

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

FAIR HOUSING CENTER OF CENTRAL
INDIANA, INC.; and DIAMOND SMITH,

Plaintiffs,

vs.

LaPORTE LAKE PROPERTIES, LLC d.b.a.
COOLSPRING ESTATES APARTMENTS,

Defendant.

Case No.:

**COMPLAINT FOR DAMAGES AND
EQUITABLE RELIEF**

JURY DEMAND

Plaintiffs FAIR HOUSING CENTER OF CENTRAL INDIANA, INC. (“FHCCI”) and
DIAMOND SMITH (collectively “Plaintiffs”) allege as follows:

I. NATURE OF ACTION

1. This is a civil rights action for damages, and declaratory and injunctive relief, to remedy the Defendant’s discriminatory occupancy restriction policy of refusing housing to families with children. Plaintiffs bring this action under the Fair Housing Act of 1968 (the “FHA”), as amended, 42 U.S.C. § 3601 *et seq.*, the Indiana Fair Housing Act (the “IFHA”), Ind. Code §§ 22–9.5–1–1 *et seq.*, and the Michigan City Code of Ordinances §§ 66-101 *et seq.*

II. JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over Plaintiffs’ claims under the FHA under 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(4), and 42 U.S.C. § 3613(a). The Court has supplemental jurisdiction under 28 U.S.C. § 1367(a) over Plaintiffs’ state and local law claims

because they are so related to claims within the Court's jurisdiction that they form part of the same case or controversy.

3. The Court has personal jurisdiction over Defendant within the Northern District of Indiana.

4. Venue is proper in the Northern District of Indiana because a substantial part of the events complained of occurred in this District, and because Defendant maintains its principal place of business in this District. *See* 28 U.S.C. §1391(b) & (c).

III. PARTIES

5. Plaintiff SMITH is an individual currently residing in Chicago, IL with her husband, Donell Hunter, and their five minor children.

6. Plaintiff FHCCI is a non-profit fair housing organization incorporated under the laws of the State of Indiana, located in Indianapolis, Indiana. FHCCI's mission is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education, and outreach.

7. Defendant LaPORTE LAKE PROPERTIES, LLC is a domestic limited liability company formed under the laws of the State of Indiana with its principal office located at 3208 Dody Avenue, Unit #2, Michigan City, Indiana 46360. Defendant owns and operates Coolspring Estates Apartment ("Coolspring Estates"), a residential apartment complex located at 3208 Dody Avenue Michigan City, Indiana 46360.

8. The owner/manager of LaPORTE LAKE PROPERTIES, LLC is unknown. The registered agent is Incomp. Services, Inc., 200 Byrd Way, Suite 205, Greenwood, IN 46143.

IV. FACTUAL ALLEGATIONS

9. Coolspring Estates is an apartment complex in Michigan City, Indiana. The complex consists of six three-story buildings containing studio (540 sq. ft.), one-bedroom (840 sq. ft.), and two-bedroom (1,040 sq. ft.) apartments.

10. In January 2020, Ms. Smith was living in Indiana and searching for new housing for her and her family. At that time, Ms. Smith's family consisted of herself, her husband, and three minor children.

11. In the course of her housing search, Ms. Smith found a listing on Apartments.com for a two-bedroom unit that was located at Coolspring Estates.

12. On January 21, 2020, Ms. Smith visited the Coolspring Estates leasing office. At that time she first interacted with a female leasing agent, who then directed Ms. Smith to a male property manager to tour a model unit.

13. The property manager asked how many bedrooms Ms. Smith was interested in, and she responded, two. The property manager then asked who would be living in the two-bedroom unit, to which she responded, her husband, herself, and three minor children.

14. After learning that Ms. Smith intended to live in the apartment with her husband and three minor children, the property manager said, "We can't accept you." He then explained that because it is a two-bedroom unit, only two people can live there. Ms. Smith asked about the basis for the restriction, and the property manager responded that it "was the law."

