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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEBBIE A. APPLEBY, APPLE ONE, LLC,
APPLE TWO, LLC, and, APPLE THREE, LLC,

Defendants.

Civil Action No. 2:17-cv-00334

COMPLAINT

The United States of America (“United States”) alleges as follows:

I. NATURE OF THIS ACTION

1. This action is brought by the United States to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (“Fair Housing Act”), 42 U.S.C. §§ 3601-3631. It is brought on behalf of Ashley and Ryan Sytsma (the “Sytsmas”), pursuant to 42 U.S.C. § 3612(o). It is also brought pursuant to 42 U.S.C. § 3614(a).

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345, and 42 U.S.C. §§ 3612(o) and 3614(a).

1 3. The United States District Court for the Western District of Washington is a
2 proper venue for this action under 28 U.S.C. § 1391(b) because all or a substantial part of the
3 events giving rise to this action occurred in this district, this action concerns real property located
4 in this district, and all defendants reside within this district.

5 **III. PARTIES AND SUBJECT PROPERTIES**

6 4. The Sytsmas reside in Edmonds, WA. At the time of the alleged discriminatory
7 acts described herein, they had a minor child who was one-year-old.

8 5. Defendants Apple One, LLC, Apple Two, LLC and Apple Three, LLC
9 (“Defendant LLCs”), are Washington limited liability companies whose registered agent is
10 Michael P. Appleby and whose business address is an identical address in Stanwood, WA.

11 6. At all times relevant to this Complaint, Defendant Apple One, LLC was the
12 owner of the residential multi-unit apartment property located at 201 5th Ave. N. (“Apple One
13 Apartment”) in Edmonds, WA.

14 7. At all times relevant to this Complaint, Defendant Apple Two, LLC was the
15 owner of the residential multi-unit apartment property located at 621 5th Ave. S. (“Apple Two
16 Apartment”) in Edmonds, WA.

17 8. At all times relevant to this Complaint, Defendant Apple Three, LLC was the
18 owner of the residential multi-unit apartment property located at 401 Pine Street (“Apple Three
19 Apartment”) in Edmonds, WA.

20 9. The Apple One Apartment, Apple Two Apartment, and Apple Three Apartment
21 (collectively, the “Apartment Properties”) are “dwelling[s]” as defined by 42 U.S.C. § 3602(b).
22
23

1 10. Defendant Debbie A. Appleby (“Defendant Appleby”) is a governor of each of
2 the Defendant LLCs, as well as of Whitney Lane, LLC. She resides in the Western District of
3 Washington.

4 11. At all times relevant to this Complaint, Defendant Appleby acted as rental agent
5 for the Apartment Properties, as well as for the residential single family home property located at
6 215 4th Ave. S. (“Whitney Lane Home”) in Edmonds, WA, owned by Whitney Lane, LLC, all of
7 which were used as rental properties, and was responsible for the advertisement and rental of
8 those properties.

9 12. At all times relevant to this Complaint, Defendant Appleby was acting as an agent
10 of Defendant LLCs, within the scope of her authority, and had actual or apparent authority from
11 Defendant LLCs to engage in the advertisement and rental of the Apartment Properties.

12 13. At all times relevant to this Complaint, the Apartment Properties were not
13 housing provided under any State or Federal program specifically designed and operated to assist
14 elderly persons, consistent with the requirements of 42 U.S.C. § 3607(b)(2)(A).

15 14. At all times relevant to this Complaint, the Apartment Properties were not
16 housing intended for, and solely occupied by, persons aged 62 or older, consistent with the
17 requirements of 42 U.S.C. § 3607(b)(2)(B).

18 15. At all times relevant to this Complaint, the Apartment Properties were not
19 housing intended and operated for occupancy by persons aged 55 or older, consistent with the
20 requirements of 42 U.S.C. § 3607(b)(2)(C)(i)-(iii), and did not publish and adhere to policies and
21 procedures that demonstrate the intent required under this provision and 24 C.F.R. § 100.306.

22 **IV. DEFENDANTS’ DISCRIMINATORY HOUSING PRACTICES**

1 16. From at least March 31, 2014 through November 30, 2015, Defendants have
2 maintained and implemented a policy or practice of not renting apartment units at the Apartment
3 Properties to families with children.

4 17. In or around March 2014, the Sytsmas had decided to move from Seattle, WA,
5 where they owned a home, to Edmonds, WA, where they would seek to rent an apartment, in
6 order to reduce their family's commute time.

7 18. On the morning of March 31, 2014, Mrs. Sytsma saw a "For Rent" sign at Apple
8 One Apartment. She called the phone number on the sign, (360) 652-xxxx¹ from her cell phone,
9 and left a voicemail stating that she was interested in renting the available apartment unit for
10 herself, her husband, and their one-year-old son.

