

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Linda Lee Soderstrom, Maria Johnson,
Craig Goodwin, Jurline Bryant, Norma
Ziegler, and Julio Stalin de Tourniel, on
behalf of themselves and others similarly
situated, and

Civil No. 16-CV-00233-ADM-KMM

Claire Jean Lee, individually, and

**FIRST AMENDED
CLASS ACTION COMPLAINT**

HOME Line, a Minnesota nonprofit
corporation,

Plaintiffs,

vs.

MSP Crossroads Apartments LLC, a
Minnesota corporation, and Soderberg
Apartment Specialists (SAS), a Minnesota
corporation,

Defendants.

I. INTRODUCTION

1. In 2015 Defendants MSP Crossroads Apartments LLC purchased the Crossroads at Penn Apartments in Richfield, Minnesota. With 698 deeply affordable rental units, this complex is one of the largest unsubsidized but affordable sources of rental housing in the Twin Cities region. Since acquiring Crossroads, Defendants MSP Crossroads Apartments LLC and Defendant Soderberg Apartment Specialists (the managing agent) have been systematically taking steps to reposition the complex in the market in order to appeal to and house a different tenant demographic population.

Crossroads has been home to Plaintiffs, a group of largely low income households, with disproportionate percentages of disabled residents, and Latino and other minority residents, as well as significant numbers of tenants using rent vouchers through the Minnesota Group Residential Home (GRH) Program and the Housing Choice Voucher Program (Section 8).

2. Defendant has now renamed the complex “Concierge Apartments,” is dramatically increasing rents, and is installing new features such as granite countertops, a golf simulator and a pet spa designed to appeal to young professionals. Defendants have and are continuing to force many current tenants and protected class members to move out through a combination of the following actions: increasing rents by up to 31%, requiring all existing tenants to reapply under restrictive admission standards, tightening occupancy standards to two persons per unit which discriminates against children, refusing to continue under the Housing Choice Voucher program, and making continued participation under the Group Residential Home (GRH) program impossible as well.

3. These actions by Defendants collectively make housing unavailable to past, current and future residents of the complex who are protected class members, in violation of the Fair Housing Act. Defendants’ actions constitute disparate treatment and cause disparate impact on Plaintiffs because of their status as disabled tenants or tenants of color or on the basis of familial discrimination or national origin discrimination. Defendants’ actions violate the Fair Housing Act, 42 USC§ 3604 (b), by making housing unavailable, and by seeking to remake the Concierge tenant population in ways that will predictably reduce the population of protected class tenants. Defendants’ actions also

violate 42 USC§ 3604 and 24 CFR § 100.500, in that any legally sufficient justification for defendant's actions could be accomplished in a less discriminatory manner to Plaintiffs. Plaintiffs seek to enjoin actions by Defendant which will displace them and to obtain other relief to remedy the injuries of current tenants and those who have been displaced.

II. JURISDICTION

4. This Court has jurisdiction pursuant to 28 USC§ 1331 and § 1343. This action is authorized by 42 USC§ 3613. Declaratory relief is authorized by 28 USC§ 2201 and § 2202. The Court has supplemental jurisdiction to consider state law claims pursuant to 28 USC§ 1367.

III. PARTIES

5. Plaintiffs are described below:
- a. Linda Lee Soderstrom has resided at the complex since 2010. She is disabled, reliant on public assistance and her Section 8 voucher. She attempted to reapply as directed by Defendants but the management would not take her application. She will be required to move when her lease is up in October 2016. She brings this action both on behalf of herself and on behalf of all others similarly situated, pursuant to Fed. R. Civ. P. 23.
 - b. Maria Johnson is an African American who resided at the complex from 2011 until November 30, 2015. She was forced to move at that time because she attempted to re-apply but was denied due to a

bankruptcy from 2012 and insufficient credit score. Even if those were not barriers to remaining, paying increased rent would have eventually been a barrier as well. Ms. Johnson brings this action both on behalf of herself and on behalf of all others similarly situated, pursuant to Fed. R. Civ. P. 23.

