

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PEOPLE OF THE STATE OF NEW YORK,
by ANDREW M. CUOMO, ATTORNEY GENERAL
OF THE STATE OF NEW YORK,

Plaintiff,

--against--

GOLDEN TOUCH MANAGEMENT; 1650
REALTY ASSOCIATES; and HARRY PUPOVIC,

Defendants.
-----X

Index No.:

COMPLAINT &
JURY DEMAND

The People of the State of New York, by and through its attorney, Andrew M. Cuomo, Attorney General of the State of New York, as and for its complaint, alleges as follows:

PRELIMINARY STATEMENT

1. This action is brought by the People of the State of New York against Golden Touch Management, Inc. ("Golden Touch"), 1650 Realty Associates, LLC ("1650 Realty") and their agent, Harry Pupovic ("Pupovic"), for their pattern or practice of discriminating against African-Americans who seek to live at 1648-50 Ocean Parkway, a 71-unit residential rental complex located at 1648-50 Ocean Parkway, Brooklyn, New York. 1650 Realty owns 1648-50 Ocean Parkway; Golden Touch manages 1648-50 Ocean Parkway; and Pupovic is the rental agent at 1648-50 Ocean Parkway. Defendants' discriminatory practices deprive African-Americans of the opportunity to rent apartments at 1648-50 Ocean Parkway.
2. Plaintiff's federal claims arise under Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.* ("Fair Housing Act"); 42 U.S.C. § 1981, as amended by the Civil Rights Act of 1991; and 42

U.S.C. § 1982. Plaintiff's state and local law claims arise under New York State Human Rights Law, New York State Executive Law § 296(5); New York State Civil Rights Law § 40-c; New York City Administrative Code 8-107(5); and New York State Executive Law § 63(12).

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 42 U.S.C. § 3613, 28 U.S.C. § 1331, and 28 U.S.C. § 1343. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) in that the events or omissions giving rise to this action occurred in the Eastern District of New York.

PARTIES

5. Plaintiff, the People of the State of New York, is represented by its chief legal officer, Andrew M. Cuomo, Attorney General of the State of New York. Where, as here, the interests and well being of the people of the State of New York as a whole are implicated, the Attorney General possesses *parens patriae* authority to commence legal actions in federal court for violations of federal and New York State law.
6. The State of New York has a quasi-sovereign interest in protecting residents from the harmful effects of housing discrimination and preventing the substantial social and economic harm created thereby. Discrimination in the rental of housing harms all New Yorkers by depriving its citizens of long-standing rights and fostering and perpetuating a separate and unequal society rejected by the courts and this country for decades.
7. The discriminatory practices at issue here have harmed and will continue to harm a substantial segment of the population, namely African-Americans seeking to rent apartments at 1648-50 Ocean Parkway. These practices also significantly impede the

ability of all current and future residents of 1648-50 Ocean Parkway to live in an integrated community free from discrimination.

8. Absent action by the Attorney General, African-Americans who are denied the opportunity to rent apartments at 1648-50 Ocean Parkway will be unable to meaningfully and promptly vindicate their rights and will, collectively, suffer irreparable harm. Individuals who have been the subject of housing discrimination are unlikely to bring private suits because they are often not in a position to know that they are being treated unfavorably and unlawfully discriminated against. If harmed individuals do bring private suits, their own individualized interests may impede their ability to effectively seek necessary broad injunctive relief to stop the discriminatory practices. Therefore, complete relief cannot be obtained through private lawsuits by individual plaintiffs.
9. Defendant 1650 Realty at all relevant times to this Complaint has been the owner of 1648-50 Ocean Parkway, with its principal place of business located at 80 Cuttermill Road, Great Neck, New York 11021.
10. Defendant Golden Touch at all times relevant to this Complaint has been the management company for 1648-50 Ocean Parkway, with its principal place of business located at 80 Cuttermill Road, Great Neck, New York 11021.
11. Defendant Pupovic at all relevant times to this Complaint has been employed by 1650 Realty as the rental agent at 1648-50 Ocean Parkway. While acting within the scope of his authority as agent, Defendant Pupovic is responsible, among other things, for the showing of available apartments at 1648-50 Ocean Parkway and for the provision of information to prospective tenants, and was personally involved in the unlawful housing discrimination practices described herein.

FACTUAL ALLEGATIONS

12. Beginning in August 2008 and continuing over the course of a year, the Office of the Attorney General (“OAG”) conducted fair housing tests in which paired individuals with similar characteristics except for race visited 1648-50 Ocean Parkway on the same day and inquired about the availability of one or two-bedroom apartments. The OAG recorded these tests to assess whether illegal discrimination is occurring.
13. The fair housing tests revealed that Defendants are engaged in a pattern or practice of housing discrimination on the basis of race or color at 1648-50 Ocean Parkway by, among other things, engaging in the following practices:
 - a. On repeated occasions, telling African-American applicants that there were no available two-bedroom apartments while later showing White applicants an available two-bedroom apartment on the same day; and
 - b. On another occasion, discouraging African-American applicants from applying for apartments by telling them that there were pending applications for the apartment which may prevent their application from being considered, while not telling White applicants who inquired on the same day of any pending applications.

