons without disabilities participating in the Family Shelter System.

28. In addition, the City has failed to provide appropriate auxiliary aids and services to ensure that communications with RK and other persons who are deaf or have hearing loss are as effective as communications with others .

29. The City has also required individuals who are deaf or have hearing loss to bring other individuals with them, including children, to interpret.

WHEREFORE, the United States requests that this Court enter judgment:

A. Enjoining the City from discriminating against applicants for family shelter within the City shelter system because they are deaf or have hearing loss

B. Directing the City to take such other steps as may be necessary to prevent and remedy the Title II discrimination identified above including, but not limited to, providing effective training to City and contract employees about Title II compliance and ensuring that both the shelter system intake process and housing facilities comply with Title II of the ADA with respect to individuals who are deaf or have hearing loss;

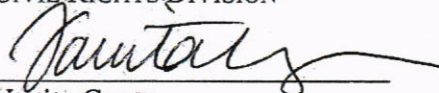
C. Awarding appropriate monetary relief to individuals who have been subjected to the discriminatory conduct described above, including RK; and

D. Granting such further relief that is just and proper, together with the
United States' costs and disbursements in this action.

Dated: Brooklyn, New York
October 19, 2015

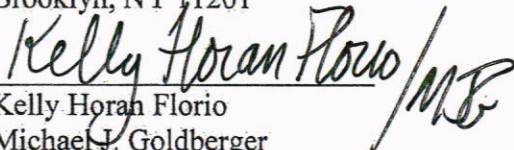
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