- c. Craig Goodwin has resided at the complex since 2010. He is disabled, dependent on SSDI, and his Section 8 voucher. Mr. Goodwin is Native American. He anticipates moving as of February 2016 in order to find another place to use his Section 8 voucher. He brings this action both on behalf of himself and on behalf of all others similarly situated, pursuant to Fed. R. Civ. P. 23.
- d. Jurline Bryant is senior citizen African American with disabilities whose income is limited to Social Security and her husband's pension, and who also relies on using her Section 8 voucher while going to college. The complex has been home to her since about 2001. She anticipates having to leave by May 2016. She brings this action both on behalf of herself and on behalf of all others similarly situated, pursuant to Fed. R. Civ. P. 23.
- e. Norma Ziegler is a person with disabilities whose rent at the complex is paid by the GRH program. She has resided at the complex since 2011. Because she cannot remain on GRH after her lease is up she will have to move by October 2016 if not sooner. Ms.

Ziegler says they “have let us know that the current tenants are disposable for a better class of people.”

f. Julio Stalin de Tourniel, a Latino man, has resided at the complex since 2014 with his partner and a son, who is now nine months old. Besides being unable to afford the increased rent, Defendants have told Plaintiff that because they count the infant as one of the two persons who can occupy a unit, the family of three does not qualify to remain. Plaintiffs anticipate having to move when their lease is up in September 2016.

g. Claire Jean Lee has resided at the complex since 1996. She is permanently disabled, dependent on the Supplemental Security Income program (SSI), and on the use of her Section 8 voucher. She reapplied in October 2015 but was denied due to her Section 8 voucher. She will be required to move as of May 31, 2016.

6. Many of the tenants with disabilities who reside at the complex have issues related to their mental health. The stress of being displaced from their homes and lacking the resources to move elsewhere is significantly exacerbating their symptoms.

7. Plaintiff HOME Line is a nonprofit tenant advocacy organization, originally based in suburban Hennepin County and now operating throughout Minnesota. HOME Line provides free legal, organizing, education and advocacy services so that tenants can solve their own rental housing problems. HOME Line also works to improve

public and private policies relating to rental housing by involving affected tenants in the process.

8. A substantial portion of HOME Line's tenant organizing and public policy work involves efforts to preserve the existing supply of affordable rental housing for Minnesota's low and moderate income households. HOME Line has been working with tenants to preserve the affordability of their subsidized rental housing since 1997. Through this work, HOME Line has successfully helped preserve the affordability of 93 different subsidized complexes, and helped to preserve over 6,800 units of affordable housing. HOME Line has been actively working with plaintiffs at Crossroads/Concierge since Defendants announced their plans for Concierge in October 2015.

9. Defendant MSP Crossroads Apartments LLC, a Minnesota corporation, is the owner of Concierge Apartments, having acquired the complex on or about October 1, 2015.

10. Defendant Soderberg Apartment Specialists (SAS), a Minnesota corporation, is the current manager of the complex, and responsible for implementing the changes at Concierge announced by the owners. On information and belief SAS President Jim Soderberg also has an ownership interest in the Concierge.

IV. CLASS ALLEGATIONS

11. Plaintiffs seek to represent a class defined as all tenants who have resided at Crossroads at Penn Apartments in Richfield, Minnesota as of October 1, 2015 and through the resolution of this action, who are members of a protected class under the Fair

Housing Act, and who have been involuntarily displaced, or are threatened with displacement due to the collective impact of Defendants' actions described herein.

12. The class is so numerous that joinder of all members is impracticable.

13. There are questions of law and/or fact common to the class, as set forth below.

14. Plaintiffs' claims are typical of the claims of the class as a whole.

15. Plaintiffs will fairly and adequately represent the interest of the class.

Plaintiffs know of no conflicts of interest among members of the class.

16. Plaintiffs are represented by attorneys who are experienced class action litigators and will adequately represent the interest of the entire class.

17. A class action is appropriate in this case pursuant to Fed. R. Civ. P. 23(b)(2) because

- a. Defendants have acted on grounds generally applicable to the class, making appropriate injunctive or declaratory relief with respect to the class as a whole.
- b. Questions of law and fact common to the plaintiffs' class include:
 - i. Whether Defendants' actions as described herein have resulted in the disparate treatment of plaintiffs on the basis of their protected class status under the Fair Housing Act;
 - ii. Whether Defendants' actions as described herein have caused a disparate impact on plaintiffs on the basis of their status as protected class members under the Fair Housing Act.

