

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

REBECCA TAYLOR,	:	DOCKET NO. 3:08-cv-00557(JBA)
On behalf of herself and all others	:	
similarly situated,	:	
Plaintiffs	:	
V.	:	
THE HOUSING AUTHORITY OF THE	:	
CITY OF NEW HAVEN,	:	
JIMMY MILLER, individually and in his	:	
official capacity as Executive Director,	:	
DAVID ALVARADO,	:	
HIONA LEFFINGWELL,	:	
LOUISE PERSALL,	:	
ROBERT SOLOMON, and	:	
JASON TURNER, individually and in their	:	
official capacities as members of the	:	
Housing Authority Commission for the	:	
City of New Haven,	:	
Defendants	:	April 17, 2008

**AMENDED COMPLAINT**

Plaintiff Rebecca Taylor has spina bifida and uses a wheelchair. This is an action to require the defendants to help Ms. Taylor use her Section 8 subsidy to rent accessible housing. Ms. Taylor participates in the federal Section 8 program, administered in New Haven by the Housing Authority of the City of New Haven (“HANH”). Unable to navigate her wheelchair down the steps to the apartment building where she now lives, Ms. Taylor is exposed to danger from accidents or intruders whenever she is home alone.

Upon information and belief, her situation is similar to that of a significant number of other Section 8 participants. The plaintiffs seek injunctive relief, declaratory judgment, and compensatory damages to the named plaintiff, attorney’s fees and costs of litigation under the

Fair Housing Act Amendments, Section 504 of the Rehabilitation Act, and the National Housing Act.

### **HISTORY OF NONCOMPLIANCE BY THE DEFENDANTS**

1. HANH is a recipient of funding from the United States Department of Housing and Urban Development (“HUD”) with which it administers the Section 8 Housing Choice Voucher program in New Haven (“Section 8”).

2. Through 24 C.F.R. § 8.28, HUD requires recipient housing authorities to assist disabled individuals and their families who are attempting to use their Section 8 vouchers to find accessible dwellings. The regulation specifies, *inter alia*, that:

“(a) . . . [A] recipient administering a Section 8 . . . housing voucher program shall: . . . .

(3) When issuing a Housing Certificate or Housing Voucher to a family which includes an individual with handicaps include a current listing of available accessible units known to the PHA and, if necessary, otherwise assist the family in locating an available accessible dwelling unit.”

3. Through 24 C.F.R. § 100.204, HUD additionally requires recipient housing authorities to reasonably accommodate disabled individuals and their families where necessary to allow them to participate in the Section 8 program.

4. In or about 1994, HUD reviewed HANH to assess its compliance with Section 504 of the Rehabilitation Act. As a result, HANH entered into a voluntary agreement with HUD addressing past non-compliance with their obligations to disabled persons in need of housing, including the obligations to help search for accessible apartments under 24 C.F.R. § 8.28 and 24 C.F.R. §

100.204 (the “1994 Agreement”). In 2006, HUD again reviewed HANH to assess its compliance with Section 504 of the Rehabilitation Act. In 2007, HUD issued a report, stating that HANH was not in compliance with certain obligations to disabled persons in need of housing, including the obligations of 24 C.F.R. § 8.28 and 24 C.F.R. § 100.204. See Exhibit A, Section 504 Report by Carl Harris. As a result, HANH agreed to enter into another Voluntary Compliance Agreement (the “2007 Agreement”).

5. On September 19, 2007, a federal court ordered HANH to provide a current list of accessible, available apartments known to it, as required by 24 C.F.R. § 8.28(a)(3) to one Section 8 family. See Gaither v. Housing Authority of the City of New Haven, 2007 WL 3378533, D. Conn., November 2, 2007 (NO. 3:07-CV-667WWE).

6. As of April 9, 2008—a more than six months later—HANH has failed to create the current list of available, accessible apartments known to it, as required by 24 C.F.R. § 8.28(a)(3), and therefore still does not provide such list when issuing a Section 8 voucher to a family which includes an individual with handicaps.

