

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FARHONDO KING,

Plaintiff,

- against -

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

MEIR WEISS and 2129 Cortelyou Road LLC, et al.

BROOKLYN OFFICE
Defendants.

08 30 47

COMPLAINT

JURY TRIAL DEMANDED

SIETON

GOLD, M.J.

INTRODUCTION

1. Plaintiff Farhondo King, by his attorneys, Friedman Kaplan Seiler & Adelman LLP, for his complaint against the Defendants Meir Weiss and 2129 Cortelyou Road LLC, alleges as follows:

NATURE OF THE ACTION AND PRELIMINARY STATEMENT

2. This is a civil rights action to redress discrimination on the basis of disability, in violation of the Federal Fair Housing Act, 42 U.S.C. § 3601 *et seq.* (the "FHA"), the New York State Human Rights Law, Executive Law § 290 *et seq.*, and the New York City Human Rights Law, Title 8 of the New York City Administrative Code § 8-101 *et seq.* As set forth more fully below, Defendants refused to rent an available apartment to plaintiff Farhondo King because he is deaf. Defendants' conduct violates Federal, State, and City civil rights laws; it should be declared unlawful and permanently enjoined, and appropriate money damages should be awarded.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 2201, and 42 U.S.C. § 3613. This Court has supplemental jurisdiction over the New York state law and New York City law claims pursuant to 28 U.S.C. § 1367.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendant Weiss resides in this District, Defendant 2129 Cortelyou Road LLC has its principal place of business in this District, and the events giving rise to this complaint occurred in this District.

PARTIES

5. Plaintiff Farhondo King resides in Brooklyn, New York. King, who is deaf, is a person with a disability within the meaning of the Federal, State, and City discrimination laws.

6. Upon information and belief, Defendant Weiss resides in Brooklyn, New York.

7. Upon information and belief, Defendant 2129 Cortelyou Road LLC is a limited liability company organized and existing under the laws of the State of New York with its principal place of business located at 1573 49th Street in Brooklyn, New York. 2129 Cortelyou Road LLC owns and manages a residential apartment building located at 2129 Cortelyou Road in Brooklyn, New York.

8. Upon information and belief, Defendant Weiss is an owner, officer, and/or manager of Defendant 2129 Cortelyou Road LLC.

FACTS

King Searches for an Apartment with the Assistance of Housing Works

9. During the spring of 2007, King began working with his case manager from Housing Works, Derrick Pleasant, to locate safe and affordable housing in Brooklyn, New York. Housing Works is a not-for-profit organization that assists low-income people and their families in their efforts to obtain affordable housing.

10. In April of 2007, Pleasant learned through a realty company that there was a one-bedroom apartment available in Weiss's building at 2129 Cortelyou Road. Pleasant then called King to notify him that he had located an available rental apartment for him in the Flatbush area of Brooklyn, where King wanted to live. King was immediately interested, so Pleasant then made arrangements with Weiss for King to see the available apartment.

11. On or about May 7, 2007, at Weiss's direction, Pleasant and King met with Weiss at a fabrics store around the corner from 2129 Cortelyou Road, where Weiss frequently transacted his rental business. From there, they were escorted to the available apartment at 2129 Cortelyou Road by Weiss's assistant.

12. After seeing the apartment, King decided to rent it. Pleasant informed Weiss's assistant that King wanted to rent the apartment and would require the installation of a visual alarm. Because King is deaf, he cannot hear a doorbell ring and therefore requires the use of a visual alarm to alert him to visitors. Weiss's assistant responded that he would need to speak with Weiss about any visual alarm.

Weiss Refuses to Rent the Apartment to King Because King is Deaf

13. King and Pleasant then left the apartment and returned to the fabrics store to meet with Weiss. There, Pleasant told Weiss that King wanted to rent the apartment. Pleasant also told Weiss that King would require the installation of a visual alarm.

14. In response, Weiss stated, “Oh, I don’t think this is going to work.” Weiss then stated that he had “problems” with a deaf tenant who lived in another rental building Weiss owned or managed on Blake Avenue. Among other “problems” Weiss cited were that the deaf tenant would not answer his door when Weiss knocked. Weiss then stated, in sum and substance, that he did not want to rent the apartment to King because he was deaf and because he did not want another deaf tenant. Weiss also stated that he would not install a visual alarm. King and Pleasant then left the store.

15. Over the next week, Pleasant called Weiss several times to see whether Weiss would change his mind and rent the apartment to King. In response, Weiss stated, in sum and substance, that he did not want to rent to King because King is deaf and because he did not want to deal with “the issues.”