15. Thereafter, the property manager refused to give Ms. Smith a tour of the model unit or discuss her family's qualifications.

16. Ms. Smith subsequently contacted FHCCI on January 22, 2020 to inquire about her rights and options.

17. FHCCI provides an array of programs and services designed to eliminate housing discrimination through counseling, education, advocacy, research, and enforcement of fair housing laws. FHCCI services and programs include:

- (a) Assistance and advocacy on behalf of housing discrimination victims;
- (b) Counseling and referral services regarding housing discrimination;
- (c) Public education regarding discriminatory housing practices, remedies available, and federal, state, and local fair housing laws;
- (d) Leadership, training, and advocacy to new immigrant communities regarding their rights under fair housing laws;
- (e) Regular participation in group meetings, workshops, conferences, and other events designed to promote and ensure compliance with fair housing laws;
- (f) Assistance to governmental entities in meeting their fair housing obligations;
- (g) Service on various community boards designed to promote and ensure compliance with fair housing laws; and
- (h) Investigation and testing of potential housing discrimination.

18. In pursuit of its mission, FHCCI provides fair housing testing services. Between 2016 and 2019 alone, FHCCI opened 264 fair housing investigations and conducted over 1,000 fair housing tests. During tests, trained individuals pose as prospective tenants or purchasers to gather information about whether a housing provider is complying with fair housing laws.

19. After interviewing Ms. Smith, FHCCI conducted an intake interview, counseled Ms. Smith about her fair housing rights, and conducted an investigation of her complaint using fair housing testing.

20. On November 12, 2020, a FHCCI protected class tester (“PT”) telephoned Coolspring Estates and spoke with a leasing agent named “Mark.”

21. PT inquired about the availability of a two-bedroom apartment, and Mark told PT that they did have two-bedroom apartments available.

22. During the conversation PT mentioned that her husband works in LaPorte and that her daughters are excited to decorate their new room.

23. Mark clarified with PT that she said it would be herself, her husband, and her kids living in the apartment, to which PT responded, yes. Mark then asked PT if she has two kids. PT corrected him and said that she had three girls.

24. Mark paused and then told PT that could be a problem. Mark said that they usually only allow two people per bedroom.

25. PT told Mark that her girls were little and listed their ages as six-, three-, and two-years old. Mark told PT that does not matter. Mark then falsely told her the rule is a state guideline which only allows two heartbeats per bedroom.

26. Mark told PT that she will need a three-bedroom unit and their complex does not have any.

27. At all times relevant to this Complaint, LaPORTE LAKE PROPERTIES, LLC and UNKNOWN OWNER/MANAGER, controlled and directed the actions of its property managers and employees, including the male agent identified as Mark, and managed and operated Coolspring Estates.

V. DAMAGES TO SMITH

28. As a result of Defendant’s discriminatory practices, Ms. Smith’s family was deprived of an important housing opportunity.

29. As a result of Defendant's discriminatory practices, Ms. Smith's family was forced to move to the southside of Chicago in order to find affordable housing that could accommodate her family. Ms. Smith states that the location that her family is currently living in is more dangerous than where she could have lived at Coolspring Estates in Michigan City, and that this has caused her to suffer substantial emotional distress. Ms. Smith further states that the housing that her family found in Chicago is more expensive than the housing opportunity declined to her in Michigan City, which has placed additional, unnecessary strain on their family finances.

30. As a result of Defendant's discriminatory practices, Ms. Smith has also suffered emotional distress from feeling that her family was turned down for an apartment because of the number of children that they have, including humiliation, embarrassment, disappointment, and frustration.

VI. DAMAGES TO FHCCI

31. As a result of Defendant's discriminatory practices, prospective tenants with children in communities served by FHCCI have been, and continue to be, harmed.