7. Jimmy Miller currently serves as the Executive Director of HANH. At the direction of Miller, HANH “does not do searches for apartments.” See Exhibit B, Admission #1 from Plaintiffs’ First Request for Admissions from Jimmy Miller, dated July 18, 2007.

8. Each of the defendant members of the Commission personally knows that HANH was not in full compliance with 24 C.F.R. § 8.28 and 24 C.F.R. § 100.204, yet each has voted in favor of measures that violate such regulations, and fraudulently voted to certify that HANH was in compliance with its fair housing obligations.

9. HANH has not been fully compliant with either 24 C.F.R. § 8.28 or 24 C.F.R. §100.204, at any time during the tenure of Miller. Instead, HANH has demonstrated a continuous pattern of non-compliance with its obligations under 24 C.F.R. § 8.28, 24 C.F.R. § 100.204, the Fair Housing Act Amendments and Section 504 of the Rehabilitation Act. Such pattern continues through the present.

**THE NAMED PLAINTIFF'S REQUEST FOR SEARCH ASSISTANCE**

10. Taylor family currently resides in a three-bedroom apartment at 205 Dover Street, 1<sup>st</sup> floor in New Haven. The family consists of Rebecca Taylor and her son and daughter. Although it is located on the first floor, the apartment is not wheelchair accessible, in that both the front and back entrances to the building must be reached by stairs.

11. Whenever she is alone in the home, Rebecca Taylor is endangered by the lack of any wheelchair-accessible way of exiting from her home.

12. Rebecca Taylor has searched via the newspaper for an accessible two or three-bedroom apartment, without success.

13. In early 2008, the Bank of America instituted foreclosure proceedings on the apartment building where the Taylor family resides.

14. Soon thereafter, Section 8 staff person Denise Senior conducted a recertification of the Taylor household.

15. During that recertification, Ms. Senior and Ms. Taylor discussed the fact that the 205 Dover Street apartment building was in foreclosure, and the strong likelihood that Ms. Taylor would have to move out of the building very soon.

16. Ms. Taylor asked Ms. Senior if HANH would help her search for an accessible apartment.

17. Ms. Senior responded by stating that searching for an apartment was Ms. Taylor's responsibility under the Section 8 program.

18. Ms. Senior's response, described in paragraph 17, was a misrepresentation of the Section 8 program rules.

19. Ms. Senior's response, described in paragraph 17, represents the policy, pattern and/or practice of HANH toward disabled persons on Section 8 who ask for HANH's assistance in searching for an apartment.

20. On or about March 14, 2008 Ms. Taylor reiterated her concerns in a written request for a reasonable accommodation, which was received by HANH that same day. See Exhibit C, Reasonable Accommodation Letter from R. Taylor. HANH's own Administrative Plan requires HANH to respond to such a request within thirty days. Over thirty days have passed and HANH has not responded in any way.

21. On April 3, 2008 the Superior Court for the district of New Haven granted a motion for default against the owner of the building, Ms. Taylor's landlord, for failure to appear and defend the foreclosure proceedings against 205 Dover Street. See Exhibit D, Case Detail Docket for CV-08-5017975-S. Upon information and belief, the Taylor family is likely to be ejected from 205 Dover Street within the next sixty days.

#### **CLASS MEMBERS**

22. The proposed class definition is: "All current and future participants in the Section 8 Housing Choice Voucher program who, because of the disabilities and/or handicaps of themselves or

someone in their household, need assistance in searching for suitable dwellings to lease under the program.”

23. The proposed class is appropriate for certification under Rule 23 (b)(2) of the Federal Rules of Civil Procedure, because the Defendants have refused to act “on grounds generally applicable to the class,” and the plaintiffs seek primarily injunctive and declaratory relief.

24. The proposed class is “so numerous that joinder of all members is impracticable” within the meaning of Rule 23 (a)(1) of the Federal Rules of Civil Procedure. Upon information and belief, the Defendants’ policy, pattern and/or practice of refusing to assist disabled Section 8 participants in their searches for accessible housing pursuant to their obligations under 24 C.F.R. § 8.28 affects over three hundred current participants who hold Section 8 vouchers administered by HANH. Upon information and belief, HANH issues at least one hundred additional vouchers each year, and at least a third of those vouchers are issued to households that include a disabled member. Thus the class, while fluid, nevertheless comprises least four hundred voucher-holders and participants at any given point.

