

OCT 08 2005

STATE OF NORTH DAKOTA
COUNTY OF CASS

IN DISTRICT COURT
EAST CENTRAL JUDICIAL DISTRICT

STATE OF NORTH DAKOTA, BY NORTH
DAKOTA DEPARTMENT OF LABOR,
FOR THE BENEFIT OF THE NORTH
DAKOTA FAIR HOUSING COUNCIL,

Plaintiff,

vs.

ALOIS VETTER,

Defendant.

FAIR HOUSING OF THE DAKOTAS,

Intervenor.

Case No. 09-04-C-02924

COMPLAINT IN INTERVENTION OF
FAIR HOUSING OF THE DAKOTAS

Intervenor Fair Housing of the Dakotas, formerly North Dakota Fair Housing Council, by and through its undersigned counsel, alleges as its complaint:

I. Parties

1. Defendant Alois Vetter owns and operates a rental premises located at 511 West Main, West Fargo, ND ("subject premises"). The subject premises is a dwelling within the meaning of N.D.C.C. § 14-02.5-01(8).

2. Intervenor Fair Housing of the Dakotas ("FHD") is a nonprofit corporation organized under the laws of the State of North Dakota with its principal place of business located in Bismarck, North Dakota. One of FHD's specific purposes and goals is the promotion of equal opportunity in the renting, purchasing, financing and advertising of housing and the elimination of all forms of illegal housing discrimination.

To this end, the activities in which FHD engages include, but are not limited to: providing support, encouragement and assistance to all seeking equal access to

housing in North and South Dakota. To accomplish those goals, FHD (1) provides community education on fair housing issues and encourage public involvement in promoting fair housing within the community; (2) provides information, support, and assistance when possible to anyone pursuing any rights and/or remedies allowed by law related to fair housing; (3) engages in any means allowed by law to uncover systematic and/or specific acts of illegal housing discrimination; and (4) becomes involved in other housing and/or civil rights activities that will benefit residents of the States of North Dakota and South Dakota. FHD is an aggrieved individual within the meaning of N.D.C.C. § 14-02.5-01(1).

II. Jurisdiction

3. On June 9, 2003, FHD filed a complaint pursuant to N.D.C.C. § 14-02.5-18 with the North Dakota Department of Labor (DOL), alleging that FHD was injured by a discriminatory housing practice committed by defendant Alois Vetter. DOL investigated the complaint, and on August 13, 2004, issued a charge of discrimination pursuant to N.D.C.C. § 14-02.5-26. On August 18, 2004, FHD served a timely notice of election, requesting that the claims asserted in the charge be decided in a civil action pursuant to N.D.C.C. § 14-02.5-30. Subsequent to that election, the DOL, through the Office of the Attorney General, served and filed this action on September 10, 2004, pursuant to N.D.C.C. § 14-02.5-36. Pursuant to that same provision, FHD now seeks to intervene in this action. N.D.C.C. § 14-02.5-36 (An "aggrieved individual may intervene in the action.")

III. Facts

A. Mayer Complains to FHD.

4. On September 20, 2002, Nicole Mayer contacted FHD, complaining that Mr. Vetter, her landlord, had discriminated and retaliated against her. Specifically, Ms. Mayer reported that Mr. Vetter had sexually harassed and assaulted Ms. Mayer while

she was his tenant. Following that harassment, Mr. Vetter retaliated against Ms. Mayer for complaining about his unlawful conduct. Ms. Mayer reported that the West Fargo Police Department had referred Ms. Mayer to FHD for the purpose of filing a complaint of housing discrimination.

5. Further investigation by FHD revealed that on June 6, 2002, Ms. Mayer had reported the assault and harassment to the West Fargo Police Department. Based upon an investigation conducted by that department, the Cass County State's Attorney's office filed criminal charges against Mr. Vetter on August 19, 2002. Those charges alleged that Mr. Vetter knowingly had sexual contact with Ms. Mayer by grabbing her breasts and that Mr. Vetter knew or had reasonable cause to believe that the contact was offensive to Ms. Mayer. After those charges were filed, Mr. Vetter contacted Ms. Mayer and stated that he intended to evict Ms. Mayer from the subject premises unless she caused the State's Attorney to drop the criminal charges. On September 12, 2002, the West Fargo Police Department completed their investigation of this allegation of witness tampering, and referred their report to the Cass County State's Attorney's office, which amended its criminal charges against Mr. Vetter, adding a count for witness tampering. In a plea agreement, Mr. Vetter pleaded guilty to obstruction in exchange for dismissal of the sexual assault charges.