V. FACTS

18. Plaintiff tenants currently or until recently lived in what was known as the Crossroads Apartments in Richfield, Minnesota, now known as the Concierge. The

complex consists of 698 units, almost exclusively one bedroom apartments, with rents as of September 2015 ranging from \$710/month to \$760/month. This has made the Crossroads Apartments perhaps the largest source of unsubsidized affordable rental housing in the Twin Cities Region.

19. The Crossroads has also served as a critical source of housing for low income disabled and in some cases formerly homeless residents under the State of Minnesota's Group Residential Housing Program (GRH), one aspect of which provides rental vouchers to enable tenants to live in the private market. To be eligible, recipients must be low income and either seniors or adults with disabilities. At the time Defendant purchased the Crossroads, approximately 100 residents relied on GRH rent subsidies. The GRH program can pay rent and utilities up to \$891/month. A large share of GRH program participants are persons with disabilities. As described further below, Defendants' actions are making it largely impossible, practically speaking, for GRH program participants to remain at Concierge.

20. In addition, tenants with Housing Choice Vouchers under the Section 8 program also had come to rely on using those vouchers at this complex, as well as some tenants using other vouchers under smaller specialized programs. At the time of acquisition, approximately 35 residents used Housing Choice vouchers at Crossroads. Defendants will no longer accept vouchers after May 2016.

21. According to Defendant SAS president Jim Soderberg, at or shortly after the time of acquisition, the Concierge housed 2230 total residents.

22. The tenant population as of September 2015 was generally lower income with significant numbers of tenants of color, particularly Latino tenants, and persons with disabilities.

23. In September 2015, Defendant MSP Crossroads Apartments LLC acquired the complex from the previous owners.

24. On September 30, defendant issued a letter to all residents, attached hereto as Exhibit A. The letter announced a change in name to reflect “our exciting future plans. The new name is Concierge Apartments.” The letter informed tenants that they must vacate at the end of their lease term unless they choose to reapply and be considered under new screening criteria.

25. The letter further advised that residents reapplying and approved for residency would then be paying new market rate rents. Meanwhile, renovation would begin on all units, with kitchen upgrades in the form of new cabinets, granite countertops, and a new sink. Since “Management does not participate in the Section 8 program,” Section 8 residents would be phased out after a transition period.

26. Prior to the September 30 notice, rents varied somewhat but were generally in the low \$700’s, including as low as \$710/month. At least some of the tenants received notices shortly before the sale to Defendant increasing their rents from \$740 to \$769.

27. Reports on new rents to be charged have also varied somewhat. According to ForRent.com, the Concierge is advertising units available at \$879 to 899/month for one bedroom units, with larger one bedroom units renting at \$929-949/month. A tenant who was recently paying \$740/month and would now have to pay between \$879 and \$929,

would be facing an increase of between 19% and 26%. A tenant who has been paying \$710/month and now faces the same new rent would be incurring an increase of between 24% and 31%.

28. Despite evidence that the previous owner T. E. Miller had kept up the apartments well, James Soderberg of Defendant Soderberg Apartment Specialists, the manager of the complex, announced that he was planning extensive interior and exterior overhauls of the property, characterizing the make-over as a “total transformation” of the apartment building. On another occasion, Soderberg promised “a spectacular, condo-quality renovation.”

29. It is evident that Defendant seeks to substantially change the nature of the tenant population at Concierge. The ForRent.com website describes the complex in this way: “Enjoy a gourmet kitchen with stainless steel appliances, granite counters, and hardwood style flooring and extra storage. Concierge community features a huge resort style outdoor pool, tennis and volleyball courts along with a new fitness center with ‘Fitness on Demand’ and free weights.”