25. The proposed class has been subjected to identical or similar treatment by the Defendants, such that “there are questions of law or fact common to the class” within the meaning of Rule 23 (a)(2) of the Federal Rules of Civil Procedure.

26. The claims of named plaintiff Rebecca Taylor are “typical of the claims or defenses of the class” within the meaning of Rule 23 (a)(3) of the Federal Rules of Civil Procedure.

27. The named plaintiff Rebecca Taylor will “fairly and adequately protect the interests of the class” within the meaning of Rule 23 (a)(4) of the Federal Rules of Civil Procedure.

### **JURISDICTION AND VENUE**

28. Pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and 42 U.S.C. §1983, jurisdiction is proper in that plaintiff's claims alleged herein arise under federal law.

29. Venue is proper in that the facts giving rise to the claims alleged herein occurred in New Haven, Connecticut, and all parties reside or have their business address in New Haven, Connecticut.

### **PARTIES**

30. Named plaintiff Rebecca Taylor is a member of a household that participates in the Section 8 program, and has disabilities and handicaps, as those terms are defined in the Fair Housing Act Amendments and the Rehabilitation Act.

31. Defendant Jimmy Miller currently serves as the Executive Director of HANH. He is sued in his individual and official capacities.

32. Defendants David Alvarado, Ilona Leffingwell, Louise Persall, Robert Solomon, and Jason Turner are Commissioners of the Housing Authority Commission of the City of New Haven, and as such are responsible for directing and supervising the actions of HANH. They are each sued in their individual and official capacities.

33. Together, HANH, Miller, Alvarado, Leffingwell, Persall, Solomon, and Turner (the "Defendants") are jointly and severally liable for the harms alleged herein.

**COUNT I**  
**The Fair Housing Act Amendments 42 U.S.C. § 3604(F)**  
**and its implementing regulations at 24 C.F.R. Part 100**

34. The plaintiffs incorporate paragraphs 1 through 33 of this Complaint as if repeated in this Count I.

35. The Defendants' have intentionally discriminated against the plaintiffs on account of their disabilities, denying the plaintiffs the right to enjoy the benefits of participating in the Section 8 Program by refusing to provide search assistance to the plaintiffs that they routinely provide to non-disabled Section 8 households, including lists of available Section 8 apartments and mobility counseling services, and by refusing to reasonably accommodate them.

36. The Defendants have a policy, pattern and/or practice of discriminating against persons with disabilities and/or handicaps, as described in this Complaint.

37. The acts described in this Count I have injured and continue to injure the plaintiffs by making housing and services unavailable to them, or available only on different terms in violation of 42 U.S.C. §3604 et seq., and by denying them reasonable accommodation that were necessary to allow them to enjoy Section 8 housing.

38. The acts described in this Count I have injured and continue to injure the plaintiffs by causing them to suffer frustration, anxiety, emotional distress, and despair.

39. The acts and omissions described in this Count I were committed knowingly, intentionally, and with callous disregard for the rights of the plaintiffs.



**COUNT II**  
**Section 504 of the Rehabilitation Act (29 U.S.C. § 794 et seq.)**  
**and its implementing regulations at 24 C.F.R. Part 8**

40. Named plaintiff incorporates paragraphs 1 through 39 of this Complaint as if repeated in this Count II.

41. Named plaintiff Rebecca Taylor is “otherwise qualified” to participate in the Section 8 program.

42. Named plaintiff Rebecca Taylor requested that the defendants reasonably accommodate her by helping her to search for and lease a suitable unit under the Section 8 program.

43. The Defendants denied Rebecca Taylor’s requests for a reasonable accommodation, by one or more of the following acts:

- a. orally refusing to grant her request for reasonable accommodation;
- b. failing to respond to her request for reasonable accommodation in writing within the thirty-day period specified by HANH’s own Administrative Plan;
- c. responding to her request for reasonable accommodation in an unreasonable manner, such as delaying action on it without regard to how such delay might endanger or harm her or her family.

