

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

FAIR HOUSING CENTER OF :
CENTRAL INDIANA, INC.; PATRICIA :
LIGHT; MADONNA QUICK; HELEN : CASE NO. 1:16-cv-339
WELLS; and CAROLYN BROCK; :

Plaintiffs, :

-vs- :

COMPLAINT

UNITED CHURCH RESIDENCES OF : **DEMAND FOR JURY TRIAL**
INDIANAPOLIS, INDIANA, INC.; :
UNITED CHURCH HOMES, INC.; and :
SHEA HODOWANIEC; :

Defendants. :

PRELIMINARY STATEMENT

1. Plaintiffs are a fair housing organization and persons with disabilities of the United States, who reside in or do business in Marion County, Indiana, with claims of discriminatory treatment as a result of unlawful conduct by the Defendants.

JURISDICTION

2. This is a fair housing action arising under the Fair Housing Act of 1988, 42 U.S.C. § 3601, *et seq.* Jurisdiction is conferred on this court by 42 U.S.C § 3613 and 28 U.S.C. § 1331. This Court also has supplemental jurisdiction claims under 28 U.S.C. § 1367 to hear and determine Plaintiffs’ state law claims because they are related to their federal claims and arise out of a common nucleus of operative facts.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because all of the acts or omissions giving rise to the within claims occurred within the Marion County, Indiana.

4. This Court has authority to grant declaratory relief as well as compensatory and punitive damages pursuant to Rule 57 of the Federal Rules of Civil Procedure, 42 U.S.C. §3613(c)(1) and 28 U.S.C. §§ 2201 and 2202. This Court also has the authority to award reasonable attorneys' fees and costs to a prevailing party pursuant to 42 U.S.C. §3613(c)(2).

PARTIES

5. The Fair Housing Center of Central Indiana, Inc. ("Fair Housing Center") is a non-profit organization with its office located in Marion County, Indiana and primarily serving 24 counties in Central Indiana. Its mission is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education and outreach.

6. Plaintiff Patricia Light is an individual with disabilities that qualify her as disabled under the Fair Housing Act of 1988, 42 U.S.C. § 3602(h)(1), and the Indiana Fair Housing Act, Ind. Code § 22-9.5.

7. Plaintiff Madonna Quick is an individual with disabilities that qualify her as disabled under the Fair Housing Act of 1988, 42 U.S.C. § 3602(h)(1), and the Indiana Fair Housing Act, Ind. Code § 22-9.5.

8. Plaintiff Helen Wells is an individual with disabilities that qualify as disabled under the Fair Housing Act of 1988, 42 U.S.C. § 3602(h)(1), and the Indiana Fair Housing Act, Ind. Code § 22-9.5.

9. Plaintiff Carolyn Brock is an individual with disabilities that qualify as disabled under the Fair Housing Act of 1988, 42 U.S.C. § 3602(h)(1), and the Indiana Fair Housing Act, Ind. Code § 22-9.5.

10. Defendant United Church Residences of Indianapolis, Indiana, Inc. ("UCR") is the owner of a residential dwelling known as "Capitol Station," located at 7828 Madison Avenue, Indianapolis, Indiana (the "Property" or "Capitol Station"). UCR is an Ohio corporation.

11. Defendant United Church Homes, Inc. (“UCH”) is the sponsor and manager of Capitol Station and was in that role at all relevant times to the matters described in this Complaint. UCH is an Ohio corporation.

12. Defendant Shea Hodowaniec, on information and belief, is an employee of UCR and/or UCH and at all times relevant to this Complaint was acting within the scope of her employment.

FACTUAL ALLEGATIONS

13. Capitol Station is a residential apartment building financed by the U. S. Department of Housing and Urban Development (“HUD”) to provide housing for persons age 62 years of age or older. Residents of Capitol Station pay 30% of their adjusted monthly income for rent. The balance of the rental portion for each tenant is paid to Capitol Station by HUD.