30. According to other reports, “the clubhouse will be more elaborately tricked out, with an indoor golf simulator, a yoga and more studio, and a game room, with other new toys. Other features up young professionals’ alleys will include a spa for haircuts, massages, and tanning, a pet spa, and a laundry valet.” The complex is across the street from Best Buy Headquarters, and Defendant is seeking to market units to Best Buy employees.

31. Among Defendants' new screening requirements is a requirement of no more than two persons per bedroom-no exceptions. Since almost all units in this complex are one bedroom units, that effectively limits each unit to no more than two persons. According to Soderberg, in late November 2230 persons resided at Concierge, which works out to an average of 3.2 residents/apartment. In order to comply with Defendants' new standard, the population would have to be reduced to 1396 people, or 834 fewer people than the number recently residing at Concierge.

32. Defendants have applied this new restriction to plaintiff Julio Stalin de Tourneil, and perhaps to others in the same situation, to bar continued occupancy despite the fact that Julio Stalin de Tourneil's household consists of himself and his wife and one infant child.

33. The City of Richfield Housing Code (Chapter 4, Section 405.15 Subd. 2 of the Code of Ordinances) permits up to four persons to occupy units that are the size and configuration of the Concierge units.

34. In denying continued occupancy on the basis of newly born children who Defendants consider to exceed their occupancy limits, defendants have also failed to comply with the notice requirements of Minn. Stat. § 504B.315.

35. Defendant also now requires all tenants to provide social security numbers. On information and belief, among the large number of Latino residents in Concierge are a substantial number of undocumented residents who will not be able to comply with this requirement, despite having otherwise complied their tenant obligations.

36. In addition Defendants have also instituted new requirements that many of plaintiffs will not be able to meet, including a requirement that residents have income equal to two and a half times the rent, and a minimum FICO credit score of 625. Although these new requirements are presumably intended to ensure tenants will be able to afford the recent, they will effectively exclude many plaintiffs despite the fact that plaintiffs have generally had a positive rent payment history at Crossroads. A requirement of a minimum FICO score of 625 is higher than that required by most landlords, which is typically 550-600 range. The minimum income requirement imposed in October 2015 has now been increased, to 3 times the rent.

37. The letter announcing the changes in rents and policies was greeted with great dismay and alarm by many of the residents and organizations that work with them, who feared involuntary displacement. Among others, the Richfield Public School District contacted Defendant to register its concern about the great number of families who would be displaced in the middle of the school year, estimated by the District to be 142 students.

38. On or about October 19, 2015, Defendant responded with another letter to the residents, attached hereto as Exhibit B, announcing that it was delaying the proposed changes so that tenants could remain and not have to be reapproved under new standards until May 31, 2016. Rent increases, however, would still go into effect when current leases expired. The letter also stated that management was “reviewing screening and application requirements in an effort to make it possible for more current residents to remain at the property.” As of the date of this complaint, no indication has been provided of any changes in the originally proposed requirements.

39. On October 20, a group of social service organizations wrote to Defendant voicing their concerns about massive displacement and asking for a meeting. On October 22, Erik Falkman, Chief Operating Officer of Soderberg Apartment Specialists, wrote back restating the ways in which Defendant had responded to concerns, and declining to meet.

40. Although Defendant's employees have minimized estimates of the number of residents likely to be displaced, Richfield Mayor Debbie Goettel estimated that 267 families could be pushed out of the property. As of January 2016 at least 159 units had been vacated from a complex which had previously been fully occupied.

41. New rents, which will range between \$879-949/month, make it impossible, practically speaking for many GRH program residents to remain with a payment standard of only \$891. In some cases the GRH payment of \$891 has to cover both rent and the electric bill owed by the tenant, which makes the GRH payment even more inadequate for the new rents.

42. In addition, new Concierge rules related to minimum income (previously 2.5 times the rent, now 3 times the rent), and a FICO credit score of 625 will be barriers for many GRH clients, particularly those who have previously been homeless. While Defendants have not refused to take GRH in the same way they are refusing Section 8 vouchers, the combination of rent increases and new admission standards effectively precludes most or all GRH residents from remaining.

