

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-02462

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROGER P. LOECHER;
EILEEN F. LOECHER; and
MIRIAM YEHUDAH,

Defendants.

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, as amended (“the Fair Housing Act”), 42 U.S.C. §§ 3601 §§ 3601-3619, on behalf of the Denver Metro Fair Housing Center (“DMFHC”), pursuant to 42 U.S.C. § 3612(o). The United States also brings this action against Defendants pursuant to 42 U.S.C. § 3614(a).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 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: (1) all Defendants reside in the District of Colorado; and (2) the events and omissions giving rise to the claims alleged in this Complaint occurred in the District of Colorado.

DEFENDANTS

4. Defendants Roger Loecher and Eileen Loecher are married and reside in Denver, Colorado, in the District of Colorado.
5. Since approximately February 22, 1999, and continuing to the present, Defendants Roger Loecher and Eileen Loecher have owned Westland Apartments (“Westland”).
6. Defendant Miriam Yehudah resides in Lakewood, Colorado, in the District of Colorado.
7. Since approximately March 2012, and continuing to the present, Defendants Roger Loecher and Eileen Loecher have retained Defendant Miriam Yehudah as the resident property manager of Westland.
8. As resident property manager, Defendant Yehudah is responsible for the day-to-day management of Westland, including providing information about available apartments to prospective tenants and assigning available apartments to tenants.

SUBJECT PROPERTY

9. Westland is a 28-unit apartment complex located at 9905 West 21st Avenue, Lakewood, Colorado, 80215, in the District of Colorado.
10. Westland and its 28 apartments are “dwellings” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
11. Westland consists of two buildings. The front building, which is closest to West 21st Avenue, has 12 apartments. The rear building, which is further away from West 21st Avenue, has 16 apartments. Between the two buildings, there is a grassy area that Defendants have designated as a picnic and play area for residents.

DEFENDANTS' DISCRIMINATORY HOUSING PRACTICES

12. Since at least March 2012, and continuing to the present, Defendants have implemented a pattern or practice of generally assigning families with minor children to apartments in the rear building at Westland, and generally not assigning such families to apartments in the front building, even when there are available apartments in the front building that meet the needs of such families. In doing so, Defendants have: (1) told Westland residents and prospective residents that families with children are generally allowed to live in the rear building and not in the front building; (2) told prospective residents with minor children who inquire about vacancies about available apartments in the rear building, while not telling such families about available apartments in the front building; and (3) offered families with minor children apartments in the rear building, while not offering such families an opportunity to rent available apartments in the front building.
13. Denver Metro Fair Housing Center (“DMFHC”) is a Colorado non-profit corporation, whose organizational purposes are to promote equal housing opportunities and eliminate illegal housing discrimination throughout the Denver metropolitan area.
14. In September 2013, December 2013, and February 2014, DMFHC conducted testing at Westland to evaluate Defendants’ compliance with the Fair Housing Act.
15. Testing is a simulation of a housing transaction that compares responses given by housing providers to different types of home-seekers to determine whether illegal discrimination may be occurring.
16. The testing undertaken by DMFHC revealed that Defendants were engaged in the discriminatory housing practices described in this Complaint.

17. On September 13, 2013, a white male DMFHC tester visited Westland and met with Defendant Yehudah.
18. The tester told Defendant Yehudah that he was interested in renting an apartment for himself, his wife, and his two minor children.
19. Defendant Yehudah showed the tester two two-bedroom apartments in the rear building.
20. Although there was also at least one available two-bedroom apartment in the front building, Defendant Yehudah did not tell the tester about this apartment or allow him to inspect it, because the tester had told her that he and his wife had two minor children.
21. On or about October 1, 2013, Defendants leased the two apartments in the rear building referred to above to families with one or more minor children.
22. On September 13, 2013, approximately an hour after the first tester's visit, a second white male DMFHC tester visited Westland and met with Defendant Yehudah.
23. The tester told Defendant Yehudah that he was looking for an apartment for him and his wife.
24. Defendant Yehudah told the tester that because he did not have children, she had "several options" for him.
25. Defendant Yehudah also told the tester that she "[tried] to keep my kids in the back and my adults in the front" or words to that effect.
26. Defendant Yehudah then proceeded to show the tester three available two-bedroom apartments, the two in the rear building that she had shown to the tester with children, as well as an available apartment on the second floor of the front building.
27. Defendant Yehudah told the tester that she was showing him the apartment in the front building because she intended to rent it to "a couple with no children" or words to that

effect.