32. Defendant's discriminatory practices frustrate FHCCI's mission to ensure equal housing access.

33. Defendant's discriminatory practices also forced FHCCI to divert scarce resources from its other duties and activities in order to investigate Defendant's discriminatory occupancy policy and practices. This diversion includes conducting tests to determine whether Defendant complied with fair housing laws, spending resources to educate the public on the rights of families with children under fair housing laws, assisting Ms. Smith in the exercise, enjoyment, and enforcement of her rights to fair housing, pursuing its complaint in the administrative process, and bringing this action.

VII. CLAIMS

A. Violation of the Fair Housing Act

By their acts described above, Defendant violated the Fair Housing Act, 42 U.S.C. § 3604 *et seq.*, as amended, and related regulatory provisions, by:

34. Making statements with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination based on familial status;

35. Refusing to rent, negotiate the rental of, or otherwise make available a dwelling based on prospective applicants' familial status;

36. Representing, because of familial status, that dwellings were not available for inspection or rental, when such dwellings were in fact so available;

37. Discriminating in the terms, conditions, or privileges of rental of dwellings based on familial status; and

38. Causing damages to Plaintiffs.

39. Plaintiffs are aggrieved persons within the meaning of 42 U.S.C. § 3613(a).

B. Violations of the Indiana Fair Housing Act

By their acts described above, Defendant violated the Indiana Fair Housing Act, Ind. Code § 22-9.5-5-7, by:

40. Making statements with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination based on familial status;

41. Refusing to rent, negotiate the rental of, or otherwise make available a dwelling based on prospective applicants' familial status;

42. Representing, because of familial status, that dwellings were not available for inspection or rental when dwellings were in fact available;

43. Discriminating in the terms or conditions of access to a facility in the business of renting dwellings based on familial status; and

44. Causing damages to Plaintiffs.

C. Violations of the Michigan City Code of Ordinances

By their acts described above, Defendant violated the Michigan City Code of Ordinances, §§ 66-107, by:

45. Making statements with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination based on familial status;

46. Refusing to rent, negotiate the rental of, or otherwise make available a dwelling based on prospective applicants' familial status;

47. Representing, because of familial status, that dwellings were not available for inspection or rental when dwellings were in fact available;

48. Discriminating in the terms, conditions, or privileges of rental of dwelling based on familial status; and

49. Causing damages to Plaintiffs.

D. Negligence (Plaintiff SMITH only)

50. Defendant injured Ms. Smith by want of ordinary care or skill in its ownership or management of its property and agents.

51. This negligence includes Defendant's failure to train, monitor, and supervise its employees and/or agents and its failure to ensure their compliance with the federal Fair Housing Act, the Indiana Fair Housing Act, and applicable regulations.

VIII. INJUNCTION ALLEGATIONS

52. Defendant's unlawful policy, practices, and customs are ongoing and continue to violate Plaintiffs' rights and the rights of other applicants, and as such there is no adequate remedy at law. Plaintiffs are entitled to injunctive relief prohibiting Defendant from enforcing an illegal occupancy restriction based on applicants' familial status.

IX. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs requests the following relief:

53. For trial by jury on all claims;
54. For a declaration that Defendant's conduct violated federal, state, and city fair housing laws;
55. For an injunction to stop Defendant's illegal conduct and prevent it from occurring again in the future; and including requirements of adopting a new non-discriminatory policy, training, monitoring, testing, reporting, and auditing;
56. For general compensatory damages on all claims in an amount to be proven at the time of trial;
57. For punitive damages under 42 U.S.C. § 3613(c)(1), and as otherwise allowed by law;
58. For Plaintiffs' costs of suit, disbursements, and attorney's fees pursuant to 42 U.S.C. § 3613(c)(2), Ind. Code § 22-9.5.9-1, and as otherwise allowed by law;
59. For leave to conform the pleadings to the proof at trial; and
60. For such other and further relief as the Court deems just and proper.

DATED this 31st day of March, 2021.

Respectfully submitted,

/s/Judith Fox

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