FIRST CAUSE OF ACTION FAIR HOUSING ACT, 42 U.S.C. § 3604(a), (b) & (d)

14. The Fair Housing Act, 42. U.S.C. § 3604, makes it unlawful:
 - a. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.
 - b. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of

services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

- c. To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
15. Apartments at 1648-50 Ocean Parkway are dwellings within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
 16. Defendants, through actions including those described above, have engaged in a pattern and practice of housing discrimination on the basis of race or color at 1648-50 Ocean Parkway by:
 - a. Refusing to rent, or negotiate for the rental of, or by otherwise making unavailable or denying dwellings to persons because of race or color, in violation of 42 U.S.C. § 3604(a);
 - b. Discriminating against persons in the terms, conditions, or privileges of rental, or in the provision of services or facilities in connection therewith, because of race or color, in violation of 42 U.S.C. § 3604(b); and
 - c. Representing to persons because of race or color that dwellings are not available for rental when such dwellings are in fact so available, in violation of 42 U.S.C. § 3604(d).
 17. Defendants' conduct described above was intentional, willful, and taken in disregard for the rights of others.
 18. Defendants have thereby violated 42 U.S.C. § 3604.

SECOND CAUSE OF ACTION
42 U.S.C. § 1981

19. 42 U.S.C. § 1981 guarantees all persons the same right “to make and enforce contracts” as is enjoyed by white persons.
20. Defendants’ pattern and practice of housing discrimination denies African-Americans the same rights enjoyed by Whites to contract for apartments at 1648-50 Ocean Parkway.
21. Defendants have thereby violated 42 U.S.C. § 1981.

THIRD CAUSE OF ACTION
42 U.S.C. § 1982

22. 42 U.S.C. § 1982 ensures that all “citizens shall have the same right . . . as is enjoyed by white citizens . . . to inherit, purchase, lease, sell, hold, and convey real and personal property.”
23. Defendants’ pattern and practice of housing discrimination denies African-Americans the same rights enjoyed by Whites to lease apartments at 1648-50 Ocean Parkway.
24. Defendants have thereby violated 42 U.S.C. § 1982.

FOURTH CAUSE OF ACTION
NEW YORK STATE EXECUTIVE LAW § 296(5)

25. New York State Executive Law § 296(5)(a) makes it unlawful for the owner or managing agent of a housing accommodation, or their agents and employees:
 - a. To refuse to sell, rent, lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status of such person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available.
 - b. To discriminate against any person because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status in the terms, conditions

or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

26. Apartments at 1648-50 Ocean Parkway are housing accommodations pursuant to New York State Executive Law § 292(1).
27. Defendants have engaged in a pattern and practice of housing discrimination by refusing to rent, or otherwise making unavailable and denying housing accommodations to African-Americans based on their race or color in violation of §296(5)(a)(1).
28. Defendants also discriminate in the terms, conditions, or privileges of rental in violation of § 296(5)(a)(2).
29. Defendants' conduct described above was willful, wanton, or malicious.
30. Defendants have thereby violated New York State Executive Law § 296(5).

FIFTH CAUSE OF ACTION
NEW YORK STATE CIVIL RIGHTS LAW § 40-c

31. New York State Civil Rights Law § 40-c prohibits the denial of civil rights on the basis of a person's race.
32. Defendants' pattern and practice of housing discrimination denies African-Americans the right to rent apartments at 1648-50 Ocean Parkway, which is a denial of civil rights on the basis of a person's race.
33. Defendants have thereby violated New York State Civil Rights Law § 40-c.

SIXTH CAUSE OF ACTION
NEW YORK CITY ADMINISTRATIVE CODE § 8-107(5)

34. New York City Administrative Code § 8-107(5) makes it unlawful for the owner or managing agent of a housing accommodation, or their agents or employees:
 - a. To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any person or group of persons

such a housing accommodation or an interest therein because of the actual or perceived race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status of such person or persons, or because of any lawful source of income of such person or persons, or because children are, may be or would be residing with such person or persons.

- b. To discriminate against any person because of such person's actual or perceived race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status, or because of any lawful source of income of such person, or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith.

35. Apartments at 1648-50 Ocean Parkway are housing accommodations pursuant to New York City Administrative Code § 8-102(10).
36. Defendants have engaged in a pattern and practice of housing discrimination by refusing to rent, or otherwise denying or withholding housing accommodations to African-Americans based on their race or color in violation of § 8-107(5)(1).
37. Defendants also discriminate in the terms, conditions, or privileges of rental in violation of § 8-107(5)(2).
38. Defendants have thereby violated New York City Administrative Code § 8-107(5).

SEVENTH CAUSE OF ACTION
NEW YORK STATE EXECUTIVE LAW § 63(12)

39. New York State Executive Law § 63(12) prohibits repeated and persistent illegal acts in the carrying out of a business.
40. Defendants have repeatedly and persistently violated 42 U.S.C. § 3604, 42 U.S.C. § 1981, 42 U.S.C. § 1982, New York State Executive Law § 296(5), New York State

Civil Rights Law § 40-c, and New York City Administrative Code § 8-107(5) by engaging in a pattern and practice of housing discrimination on the basis of race or color at 1648-50 Ocean Parkway.

41. Defendants have thereby violated New York State Executive Law § 63(12).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff request that this Court:

- a) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that Defendants' policies and practices, as alleged herein, violate the Fair Housing Act, 42 U.S.C. § 1981, 42 U.S.C. § 1982, New York State Executive Law § 296(5), New York State Civil Rights Law § 40-c, New York City Administrative Code § 8-107(5), and New York State Executive Law § 63(12);
- b) Enjoin Defendants' unlawful discriminatory pattern and practice of denying the opportunity to rent apartments at 1648-50 Ocean Parkway on the basis of race or color, and order Defendants to implement policies and procedures sufficient to prevent such unlawful actions in the future;
- c) Assess civil penalties against Defendants pursuant to New York State Executive Law § 297 and New York State Civil Rights Law § 40-d;
- d) Award appropriate compensatory and punitive damages;
- e) Award Plaintiff reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and 42

U.S.C. § 3613(c)(2) and New York City Administrative Code § 8-502; and

- f) Award such other and further relief as this Court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: New York, New York
July 6, 2010

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