16. After refusing to rent the apartment at 2129 Cortelyou Road to King, the apartment remained available. Subsequently, Weiss rented the apartment to another tenant. Upon information and belief, the tenant who rented the apartment was not deaf.

The Fair Housing Justice Center Investigates Weiss and 2129 Cortelyou Road LLC

17. On or about August 15, 2007, King and Housing Works contacted the Fair Housing Justice Center (“FHJC”), a non-profit organization. The mission of the FHJC is to challenge systemic housing discrimination, promote open and inclusive

communities, and strengthen fair housing enforcement. To investigate allegations of unlawful conduct, the FHJC employs fair housing “testers,” or individuals who, without the intent to rent an apartment, pose as renters for the purpose of collecting evidence of discrimination. In response to King’s complaint, the FHJC conducted a testing investigation of the housing practices of Defendants.

18. On November 28, 2007, a tester working with the FHJC went to Weiss’s fabric store and inquired about available rental properties. During that visit, the FHJC tester explained to Weiss that she was looking for an apartment for her father, who is deaf. Weiss made several discriminatory inquiries and remarks about the prospective deaf tenant’s disability and use of assistive technology. Weiss also stated to the FHJC tester that he had problems with another tenant who was deaf. Weiss did not offer to show the FHJC tester any rental units, claiming that none was available.

FIRST CLAIM FOR RELIEF

(42 U.S.C. § 3604(f)(1): Disability Discrimination)

19. Plaintiff repeats and re-alleges paragraphs 1 through 18 of his complaint as though fully set forth in this paragraph.

20. Plaintiff has a disability within the meaning of the FHA, 42 U.S.C. § 3602(h).

21. Defendants discriminated in the rental of a dwelling, and denied a dwelling to King because of his disability, in violation of the FHA, 42 U.S.C. § 3604(f)(1)(A).

22. Defendants’ conduct was intentional, willful, and made in disregard for the rights of others.

23. Plaintiff is an aggrieved person as defined in 42 U.S.C. § 3602(i), has been injured by Defendants' discriminatory conduct, and has suffered damages as a result.

24. Accordingly, under 42 U.S.C. § 3613(c), Plaintiff is entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

SECOND CLAIM FOR RELIEF

(N.Y. Executive Law § 290: Discrimination Based on Disability)

25. Plaintiff repeats and realleges paragraphs 1 through 18 of his complaint as though fully set forth in this paragraph.

26. Plaintiff is a person with a disability within the meaning of Article 15 of the New York Executive Law § 292(21).

27. Defendants refused to rent an available apartment to Plaintiff because of his disability, in violation of Article 15 of the New York Executive Law § 296(5)(a)(1).

28. Plaintiff has been injured by Defendants' discriminatory conduct and has suffered damages as a result.

29. Defendants' conduct was intentional, willful, and made in disregard for the rights of others.

30. Accordingly, Plaintiff is entitled to actual damages, punitive damages, and injunctive relief pursuant to Article 15 of the New York Executive Law § 297(9).

THIRD CLAIM FOR RELIEF

(NYC Administrative Code § 8-101: Discrimination Based on Disability)

31. Plaintiff repeats and realleges paragraphs 1 through 18 of his complaint as though fully set forth in this paragraph.

32. Plaintiff is a person with a disability within the meaning of the New York City Administrative Code § 8-102(16).

33. Defendants refused to rent and otherwise denied a housing accommodation or an interest in housing to Plaintiff because of disability, in violation of the New York City Administrative Code § 8-107(5)(a)(1).

34. Plaintiff is an aggrieved person, as defined in the New York City Administrative Code § 8-502(a), and has suffered damages as a result of Defendants' discriminatory conduct.

35. Prior to commencing this action, Plaintiff has served a copy of the complaint upon the city commission on human rights and the corporation counsel.

36. Defendants' conduct was intentional, willful, and made in disregard for the rights of others.

37. Accordingly, pursuant to the New York City Administrative Code § 8-502, Plaintiff is entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

FOURTH CLAIM FOR RELIEF

(42 U.S.C. § 3604(c): Discriminatory Statements)

38. Plaintiff repeats and realleges paragraphs 1 through 18 of his complaint as though fully set forth in this paragraph.

39. Plaintiff is disabled as that term is defined in the FHA, 42 U.S.C. § 3602(h).

40. Weiss made statements with respect to the rental of a dwelling that indicate a preference, limitation, and discrimination based on disability in violation of the FHA, 42 U.S.C. § 3604(c).

