UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, v. DOUGLAS S. WATERBURY, CAROL A. WATERBURY, E&A MANAGEMENT CO., and ONTARIO REALTY, INCORPORATED, Defendants.	)))))))))))))	**COMPLAINT**

COMPLAINT

The United States of America alleges as follows:

1. The United States brings this action to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. §§ 3601, *et seq.* ("Fair Housing Act").

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1345, 2201, and 2202, and 42 U.S.C. § 3614(a).

3. Venue is proper in this district under 28 U.S.C. § 1391(b) because the actions and omissions giving rise to the United States' allegations occurred in the Northern District of New York, and the Defendants reside or do business in the Northern District of New York.

FACTUAL ALLEGATIONS

4. Defendant Douglas S. Waterbury is a resident of Oswego, New York. Defendant Douglas Waterbury personally owns and manages residential properties that are located in and around Oswego, New York.

5. Since at least 1990, Defendant Douglas Waterbury has advertised, leased, and rented residential properties located in and around Oswego, New York.

6. Waterbury, along with the other named Defendants, currently owns or manages approximately fifty residential properties in the Oswego area. These properties are "dwellings" within the meaning of 42 U.S.C. § 3602(b).

7. Defendant Carol A. Waterbury, the wife of Defendant Douglas Waterbury, is a resident of Oswego, New York.

8. Defendant Carol Waterbury personally owns or manages residential properties located in and around Oswego, New York.

9. Defendant E&A Management Co. ("E&A Management") is a real estate or property management company that owns or manages properties in the Oswego area and conducts business in New York.

10. Defendant E&A Management is, and at times relevant to this action was, listed as the landlord or owner on leases that Defendants Douglas and Carol Waterbury have entered into with tenants in the Oswego area.

11. Defendant E&A Management acts primarily through Defendants Douglas and Carol Waterbury.

12. Defendant Ontario Realty, Incorporated ("Ontario Realty"), at times relevant to this action, was a New York domestic business corporation. Defendant Douglas Waterbury served as Chief Executive Officer, Principal Executive Officer, and/or a principal agent of Ontario Realty. Ontario Realty was dissolved by proclamation on or about October 26, 2016.

13. Defendant Ontario Realty is, or at times relevant to this action was, a real estate or property management entity that has owned or managed properties located in the Oswego area.

14. Defendant Ontario Realty is, or at times relevant to this action was, listed as landlord or owner on residential property leases for properties located in and around Oswego, New York.

15. During times relevant to this action, Defendant Ontario Realty processed credit payments for residential real estate properties owned or managed, in whole or in part, by Defendants Douglas Waterbury, Carol Waterbury, or E&A Management.

16. Defendants Douglas and Carol Waterbury are owners, officers, partners, and/or agents of a residential real estate rental and management business conducted, at relevant times, in the name of or through Defendants E&A Management and Ontario Realty.

17. Defendants Douglas and Carol Waterbury have intentionally entered into and operated this residential property rental and management business partnership, conducted through Defendants E&A Management and Ontario Realty, and through other means.

18. Defendants Douglas and Carol Waterbury have jointly controlled and managed their residential property rental and management business partnership, including Defendants E&A Management and Ontario Realty, by, for example, advertising units for rent, showing units to prospective tenants, signing rental leases, interacting with tenants, collecting rent from tenants, and processing credit and rental payments.

19. Defendants Douglas and Carol Waterbury have each performed the activities described in paragraph 18, and they have done so in the name of Defendants E&A Management and Ontario Realty, and at times relevant to this action.

20. By undertaking the actions described in paragraph 18, Defendants Douglas and Carol Waterbury have contributed their own property, resources, effort, skill, and knowledge to

their residential property rental and management business partnership and to the other Defendants.

21. Defendants Douglas and Carol Waterbury have each shared in the profits and losses of their joint residential property rental and management business partnership, including the profits and losses of the business of Defendants E&A Management and Ontario Realty.

22. As an owner, officer, partner, and/or principal agent of E&A Management and the joint residential property rental and management business partnership, Defendant Carol Waterbury has expressly or implicitly granted Defendant Douglas Waterbury authority to act on her behalf at times relevant to this action.

23. The Defendants' residential rental properties are "dwellings" within the meaning of 42 U.S.C. § 3602(b).

24. Since approximately 1990 through the present, Defendant Douglas Waterbury has subjected female prospective and actual tenants of the Defendants' residential rental properties to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment, on multiple occasions. Such conduct has included, but is not limited to:

a. Demanding that female prospective tenants engage in, or pressuring them to engage in, sexual intercourse, oral sex, or other sexual acts with him in order to obtain rental housing, including while in the process of showing them potential rental units;

b. Demanding that female tenants engage in, or pressuring them to engage in, sexual intercourse, oral sex, or other sexual acts with him in order to obtain or keep rental housing;

c. Subjecting actual and prospective female tenants to unwelcome sexual contact and groping, including sexual intercourse and sexual touching of their breasts and bodies, without their consent;

d. Offering to grant tangible benefits—such as reducing or excusing rent payments or deposit amounts—in exchange for engaging in sexual acts with him;

e. Refusing to provide needed maintenance services or otherwise taking adverse housing actions, or threatening to take such actions, against female tenants who objected to his unwelcome sexual harassment or who refused to engage in sexual acts with him;

f. Making intrusive, unannounced visits to female tenants' homes to conduct and further his sexual advances;

g. Menacing female tenants and prospective tenants by repeatedly driving by their homes and knocking on their doors when he had no apparent legitimate reason to do either;

h. Frequently making unwelcome sexual comments, propositions, and sexual advances to female tenants and prospective tenants; and

i. Asking female prospective and actual tenants and applicants intrusive personal questions about their romantic relationships and sexual histories during the process of considering them for tenancy in Defendants' rental housing and during their tenancies.