28. On or about October 1, 2013, Defendants leased the apartment in the front building referred to above to two adults with no children.
29. On December 26, 2013, a Hispanic male DMFHC tester visited Westland and told Defendant Yehudah that he was looking for an apartment for him and his girlfriend. Defendant Yehudah showed the tester an apartment in the front building. Defendant Yehudah also told the tester that she had asked him if he “had kids” because “[w]e have families with kids here in the back,” or words to that effect.
30. The acts and omissions of Defendant Yehudah in carrying out the discriminatory housing practices described in this Complaint were undertaken within the scope of her employment as the resident manager of Westland. Defendants Roger Loecher and Eileen Loecher are, therefore, liable for Defendant Yehudah’s conduct.
31. The conduct of Defendants alleged in this Complaint was intentional, willful, and taken in disregard for the rights of others.
32. DMFHC diverted substantial time and resources from its other activities in order to investigate Defendants’ discriminatory housing practices, pursue a complaint with the HUD Secretary, and otherwise counteract Defendants’ actions. Defendants’ conduct has caused DMFHC to suffer a drain on its resources and a frustration of its mission to promote equal housing opportunities.

HUD ADMINISTRATIVE PROCESS

33. On or about March 25, 2014, DMFHC timely filed a housing discrimination complaint with the Secretary of the Department of Housing and Urban Development (“HUD”) alleging that Defendants had engaged in discriminatory housing practices against families with children, in violation of the Fair Housing Act, 42 U.S.C. §§ 3601-3619. DMFHC amended the HUD complaint to add Defendant Yehudah’s last name on June 15, 2015.
34. 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 on the information gathered in the investigation, the Secretary determined, pursuant to 42 U.S.C. § 3610(g)(1), that reasonable cause existed to believe that illegal discriminatory housing practices had occurred, including violations of 42 U.S.C. §§ 3604(a)-(d).
35. On September 23, 2015, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in discriminatory housing practices on the basis of familial status in violation of Sections 804(a)-(d) of the Fair Housing Act, 42 U.S.C. §§ 3604(a)-(d).
36. On October 8, 2015, DMFHC elected to have the claims asserted in HUD’s Charge of Discrimination resolved in a civil action, pursuant to 42 U.S.C. § 3612(a).
37. On October 9, 2014, the Administrative Law Judge presiding over the administrative proceeding issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding.
38. Following the Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).

COUNT I – CLAIM PURSUANT TO 42 U.S.C. § 3612(o)

39. The United States re-alleges and incorporates by reference the allegations in paragraphs 1-38, above.

40. By their conduct described above, Defendants have engaged in the following discriminatory housing practices within the meaning of 42 U.S.C. § 3602(f):

- a. Refused to sell or rent, or otherwise made unavailable or denied, a dwelling because of familial status, in violation of 42 U.S.C. § 3604(a);
- b. Imposed different terms, conditions, or privileges for rental of a dwelling on the basis of familial status, in violation of 42 U.S.C. § 3604(b);
- c. Made statements with respect to the rental of a dwelling that indicated a preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c); and
- d. Represented that a dwelling was not available for inspection or rental when such dwelling was in fact so available, because of familial status, in violation of 42 U.S.C. § 3604(d).

41. DMFHC is an “aggrieved person” as defined in 42 U.S.C. § 3602(i) and has suffered damages as a result of the Defendants’ conduct.

COUNT II – CLAIM PURSUANT TO 42 U.S.C. § 3614(a)

42. The United States re-alleges and incorporates by reference herein the allegations described in paragraphs 1-41, above.

43. The Defendants’ conduct described in the foregoing paragraphs constitutes:

- a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619; and/or

- b. A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619, which raises an issue of general public importance.
44. In addition to DMFHC, other persons have been injured by the Defendants' discriminatory housing practices. Such persons are also "aggrieved persons" as defined in 42 U.S.C. § 3602(i), and may have suffered damages as a result of the Defendants' conduct.

PRAYER FOR RELIEF

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

1. Declares that the Defendants' discriminatory policies and practices, as alleged above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Declares that the Defendants have engaged in a pattern or practice of discrimination in violation of the Fair Housing Act and/or have denied rights under the Fair Housing Act to a group of persons, raising an issue of general public importance.
3. Enjoins the Defendants, their representatives, agents, employees, successors, and all others in active concert or participation with any of them from:
 - a. Discriminating against any person on the basis of familial status in violation of the Fair Housing Act in any aspect of the rental of a dwelling;
 - b. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct; and
 - c. Failing or refusing to take such affirmative steps 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 Defendants' unlawful practices;

4. Awards such monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and 3614(d)(1)(B) to DMFHC and any other person harmed by the Defendants' discriminatory conduct; and

5. Assesses civil penalties against Defendants to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C).

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

JURY DEMAND

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: November 9, 2015.

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