41. Plaintiff is an aggrieved person as defined in 42 U.S.C. § 3602(i), has been injured by Weiss's discriminatory conduct, and has suffered damages as a result.

42. Weiss's conduct was intentional, willful, and made in disregard for the rights of others.

43. Accordingly, under 42 U.S.C. § 3613(c), Plaintiff is entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

FIFTH CLAIM FOR RELIEF

(New York Executive Law § 290: Discriminatory Statements)

44. Plaintiff repeats and realleges paragraphs 1 through 18 of his complaint as though fully set forth in this paragraph.

45. Weiss made declarations and inquiries which express, indirectly or directly, limitations, specifications, or discrimination against Plaintiff because Plaintiff is deaf in violation of the New York Executive Law § 296(5)(a)(3).

46. Plaintiff has been injured by Weiss's discriminatory conduct and has suffered damages as a result.

47. Weiss's conduct was intentional, willful, and made in disregard for the rights of others.

48. Accordingly, under Article 15 of the New York Executive Law § 297, Plaintiff is entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

SIXTH CLAIM FOR RELIEF

(New York City Administrative Code § 8-101: Discriminatory Statements)

49. Plaintiff repeats and realleges paragraphs 1 through 18 of his complaint as though fully set forth in this paragraph.

50. Weiss made declarations and inquiries which express, indirectly or directly, limitations, specifications, or discrimination against Plaintiff because Plaintiff is deaf in violation of New York City Administrative Code § 8-107(5)(a)(3).

51. Prior to commencing this action, Plaintiff has served a copy of the complaint upon the city commission on human rights and the corporation counsel.

52. Plaintiff was injured by Weiss's discriminatory conduct and has suffered damages as a result.

53. Weiss's conduct was intentional, willful, and made in disregard for the rights of others.

54. Accordingly, under New York City Administrative Code §§ 8-502(a) and 8-502(f), Plaintiff is entitled to actual damages, punitive damages, injunctive relief, reasonable attorneys' fees and costs, and such other remedies as may be appropriate.

PRAYER FOR RELIEF

55. WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

(a) Declaring that Defendants' discriminatory practices violate the FHA, as amended, 42 U.S.C. §§ 3601 *et seq.*; the New York State Human Rights Law, New York Executive Law § 290 *et seq.*; and the New York City Human Rights Law, Title 8 of the New York City Administrative Code;

(b) Enjoining Defendants, Defendants' agents, employees, and successors, and all other persons in active concert or participation from:

- (i) Refusing to rent after the making of a bona fide offer, refusing to negotiate for the rental of, or otherwise making unavailable or denying housing to any person based on disability;
- (ii) Representing to any person because of disability that housing is not available for lease or rental when such housing is in fact so available;
- (iii) Making statements with respect to the rental of a dwelling that indicate a preference, limitation, and discrimination based on disability;
- (iv) Failing or refusing to take affirmative steps 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
- (v) Preventing Plaintiff from participating in Defendants' application process for rental housing, and from refusing to assist Plaintiff in awarding him the next available unit with

the reasonable accommodation of a light alarm in place of a doorbell;

(c) Awarding such damages as will compensate Plaintiff fully for his loss of a housing opportunity and economic losses, as well as the humiliation, embarrassment, shock, emotional distress, and inconvenience Plaintiff has suffered due to Defendants' discriminatory conduct, pursuant to 42 U.S.C. § 3613(c), Article 15 of the New York Executive Law § 297(9), and the New York City Administrative Code § 8-502;

(d) Awarding punitive damages to Plaintiff pursuant to 42 U.S.C. § 3613(c), 42 U.S.C. § 3612(o)(3), Article 15 of the New York Executive Law §297(9), and the New York City Administrative Code § 8-502;

(e) Awarding Plaintiff reasonable attorneys' fees, costs, and expenses incurred in prosecuting this action pursuant to 42 U.S.C. § 3613(c), Article 15 of the New York Executive Law § 297(9), and the New York City Administrative Code § 8-502; and

(f) Granting such further relief as the Court may deem just.

JURY DEMAND

56. Plaintiff demands a trial by jury.

Dated: New York, New York

July 24, 2008

FRIEDMAN KAPLAN SEILER &
ADELMAN LLP



Andrew W. Schilling (AS-7872)

aschilling@fklaw.com

Kevin S. Haeberle (KH-0648)

khaeberle@fklaw.com

Friedman Kaplan Seiler & Adelman, LLP

1633 Broadway

New York, NY 10019-6708

(212) 833-1100

Attorneys for Plaintiff Farhondo King