14. Capitol Station is a three story building with 48 units which are serviced by one elevator.

15. Capitol Station is advertised by the Defendants as “wheelchair accessible” and having apartments with “lots of space for maximum mobility.”

16. Many of the residents of Capitol Station have mobility impairments that are readily apparent. A number of residents on the second and third floors of Capitol Station rely on the elevator in order to access or leave their apartments due to their mobility impairments.

17. During the months of August and September 2015, Ms. Light, Ms. Quick, Ms. Wells, and Ms. Brock (collectively referred to as the “Individual Plaintiffs”) resided at Capitol Station on the top floor.

18. On or about August 25, 2015, the sole elevator at Capitol Station stopped working.

19. The elevator remained out of service, continuously, for approximately five and a half weeks.

20. Plaintiff Ms. Quick was scheduled to have knee-replacement surgery and had to limp down the stairs in physical distress due to the elevator not working when it came time for her to leave for her surgery in late August.

21. After her surgery and rehabilitation was complete, and when she would normally be able to return to her home at Capitol Station, Ms. Quick's return home was delayed because the rehabilitation facility would not return her to the third-floor apartment that was not serviced by a working elevator. Ms. Quick therefore incurred additional cost and the indignity of not being able to return to the comfort of her home to recover until a point later than she would have liked. The additional time in the rehabilitation facility also cost Ms. Quick more money than if she had been able to return home on schedule.

22. Plaintiff Ms. Light has a visible mobility impairment necessitating the use of a walker. Ms. Light also has an emotional support dog named Tuck who needs to be walked 3-4 times a day. Ms. Light had a knee replacement early in the summer of 2015 and part of her wellness plan to recover from her knee surgery was to walk Tuck three times a day. Instead, due to the elevator being out in late August through September, Ms. Light was only able to leave her apartment on the third floor on rare occasions—she estimates she left about three times in the five and one half weeks the elevator was out. Ms. Light was not able to walk Tuck herself and had to rely on others to do so. She was not able to access fresh air or be outdoors except on those limited occasions. Ms. Light's physical and mental health deteriorated due to the stress of the elevator being out for such an extended period of time.

23. Plaintiff Ms. Wells, although disabled herself, felt a moral imperative to help her neighbors on the third floor of Capitol Station who were in worse shape than she. Ms. Wells therefore assisted a number of residents of Capitol Station, including but not limited to Ms. Light and wheelchair bound, third floor tenant Charlotte Barber, by providing assistance to them during

the five and half weeks the building had no elevator. Ms. Wells and her family members ran errands, purchased groceries, walked dogs and did a variety of other services for her neighbors at Capitol Station. The additional walking up and down the 62 steps at Capitol Station due to her additional activity on behalf of her neighbors caused Ms. Wells physical pain.

24. Plaintiff Ms. Brock has significant mobility impairments that affect her ability to use stairs. During the time of the elevator outage, Ms. Brock relied on others to assist her, including but not limited to her daughter who herself has physical limitations. Ms. Brock was put on additional medication that caused distressing side effects due to the pain she experienced in using the stairs.

25. Ms. Brock was so unhappy about the elevator outage that she moved from Capitol Station, despite the replacement housing she obtained in November of 2015 being significantly smaller and being in a less desirable location.

26. The tenants of Capitol Station, including but not limited to Ms. Wells, Ms. Brock, and Ms. Light, made numerous requests to Defendants for reasonable accommodations for themselves and for the other residents of Capitol Station such as help getting groceries, walking dogs, as well as requesting the elevator be promptly repaired and seeking information about when the elevator would be repaired.

27. Despite repeated requests for assistance and information, the Defendants did not engage in an interactive dialogue regarding the requests for reasonable accommodations with the residents of Capitol Station, including but not limited to the Individual Plaintiffs.

28. In addition, Capitol Station did nothing to help the Individual Plaintiffs, or, on information and belief, other residents of Capitol Station trapped on the two upper floors of the Property but provide empty promises that “volunteers” would be provided to assist These volunteers never showed or provided assistance.