25. For instance, in May 2017, in Oswego, Defendant Douglas Waterbury locked a prospective tenant—who was a teenager at the time—in a rental unit, lifted her shirt and felt her breasts, pushed her onto a couch, engaged in unwelcome and painful sexual intercourse and oral

sex with her, and instructed her not to tell anyone what had just happened. Defendant Douglas Waterbury took these actions without the prospective tenant's consent.

26. Additionally, in or around late 2016, Defendant Douglas Waterbury asked another prospective tenant to engage in sexual acts with him in order to rent a unit. She declined. For a period of months thereafter, Defendant Douglas Waterbury repeatedly contacted this woman and approached her in person, and, on one occasion, showed up to her home uninvited, demanding to speak with her about apartments he had available for rent and her willingness to trade sex for housing benefits, such as a lower security deposit and monthly rent. Although the woman was in desperate need of housing and eventually became homeless, she continued to refuse.

27. Defendant Douglas Waterbury also made different representations to the prospective tenant referred to in paragraph 26 and to her boyfriend about the availability of the Defendants' rental housing. When the prospective tenant's boyfriend called Defendant Douglas Waterbury in response to a listing for available apartments in the Oswego area, he informed the boyfriend that he had no apartments available. However, when the prospective tenant herself called Defendant Douglas Waterbury to inquire about the same advertisement minutes later, he informed her that he did have apartments available for rent and indicated that he would lower her rent and deposit amounts if she engaged in sex acts with him.

28. In yet another example, in or about the spring of 2016, Defendant Douglas Waterbury entered into a rent-to-own agreement with a female tenant, through which a portion of her monthly rent would be applied toward a down-payment for a home in New Haven, New York. Throughout the woman's prospective and actual tenancy at the property, Waterbury persistently subjected her to unwelcome sexual propositions, withheld maintenance services, threatened to unilaterally rescind their rent-to-own agreement, and threatened to evict her if she

did not have sex with him. The woman rejected all of Defendant Waterbury's advances and ultimately moved out of the house because of his relentless harassment and threats.

29. The experiences of these three women were not isolated instances. Rather, these were part of Defendant Waterbury's longstanding pattern and practice of illegal sexual harassment of numerous female prospective and actual tenants.

30. Defendants Carol Waterbury, Ontario Realty, and E&A Management are liable for the above-described discriminatory conduct of their partner, agent, co-manager, and co-owner, Douglas Waterbury, which occurred within the scope of his partnership, agency, employment and/or joint ownership. Many of the properties at which the harassment occurred were owned or managed by these Defendants.

31. The above-described actions and conduct of Defendant Douglas Waterbury caused female prospective and actual tenants to suffer physical harm, fear, anxiety, and emotional distress, and inhibited their ability to secure housing for themselves and their families.

CAUSE OF ACTION

32. By the actions and statements described above, the Defendants have:

a. Denied dwellings or otherwise made dwellings unavailable because of sex, in violation of 42 U.S.C. § 3604(a);

b. Discriminated in the terms, conditions, or privileges of the rental or sale of dwellings, or in the provision of services or facilities in connection therewith, because of sex, in violation of 42 U.S.C. § 3604(b);

c. Made statements with respect to the sale or rental of dwellings that indicate a preference, a limitation, or discrimination based on sex, in violation 42 U.S.C. § 3604(c);

d. Represented on the basis of sex that a dwelling was not available when such dwelling was in fact so available, in violation of 42 U.S.C. § 3604(d);

e. Discriminated in the terms and conditions of residential real estate-related transactions because of sex, in violation of 42 U.S.C. § 3605; and

f. Coerced, intimidated, threatened, or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights granted or protected by Sections 804 and 805 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.

33. The Defendants' conduct constitutes:

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

b. A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*, where such denial raises an issue of general public importance.

34. Prospective and actual tenants have been injured by the Defendants' discriminatory conduct. These persons are "aggrieved persons" as defined in 42 U.S.C. § 3602(i), and have suffered damages as a result of the Defendants' conduct.

35. The Defendants' conduct was intentional, willful, and taken in reckless disregard of the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States requests that the Court enter an Order that:

a. Declares that the Defendants' discriminatory practices violate the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*;

b. Enjoins the Defendants, their agents, employees, and successors, and all other persons in the active concert or participation with them from:

   i. Discriminating on the basis of sex, including engaging in sexual harassment, in any aspect of the rental or sale of a dwelling;

   ii. Interfering with or threatening to take any action against any person engaged in the exercise or enjoyment of rights granted or protected by the Fair Housing Act;

   iii. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the Defendants' past unlawful practices to the position they would have been in but for the discriminatory conduct; and

   iv. 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, as nearly as practicable, the effects of the Defendants' unlawful practices;

c. Awards monetary damages to each person aggrieved by the Defendants' discriminatory conduct, pursuant to 42 U.S.C. § 3614(d)(1)(B);

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

e. Awards such additional relief as the interests of justice may require.

Dated: April 11, 2018

Respectfully submitted,

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