44. The acts described in this Count II have injured and continue to injure Rebecca Taylor by causing her to suffer frustration, anxiety, emotional distress, and despair.

**COUNT III**

**Section 1983 and the United States Housing Act of 1937, as amended, and 24 C.F.R. § 8.28**

45. The plaintiffs incorporate paragraphs 1 through 44 of this Complaint as if repeated in this Count III.

46. The Defendants' policies, pattern and/or practices violated subpart (a)(3) of 24 C.F.R. § 8.28, which requires that housing authorities must: "When issuing a Housing Certificate or Housing Voucher to a family which includes an individual with handicaps include a current listing of available accessible units known to the [housing authority] and, if necessary, otherwise assist the family in locating an available accessible dwelling unit."

47. The Defendants have been advised by HUD and others on numerous occasions from 1994 to the present that such policies, pattern and/or practices were unlawful.

48. The Defendants were further put on notice that their policies pattern and/or practices violated subpart (a)(3) of 24 C.F.R. § 8.28 by an Order issued by the Honorable Warren Eginton on September 19, 2007, enjoining HANH from its refusal to supply such listing.

49. The acts described in this Count III have injured and continue to injure the plaintiffs by causing them to suffer frustration, anxiety, emotional distress, and despair.

50. The acts and omissions described in this Count III were committed knowingly, intentionally, and with callous disregard for the rights of the plaintiffs.

**COUNT IV**  
**Injunctive Relief**

51. The plaintiffs incorporate paragraphs 1 through 50 of this Complaint as if repeated in this Count IV.

52. The plaintiffs seek to preserve the status quo by enjoining the Defendants' refusal to comply with 42 U.S.C. § 3604(F)(3)(B), Section 504 of the Rehabilitation Act and 24 C.F.R. § 8.28(a)(3).

53. The plaintiffs are likely to be irreparably harmed by the defendants' continuing noncompliance, as demonstrated by the defendants' failure to assist the named plaintiff, Rebecca Taylor, exposing her family to imminent homelessness and loss of her Section 8 benefits.

54. The plaintiffs are likely to prevail on the merits of their claims.

55. The balance of hardships tips decidedly in the plaintiffs' favor, inasmuch as the defendants are being asked to provide a purely administrative remedy, whereas Rebecca Taylor may lose her home, and her continued eligibility for a housing subsidy.

#### **PRAYER FOR RELIEF**

WHEREFORE, the plaintiff prays for relief from this Court, in the form of:

1. An injunction requiring the defendants to cease their noncompliance with the law, by:
  - a. making available to all Section 8 applicants and plaintiff class members a list of currently available, accessible apartments known to HANH, and continuing to update and make available such list on a monthly basis;
  - b. notifying in writing all members of HANH staff who have direct contact with Section 8 applicants and participant household of the policy changes contained in this order, and contract with the Connecticut Fair Housing Center to randomly perform testing of the effectiveness of such notice upon the practices of HANH staff on at least three occasions over the next twelve months;

c. using a mobility counseling service, or their own staff, if necessary, to timely assist plaintiff class members who need to move by providing assistance with the following activities:

- i. searching for suitably sized dwellings that are accessible or modifiable;
- ii. visiting such dwellings to determine whether they are truly accessible or modifiable;
- iii. applying for funding to make modifications for accessibility if necessary;

and

- iv. facilitating the leasing process.

3. A declaration that the defendants have violated their obligations under 24 C.F.R. § 8.28, and the Fair Housing Act Amendments of 1988, Section 504 of the Rehabilitation Act of 1973.

4. An award of compensatory damages to the named plaintiff;

5. An award of costs of suit, and reasonable attorney's fees pursuant to 42 U.S.C. §3613(c)(2) and any other applicable statute that would permit such award; and

6. Such other relief as the Court deems just.

Respectfully submitted,  
THE PLAINTIFFS

BY THEIR ATTORNEY: /s/ \_\_\_\_\_  
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