43. On at least two occasions, Soderberg has elaborated on an additional reason for the building transformation. In response to a reporter, he stated, "When you get to the

point when things are so run down, you attract undesirable residents. You get to the point where good, responsible people don't want to live in these apartments." Before the Richfield City Council on November 24, Soderberg made essentially the same point. To the extent 'undesirable residents' have resided at the complex, Defendant's actions go well beyond forcing such tenants out, to also forcing out many tenants who have complied with lease requirements.

44. Soderberg Apartment Specialists (SAS) declares itself to be a specialist in addressing "rundown" or "problem" properties. Defendant's November 30 letter more fully describes the business model that it applies generally to such properties and not just to the Concierge. Exhibit D. On his "Linked In" page, SAS President Jim Soderberg notes: "Our specialty is turning problem neighborhoods and cities around by doing extreme makeovers on problem apartment complexes and attracting great residents to live in our communities. Our other specialty is adding value to underperforming apartment communities."

45. In the course of rehabilitating the complex, including all units, while tenants are still living there, Defendant SAS has further encouraged current tenants to leave by forcing them to live in construction zones, and endure hardships like periodic temporary termination of utilities, excessive dust, noise and flooding.

46. On November 19, 2015, counsel for the Plaintiffs wrote to Defendants asserting that Defendant's actions would cause a disparate impact under the Fair Housing Act, and as a result, Defendant was obligated to ensure that it pursued any legitimate business justifications it had for its actions in a manner that had the least possible

discriminatory impact. The letter, attached hereto as Exhibit C, also suggested a proposal which would allow Defendant to accomplish its business purposes while doing so in a less discriminatory way, through financial incentives.

47. On November 30, 2015, Counsel for Defendant wrote a response, attached as Exhibit D. Defendant's letter rejected Plaintiff's proposal, defended its plans, and refused to consider any further changes.

48. If Defendant follows through on its plan to reposition this complex in the market by transforming its tenant population demographics, defendant's actions will cause a disparate impact on protected class persons in two ways, with one group being involuntarily displaced from the complex, and the other group denied the opportunity to look to this complex as a source of affordable housing in the future.

49. Defendants' actions also result in disparate treatment of minority and disabled tenants. The clear and predictable consequence of Defendants' "extreme makeover" of Crossroads into Concierge is that a tenant population with a large share of minority and disabled tenants will be replaced by a tenant population consisting largely of young urban professionals likely to be largely white and non-disabled. Pursuing this "extreme makeover" with knowledge of the resulting impact this will have on protected class tenants indicates intentional discrimination. Despite Defendants' assertions that they hope many Crossroads tenants will stay, their actions as described above suggest otherwise. Adding granite countertops, a golf simulator, and a pet spa is an additional indicator Defendants seek a different tenant population.

50. Defendant's actions have displaced and will displace significant numbers of disabled tenants and tenants of color or other national origin, who are or have been living in the building, either because they can no longer afford the rent, or because they cannot meet the new screening standards, or both. They will be irreparably harmed by this displacement.

51. It is extremely difficult to find alternative affordable housing with rents comparable what the rents have been at this complex. Rental projects that are publicly subsidized tend to have very long waiting lists. Richfield already lacks sufficient affordable housing for its residents. Even before the loss of affordability with this complex, 29.3% of Richfield households at 50% of the Area Median Income or below are already cost burdened, according to US census data, meaning they are paying more for housing than they can afford.

52. In addition, similar protected class members who would look to this apartment complex in the future as a source of affordable housing will no longer be able to do so, and will be forced to compete for an already inadequate supply of such housing.

53. Minority households in the Twin Cities Metro Area disproportionately depend on the region's supply of affordable rental housing. According to the U.S. Department of Housing and Urban Development (HUD) data, 30.1% of metro area minority households are low income (at or below 50% of area median income) renters with problems like unaffordable rents (greater than 30% of income), lacking kitchen or plumbing, or overcrowding, whereas only 7.6% of white, non-Hispanic households are.

Minority households are thus nearly four times more likely to need decent low cost rental housing than white, non-Hispanic households.