11 19. Shortly thereafter, Mrs. Sytsma received a text message from Defendant Appleby,
12 texting from (386) 227-xxxx. The text message stated, in full: "(1/3) Hi this is Apple Rentals.
13 The residence in Edmonds on 4th rents for 1950.00 per month. You can view the ad on craigslist
14 for more information and pictures. (2/3) Carport only Very adorable inside. Hardwoods
15 modern interior paint colors new paint to come on the exterior. Must be able to take care of the
16 yard Thanks (3/3) for your interest! Let me know if I may be of further assistance. 215 4th ave
17 s Edmonds **This is the only one that's not an adult building.**" (Emphasis added.)

18 20. Mrs. Sytsma responded, in full: "The house looks perfect, but with utilities not
19 included, that's too high for us. :(Any wiggle room on the price? I see you have a 2 bedroom
20 on 621 5th ave s for \$1400 in an active building. Is that available?"

21 21. Defendant Appleby responded, in full: "**All apartments are adult only** On the
22 house they would wiggle only 50.00 a month less." (Emphasis added.)
23

¹ Full telephone numbers have been redacted throughout this Complaint.

1 22. Mrs. Sytsma responded, in full: “For your apartments, do you have official senior
2 community exemption status? As a property manager, you must know that discriminating
3 against children is illegal.”

4 23. Defendant Appleby responded, in full: “**We have a child policy which is the**
5 **right of the landlord.**” (Emphasis added.)

6 24. Mrs. Sytsma responded, in full: “No. That is not your right. You only have a
7 right if you’re officially exempt as a senior community. Do you fall within that exemption? I’m
8 on WA State’s Human Rights Commission’s website now, and it states ‘unless a building ...
9 qualifies as housing for older people (55+), it may not discriminate based on familial status.’ Do
10 you fall qualify? We really will be great tenants, and unless you can prove that you qualify, I
11 will pursue this. Would you instead like to meet me and show me the great apartment properties
12 you have available?”

13 25. Defendant Appleby and Mrs. Sytsma did not communicate to each other further.

14 26. All of the text messages alleged in paragraphs 19 through 24 were exchanged on
15 or about the morning of March 31, 2014.

16 27. On various occasions between at least April 1, 2014 and November 30, 2015,
17 Defendants placed or caused to be placed advertisements for rental units at the Apartment
18 Properties that stated that they were in an adult building, including advertisements appearing on:

19 a. April 1, 2014, on Craigslist.org, for an available 2-bedroom unit at Apple
20 One Apartment, which stated “Adult building;”

21 b. April 1, 2014, on Craigslist.org, for an available 3-bedroom, 2nd floor unit
22 at Apple Three Apartment, which stated “Adult building;”
23

- 1 c. April 1, 2014, on Craigslist.org, for an available 3-bedroom, top floor unit
2 at Apple Three Apartment, which stated “Adult building;”
- 3 d. August 19, 2015, on ForRentByOwner.com, for two available 2-bedroom
4 units, at Apple One and Apple Two Apartments, which stated “Adult
5 building;”
- 6 e. September 9, 2015, on Hotpads.com, for an available 2-bedroom unit at
7 Apple One Apartment, which stated “Adult, security building;”
- 8 f. September 9, 2015, on Hotpads.com, for an available 2-bedroom unit at
9 Apple Two Apartment, which stated “Quiet and secure adult building;”
- 10 g. November 16, 2015, on ForRentByOwner.com, for two available 2-
11 bedroom units at Apple One and Two Apartments, which stated “Adult
12 building;” and
- 13 h. November 30, 2015, on ForRentByOwner.com, for two available 2-
14 bedroom units at Apple One and Two Apartments, which stated “Adult
15 building.”

16 **V. HUD ADMINISTRATIVE PROCESS**

17 28. On or about April 21, 2014, Mr. and Mrs. Sytsma timely filed a complaint of
18 housing discrimination with the United States Department of Housing and Urban Development
19 (“HUD”), pursuant to 42 U.S.C. § 3610(a).

20 29. On or about April 23, 2014, HUD referred the complaint to the Washington State
21 Human Rights Commission for investigation, pursuant to 42 U.S.C. § 3610(f).

22 30. On or about September 10, 2015, HUD reactivated the complaint, pursuant to 24
23 C.F.R. § 103.110(a). Pursuant to 42 U.S.C. §§ 3610(a) and (b), HUD conducted and completed

1 an investigation of the complaint, attempted conciliation between the parties without success,
2 and prepared a final investigative report. Based on the information gathered in the investigation,
3 the Secretary of HUD, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause
4 existed to believe that Defendants Appleby, Apple One, LLC, Apple Two, LLC, and Apple
5 Three, LLC had engaged in illegal discriminatory housing practices. Accordingly, on January
6 19, 2017, the Secretary of HUD issued a Charge of Discrimination, pursuant to 42 U.S.C.
7 § 3610(g).