29. It was, or should have been, readily apparent to Defendants that visibly disabled residents of Capitol Station, including but not limited to each of the Individual Plaintiffs, that being trapped on the top floor of Capitol Station was a threat to their health and safety.

30. Defendant Ms. Hodowaniec at one point commented to one of the Individual Plaintiffs that she was hired to take care of the building, not the residents.

31. Defendant Ms. Hodowaniec took a one-week vacation during the time the elevator was out of service.

32. On or about October 2, 2015, Plaintiff Fair Housing Center learned about the problems caused for disabled residents at Capitol Station due to the elevator not being in service and the non-responsiveness of the building's owner and management to repeated requests for accommodations.

33. Plaintiff Fair Housing Center expended its resources in launching an investigation into what was happening at Capitol Station. Staff visited Capitol Station and spoke with residents. The Fair Housing Center also contacted Defendants and notified Defendants of their concern for the Capitol Station residents with disabilities. As a result, the Fair Housing Center suffered damage as its limited resources were not able to be used to further other parts of its mission.

34. Approximately three days after Plaintiff Fair Housing Center contacted Defendant UCH, the elevator was repaired.

35. All of the Plaintiffs suffered harm because of Defendants' actions and lack of action in providing reasonable accommodations to the Individual Plaintiffs necessary to allow each of the residents with disabilities to use and enjoy their home.

FIRST CAUSE OF ACTION

36. Plaintiffs reassert the foregoing allegations and incorporate them by reference as if fully set forth herein.

37. Defendants, by a pattern or practice of illegal discrimination, have violated the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, by discriminating against the Individual Plaintiffs, who are individuals with disabilities, in the following ways:

(a) Refusing to provide reasonable accommodations in violation of 42 U.S.C. § 3604(f)(3)(B); and

(b) Otherwise making a dwelling unavailable in violation of 42 U.S.C. § 3604(f)(1).

38. Defendants' actions and/or inactions were intentional, willful, malicious, and in wanton and reckless disregard of the rights and feelings of the Individual Plaintiffs causing them physical harm, humiliation and emotional distress.

39. Defendants' actions and conduct harmed the Fair Housing Center in causing it to expend its limited resources on investigation and in attempts to redress the harm caused to the tenants with disabilities of Capitol Station.

40. Defendants' actions and/or inaction had a disparate impact on people with disabilities residing at Capitol Station.

SECOND CAUSE OF ACTION

41. Plaintiffs reassert the preceding paragraphs and incorporate them by reference as if fully set forth herein.

42. Defendants, by a pattern or practice of illegal discrimination, have violated the Indiana Fair Housing Act, Ind. Code § 22-9.5, *et seq.*, by discriminating against the Individual Plaintiffs, who are individuals with disabilities, in the following ways:

(a) Otherwise making unavailable or denying a dwelling to any renter because of the disability of the renter in violation of Ind. Code § 22-9.5-5-5(a)(1); and,

(b) Refusing to make reasonable accommodations in rules, policies, practices or services when the accommodations may be necessary to afford the person equal opportunity to use and enjoy the dwelling in violation of Ind. Code § 22-9.5-5-5(c)(2).

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request this Court to grant the following relief:

- A. Declare that the acts of the Defendants herein complained of violated 42 U.S.C. § 3604, and Ind. Code § 22-9.5-5-5;
- B. Order that Defendants receive training and alter their policies and practices to provide reasonable accommodations to disabled tenants residing in their property;
- C. Award actual and compensatory damages under the federal Fair Housing Act, 42 U.S.C. § 3613(c), and the Indiana Fair Housing Act, Ind. Code § 22-9.5;
- D. Award punitive damages under the federal Fair Housing Act, 42 U.S.C. § 3613(c);
- E. Award costs of suit, including reasonable attorneys' fees; and
- F. Grant such additional legal and equitable relief as the Court deems just.

Respectfully submitted,

s/ Thomas E. Crishon

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JURY DEMAND

A jury is hereby demanded on all legal issues.

s/ Thomas E. Crishon

Thomas E. Crishon

One of the Attorneys for Plaintiffs