

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

BANK UNITED d/b/a
COMMONWEALTH UNITED MORTGAGE
AND ERIKA STEINIGER,

Defendants.

COMPLAINT

The United States of America alleges:

1. This action is brought pursuant to Section 812(o) of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. § 3612(o) by the United States on behalf of Gertrude Douglas, Angela Douglas, and Teresa Harris.

Jurisdiction and Venue

2. This Court has jurisdiction over this action under 28 U.S.C. § 1345 and 42 U.S.C. § 3612(o).

3. Venue is proper in that the claims alleged herein arose in Erie County, New York, within the Western District of New York.

Complainants and Defendants

4. Gertrude Douglas resides with her two minor children, complainants Angela Douglas and Teresa Harris. Gertrude Douglass, Angela Douglas, and Teresa Harris are handicapped as defined by the Fair Housing Act, 42 U.S.C. § 3602(h).

5. Defendant Bank United d/b/a Commonwealth United Mortgage (hereinafter "Bank United") was, during the time period relevant to the events at issue in this lawsuit, the mortgage lending division of Bank United, a Texas-based federally chartered savings bank.

7. During the time period relevant to the events at issue in this lawsuit, Defendant Erika Steiniger was a loan officer for Bank United. Erika Steiniger resides in Erie County, within the Western District of New York.

Factual and Legal background

8. On or about August 5, 1997, Gertrude Douglas, for herself and on behalf of her minor children Angela Douglas and Teresa Harris, filed a timely complaint with the United States Department of Housing and Urban Development (hereinafter "HUD"), pursuant to Section 810(a) of the Fair Housing Act, as amended 42 U.S.C. § 3610(a). In her complaint, Ms. Douglas alleged that the Defendants had discriminated on the basis of her and her children's handicap in violation of the Fair Housing Act.

9. Pursuant to the requirements of 42 U.S.C. §§ 3610(a) and (b) the Secretary of HUD (hereinafter "Secretary") conducted and completed an investigation of Gertrude Douglas's complaint, attempted conciliation without success, and prepared a final investigative report. Based on information gathered in the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause exists to believe that discriminatory housing practices have occurred. Therefore, on October 30, 1998, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants Bank United and Erika Steiniger with engaging in discriminatory housing practices in violation of the Fair Housing Act.

10. On or about November 24, 1998, Defendants Bank United and Erika Steiniger elected to have the charge resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a).

11. The Secretary has authorized the Attorney General to commence a civil action on behalf of Gertrude Douglas, Angela Douglas, and Teresa Harris pursuant to 42 U.S.C. § 3612(o).

12. The home located at 125 Floss Avenue, Buffalo, New York, is a dwelling within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

13. On or about November 22, 1997, Gertrude Douglas met with Defendant Erika Steiniger to apply for a Federal Housing Administration-insured mortgage loan through Defendant Bank United to purchase a home located at 125 Floss Avenue, Buffalo, New York. Ms. Steiniger had previously provided a pre-qualification certificate to Ms. Douglas, certifying that her income was sufficient to qualify for the mortgage loan. Under Federal Housing Administration guidelines, lenders may rely on documentation from the paying agency that the income is expected to continue for at least three years. Ms. Douglas provided Ms. Steiniger documentation from the Social Security Administration (hereinafter "SSA") verifying the amount of Ms. Douglas's and her children's Supplemental Security Income payments. Ms. Steiniger did not seek further documentation from the SSA about the expected continuation of these payments. Instead, during this meeting

Ms. Steiniger repeatedly asked Ms. Douglas about the nature of, and details concerning, her and her children's disabilities and instructed her to write out in

detail the cause and nature of her disability. Ms. Douglas explained that she did not want to provide personal and intimate details about her disability which she traces back to a traumatic event during her childhood. As a result of Ms. Steiniger's repeated inquiries, Ms. Douglas withdrew her application.

14. The Defendants, through the actions referred to in Paragraph 13, above, have engaged in discriminatory conduct on the basis of handicap in violation of the Fair Housing Act. More specifically, Defendants have:

- a. Discriminated in the sale, or otherwise made unavailable or denied, dwellings to buyers because of handicap, in violation of 42 U.S.C. § 3604 (f)(1);
- b. Discriminated in the terms, conditions, or privileges of the sale of a dwelling, or in the provision of services in connection with such a dwelling, because of handicap in violation of 42 U.S.C. § 3604 (f)(2); and
- c. Discriminated in making available a loan for the purchase of a dwelling, or in the terms or conditions of such a loan, based on handicap in violation of 42 U.S.C. § 3605.

15. Gertrude Douglas, Angela Douglas, and Teresa Harris have suffered damages as the result of Defendants' conduct described above.

16. The discriminatory actions of the Defendants were intentional, willful, and taken in disregard for the rights of Gertrude Douglas, Angela Douglas, and Teresa Harris.

WHEREFORE, the United States prays that the Court enter an order that:

1. Declares that defendants' housing practices, as alleged herein, violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619;
2. Enjoins Defendants, their officers, employees, and agents, and all other persons in active concert or participation with any of them, from discriminating based on handicap in any aspect of the sale of a dwelling or in a residential real estate-related transaction as defined by 42 U.S.C. § 3605(b);
3. Awards such damages as would fully compensate Gertrude Douglas, Angela Douglas, and Teresa Harris for injuries caused by Defendants' discriminatory conduct, pursuant to 42 U.S.C. § 3612(o)(3) and 42 U.S.C. § 3613(c); and
4. Awards punitive damages to Gertrude Douglas, Angela Douglas, and Teresa Harris, pursuant to 42 U.S.C. § 3612(o)(3) and 42 U.S.C. § 3613(c).

The United States further prays for such additional relief as the interests of justice may require.

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