54. Persons protected by the Fair Housing Act are disparately affected by Defendants' actions in another way as well. The group of persons residing in Crossroads and affected by defendant's actions, as of the time defendant took possession of the complex, are disproportionately persons with disabilities, of color or of other national origin. GRH residents, most of whom are disabled, constituted 14% of the household population at the time defendant took over the complex, and counting other disabled tenants in the complex but not in the GRH program, significantly exceeds the share of the Minnesota population which is disabled, which is 10%, according to the 2013 American Community Survey.

55. The number of tenants who are of color in the complex are also significantly greater than the share of those groups in the general population. According to 2010 census data, the complex constitutes 58% of the renter-occupied units in the tract, and the tract has a minority population of 52% minority, compared to the percent of minority population in Richfield as a whole, which is 36.8 %. The Richfield School District has estimated that the 142 families with children in Richfield schools likely to be displaced match the demographics of the district as a whole, which is 65% families of color, including 40% Latino households.

56. A recent survey of residents attending a meeting to discuss the future of the complex, although based on a limited sample (44 responses), further confirmed the is proportionate share of Crossroads households that are protected class members: 43%

identified as non-white, 23% identified as Hispanic, 25% identified as having a disability, and 43% noted they have a housing subsidy. Included in both groups are participants in the Housing Choice Voucher program and the GRH program, with neither group allowed to remain under defendant's new policies.

57. As reported earlier, at the time Defendants acquired Crossroads, about 100 tenants resided there under the GRH program and 35 other tenants used section 8 vouchers. Due to the requirements of the GRH and Section 8 programs, it is likely that many of the Crossroads tenants participating in GRH or Section 8 have a disability. According to US Census Bureau statistics, 9.7% of the population residing in the census tract where Crossroads/Concierge is located has a disability whereas the population at Crossroads participating in these two disability related programs amounted to 19.7% of the household population when Defendants took over. This indicates an overrepresentation of disabled tenants at Crossroads. If disabled tenants at Crossroads not participating in the GRH or Section 8 programs are counted (not currently known) the overrepresentation is likely even greater.

58. According to HUD data, in Hennepin County, 35% of non-disabled renters are lower income households with problems whereas 54%-60% of disabled renters are low income households with problems. Thus disabled households are 50% to 70% more likely to need sound housing affordable to low income households than non-disabled households.

59. The November 30, 2015 letter from Defendant's counsel, Exhibit D, suggests the business justification Defendant will offer justifying the disparate impact it

has imposed. The letter notes that “Soderberg Apartment Specialists has a proven track record of acquiring residential properties that have often been identified as deeply troubled or problem properties ...” and renovating and upgrading those properties, implying that Crossroads was such a problem property. The letter also asserts the previously deeply affordable nature of the complex must give way to higher rents because that affordability had only been possible due to deferring needed investments.

60. There are several problems with Defendant’s suggested justification. First, Crossroads was not a “troubled or problem” property. The property has been characterized as having been well maintained, and there is no known evidence of an unusual degree of problem tenants. The previous owner had made significant investments in the property.

61. Second, defendant has chosen to go well beyond renovating and upgrading the project to pursue a deliberate strategy to reposition the property in the marketplace to appeal to a different tenant demographic.

62. Third, less discriminatory business models are available to defendant which would not cause the displacement and loss of affordability described above. A strategy which resorted to much more modest investments and rent increases without repositioning the building in the market was and is available, while still providing a solid financial return to Defendant and its investors. Moreover, Defendant also rejected another strategy for a less discriminatory business model when it refused to consider the public subsidy strategy counsel for Plaintiffs suggested in its letter of November 19, Exhibit C.

63. Plaintiff tenants will be irreparably harmed, in some cases because they have been forced involuntarily to move, and in others, because they remain but are paying unaffordable rent causing severe financial problems. The ongoing harm to Plaintiff HOME Line is irreparable because in the absence of the Court's intervention, badly needed housing resources for low income renters will be irrevocably lost.

64. Through their actions, defendants have interfered with HOME Line's mission, and have also caused the organization to have to divert resources from other activities to combat the effects of defendants' actions herein. By shifting the tenant population from one of lower income predominantly minority households to one aimed at young largely white urban professionals, and by removing this resource of deeply affordable rental housing, Defendants have interfered with HOME Line's mission to preserve affordable rental housing (both for current and future tenants), and have also interfered with HOME Line's mission to assist tenants in solving their own rental housing problems, as Defendants' actions have made that considerably more difficult.