B. Investigation Conduct by FHD.

6. In response to Ms. Mayer's complaint, FHD conducted its own investigation into the operation of Mr. Vetter's residential rental properties. That investigation revealed that Mr. Vetter discriminated against woman on the basis of sex by engaging in sexual harassment of female tenants, including Ms. Mayer.

7. In response to Mr. Vetter's discriminatory housing practices, FHD undertook efforts of education and outreach, including counseling the victims of

discrimination and providing residents with information regarding their fair housing rights.

C. Injuries

8. By reason of Mr. Vetter's unlawful acts and practices, FHD has suffered injury to its ability to carry out its purpose and to serve the public in its effort to eliminate housing discrimination, to resolve fair housing disputes, to find and to make available decent rental housing for persons, which is free from discrimination and harassment. Mr. Vetter's unlawful acts and practices have also caused the FHD to suffer economic losses in staff pay, and in the inability to undertake other efforts to end unlawful housing practices. Accordingly, FHD is entitled to compensatory damages.

9. In doing the acts of which FHD complains, Mr. Vetter acted with reckless disregard for the requirements of the federal Fair Housing Act and Chapter 14-02.5 of the North Dakota Century Code. Accordingly, FHD is entitled to punitive damages.

10. There now exists an actual controversy between the parties regarding Mr. Vetter's duties under federal and state fair housing laws. Accordingly, FHD is entitled to declaratory relief.

11. Unless enjoined, Mr. Vetter will continue to engage in the unlawful acts and the pattern or practice of discrimination described above. FHD has no adequate remedy at law. FHD is now suffering, and will continue to suffer, irreparable injury from Mr. Vetter's acts and pattern or practice of discrimination unless relief is provided by this Court. Accordingly, FHD is entitled to injunctive relief.

IV. Claims

A. First Claim

[N.D.C.C. chapter 14-02.5]

12. Plaintiff realleges and incorporates by reference each paragraph previously alleged in this complaint.

13. Defendant has injured plaintiff by committing discriminatory housing practices in violation of N.D.C.C. §§ 14-02.5-02, 14-02.5-03, 14-02.5-45, 14-02.5-36 and 14-02.5-39. Accordingly, plaintiff is entitled to the relief, as alleged in paragraphs 8 through 11.

B. Second Claim

[Fair Housing Act]

12. Plaintiff realleges and incorporates by reference each paragraph previously alleged in this complaint.

13. Defendant has injured plaintiff by committing discriminatory housing practices in violation of 42 U.S.C. § 3613. Accordingly, plaintiff is entitled to the relief, as alleged in paragraphs 8 through 11.

V. Relief

Wherefore, plaintiff prays for entry of judgment against defendant that:

1. Awards compensatory and punitive damages according to proof;
2. Declares that defendant has violated the provisions of the federal Fair Housing Act and N.D.C.C. chapter 14-02.5;
3. Enjoins all unlawful practices complained about herein and imposes affirmative injunctive relief requiring defendant, his partners, agents, employees, assignees, and all persons acting in concert or participating with him, to take affirmative action to provide equal housing opportunities to all tenants and prospective tenants;

///

///

///

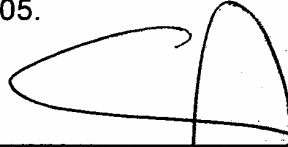
///

///

///

4. Awards costs of this action, including reasonable attorneys' fees; and,
5. Awards all such other relief as the Court deems just.

Dated: September 28, 2005.



Christopher Brancart (CA Bar # 128475)
Brancart & Brancart
Attorneys for Plaintiff in Intervention

Post Office Box 686
Pescadero, CA 94060
Tel: (650) 879-0141
Fax: (650) 879-1103

Thomas Dayton Fiebiger (ND Bar # 04190)
Ohnstad Twichell, PC
15 Broadway, Suite 500
Fargo, ND 58102-4907
Tel: (701) 280-5801
Fax: (701) 280-5803