8 31. The Secretary of HUD charged Defendants Appleby, Apple One, LLC, Apple
9 Two, LLC, and Apple Three, LLC with violations of 42 U.S.C. § 3604(a), (b), and (c).

10 32. On or about February 1, 2017, Mr. and Mrs. Sytsma elected to have these charges
11 resolved in a federal civil action, pursuant to 42 U.S.C. § 3612(a). On or about February 2,
12 2017, an Administrative Law Judge issued a Second Amended Notice of Election terminating the
13 administrative proceeding from the docket pursuant to the Sytsmas' timely election.

14 33. The Secretary of HUD subsequently authorized the Attorney General to file this
15 action on behalf of Mr. and Mrs. Sytsma, pursuant to 42 U.S.C. § 3612(o).

16 **FIRST CLAIM FOR RELIEF**

17 34. Paragraphs 1 through 33 are realleged and incorporated by reference.

18 35. By the conduct referred to in the foregoing paragraphs, Defendants have:

- 19 a. Refused to negotiate for the rental of, or otherwise made unavailable or
20 denied, a dwelling because of familial status, in violation of 42 U.S.C. §
21 3604(a);
- 22 b. Discriminated in the terms, conditions, or privileges of rental of a
23 dwelling, or in the provision of services or facilities in connection

1 therewith, because of familial status, in violation of 42 U.S.C. § 3604(b);
2 and

3 c. Made, printed, or published, or caused to be made, printed, or published,
4 statements and advertisements with respect to a dwelling that indicate a
5 preference, limitation, or discrimination based on familial status, or an
6 intention to make such preference, limitation, or discrimination, in
7 violation of 42 U.S.C. § 3604(c).

8 36. As a result of Defendants' conduct, the Sytsmas have suffered damages and are
9 aggrieved persons within the meaning of 42 U.S.C. § 3602(i).

10 37. Defendants' conduct described herein was intentional, willful, and taken in
11 reckless disregard for the rights of the Sytsmas.

12 **SECOND CLAIM FOR RELIEF**

13 38. Paragraphs 1 through 37 are realleged and incorporated by reference.

14 39. Defendants' conduct, policies, and statements, as described above, constitute:

15 a. A pattern or practice of resistance to the full enjoyment of rights granted by
16 the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, in violation of 42 U.S.C. §
17 3614(a); or

18 b. A denial to a group of persons of rights granted by the Fair Housing Act, 42
19 U.S.C. § 3601 *et seq.*, which raises an issue of general public importance, in
20 violation of 42 U.S.C. § 3614(a).

21 40. In addition to the Sytsmas, there may be other persons who have been injured by
22 Defendants' discriminatory conduct as described above. Such individuals would also be
23 aggrieved persons within the meaning of 42 U.S.C. § 3602(i).

1 41. Defendants' conduct described herein was intentional, willful, and taken in
2 reckless disregard for the rights of others.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, the United States prays that the Court enter judgment against Defendants
5 and requests relief as follows:

- 6 a) A declaration that the Defendants' actions, policies and practices, as alleged herein,
7 violate the Fair Housing Act;
- 8 b) An injunction against Defendants, their agents, employees, and successors, and all
9 other persons in active concert or participation with any of them, prohibiting them
10 from:
- 11 i. discriminating on the basis of familial status in any aspect of the rental of a
12 dwelling;
- 13 ii. failing or refusing to take such steps as may be necessary to restore, as nearly as
14 practicable, the Sytsmas and any other aggrieved persons to the position they
15 would have been in but for the discriminatory conduct; and
- 16 iii. failing or refusing to take such steps as may be necessary to prevent the
17 recurrence of any discriminatory conduct in the future and to eliminate, to the
18 extent practicable, the effects of Defendants' unlawful housing practices.
- 19 c) An award of monetary damages to the Sytsmas and each other person injured by the
20 Defendants' discriminatory practices, pursuant to 42 U.S.C. §§ 3612(o), 3613(c)(1)
21 and 3614(d)(1)(B).
- 22 d) An assessment of a civil penalty against the Defendants in an amount authorized by
23 42 U.S.C. § 3614(d)(1)(C), to vindicate the public interest.

1 e) Such additional relief as the interests of justice may require.

2
3 Dated this 3rd day of March, 2017.

4 Respectfully submitted,

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6
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