65. Also because of defendants' actions, HOME Line has had to divert significant organizational resources from other planned activities in order to address the threatened loss of affordability at these properties. Upon learning of the defendants actions, HOME Line redirected the expenditure of staff time and other organizational resources (travel, postage, materials) to directly contact affected tenants via mail, phone, and in-person, meeting with other organizations to discuss the issue, investigate its own records, and investigate potential legal claims. As a result of these activities, HOME Line

staff had less time to devote to its tenant organizing activities and its tenant hotline services.

VI. LEGAL CLAIMS

Disparate Treatment

66. The federal Fair Housing Act prohibits discrimination in housing practices on the basis of protected class status, including race, disability, familial status and national origin. 42 USC§ 3604. In the course of engaging in a series of actions designed to substantially alter the composition of the tenant population at Concierge, Defendants have treated plaintiffs differently by making housing unavailable, on the basis of race, disability, familial status and national origin, in violation of 42 USC§ 3604 (a) and (b), giving rise to a cause of action under 42 USC§ 3613.

Disparate Impact

67. The federal Fair Housing Act also prohibits discrimination in housing practices on the basis of protected class status, including race, disability, familial status and national origin, under a theory of disparate impact. 42 USC§ 3604. In 2013, the Department of Housing and Urban Development (HUD) promulgated regulations on disparate impact, codifying case law recognizing that in certain circumstances, liability can be established under the Fair Housing Act on the basis of actions causing discriminatory effect, even if not motivated by discriminatory intent. 24 CFR § 100.500. of the complaining party establishes a discriminatory effect resulting from defendant's practices, defendant must then provide a legally sufficient justification to avoid liability.

However, even if the defendant does so, the complaining party may still prevail if it can prove that defendant's interests could be served by a less discriminatory practice. *Id.*

68. Defendant's actions in repositioning the Concierge in the rental market with a different tenant demographic, through a series of actions more fully described above, constitute a practice which will and is causing an adverse impact on Plaintiffs in their status as disabled tenants and tenants of color and on the basis of their familial status and national origin, in violation of the Fair Housing Act, 42 USC§ 3604 (a) and (b), and 24 CFR § 100.500.

69. In pursuing any legally sufficient justifications for their actions, Defendants are failing to employ practices which serve Defendants' interests, but which have a less discriminatory effect, such as those described above.

70. As a result, Plaintiffs are entitled to a finding that Defendant has violated their rights under the Fair Housing Act.

Occupancy Standards

71. One aspect of Defendants' new policies is the establishment of an occupancy limit of no more than two persons per unit, with no exceptions.

72. Such a policy is both more restrictive than the City of Richfield allows under its housing code and is inconsistent with federal Fair Housing occupancy standards as established by HUD.

73. This no exception occupancy limit has a disparate impact with respect to Concierge residents who have children, particularly those with infants.

74. Defendants' Occupancy policy violates the Fair Housing Act, 42 USC§ 3604 (a) and (b), and 24 CFR § 100.500, entitling Plaintiffs to relief pursuant to 42 USC§ 3613.

75. Defendants have also failed to comply with the notice and timing requirements of Minn. Stat. § 5048.315 in denying continued occupancy on the basis of newly born children in Plaintiff families.

VII. RELIEF SOUGHT

76. Plaintiffs seek an order from the Court:
- a. Certifying the case as a class action;
 - b. Issuing a declaratory judgment in favor of Plaintiffs;
 - c. Granting preliminary and permanent injunctive relief enjoining Defendant from taking further actions which will displace or harm Plaintiffs;
 - d. Awarding damages to Plaintiffs, including compensatory damages to plaintiff organization HOME Line equal to the diversion of organizational resources incurred as a result of Defendants' actions;
 - e. Awarding costs and attorney fees to Plaintiffs pursuant to 42 USC § 3613; and
 - f. Granting such further relief as the Court may deem just.

Dated: March 27, 2017

Respectfully submitted,

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

s/Kristen G. Marttila

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