

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

GABRIEL BEATON, PHILIP MALACHI)
ALBERTI, OPEN HOUSING CENTER, INC.)

Plaintiffs,)

-against-)

VINJE REALTY CORP., F.J. KAZEROID)
REALTY GROUP, INC.)

Defendants)

COMPLAINT

Index No. _____

PRELIMINARY STATEMENT

1. This is an action for compensatory damages, declaratory judgment, and injunctive and other appropriate relief arising out of defendants' refusal to rent an apartment to plaintiffs Gabriel Beaton and Philip Malachi Alberti because of plaintiffs' sexual orientation.

2. This claim arises under the Administrative Code of the City of New York §§ 8-107(5)(a)(1) and 8-107(5)(c)(1) ("New York City Human Rights Law" or "NYCHRL"), which prohibit sexual orientation discrimination by landlords and real estate brokers, respectively, in the rental or lease of housing accommodations, and in the negotiation thereof.

JURISDICTION

3. This court has jurisdiction pursuant to the New York City Human Rights Law § 8-502(a).

VENUE AND PARTIES

4. Venue is proper in this district pursuant to CPLR §§ 503(a) and (c).

5. At all times relevant to this action, plaintiff Philip Malachi Alberti ("Alberti") was, and remains, a resident of Kings County.

6. Plaintiff Gabriel Beaton (“Beaton”), who resided in New York County during the events in question, now resides in Kings County.

7. Beaton and Alberti are same-sex partners.

8. Plaintiff Open Housing Center, Inc. (“OHC”) was, and is, at all times relevant to this action a domestic non-profit corporation duly organized and existing under and by virtue of the laws of the State of New York, having its principal office for the transaction of business at 45 John Street, Suite 308, City of New York, County of New York, State of New York, and conducting its fair housing advocacy in Kings County and throughout New York City.

9. OHC’s mission as a fair housing agency is to promote equal housing opportunity in the New York metropolitan area and eliminate unlawful discriminatory housing practices through public education, the investigation of discrimination complaints, counseling and referrals to appropriate legal resources or public agencies. OHC devoted staff time and resources to the investigation of plaintiffs’ discrimination complaint.

10. On information and belief, defendant Vinje Realty Corporation (“Vinje”) is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York, having its principal office for the transaction of business at (c/o Harold Vinje) 271 84th Street, City of Brooklyn, County of Kings, State of New York. Vinje owns the housing accommodation at 817 8th Avenue, #1R (“the apartment”) that is the subject of these proceedings.

11. On information and belief, defendant F.J. Kazeroid Realty Group, Inc. (“F.J. Kazeroid, Inc.”) is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York, having its principal office for the transaction of business, a real estate office, at 197 7th Avenue, City of Brooklyn, County of Kings, State of New York.

12. Defendant F.J. Kazeroid, Inc. was the duly authorized real estate agent of Vinje.

13. F.J. Kazeroid, Inc. employed the real estate broker, Josephine Brown, who acted as its agent for the purpose of renting the apartment.

THE LAW

14. The New York City Human Rights Law § 8-107(5)(a)(1) states in relevant part:

It shall be an unlawful discriminatory practice for the owner [of a housing accommodation] . . . (1) To refuse to sell, rent, lease [or] approve the sale, rental or lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation . . . because of the actual or perceived . . . sexual orientation of . . . such person or persons.

15. Section 8-107(5)(c)(1) of the NYCHRL states in relevant part:

It shall be an unlawful discriminatory practice for any real estate broker . . . or employee or agent thereof: (1) To refuse to sell, rent or lease any housing accommodation . . . to any person or group of persons because of the actual or perceived . . . sexual orientation . . . of such person or persons . . . or to represent that any housing accommodation . . . is not available for inspection, sale, rental or lease when in fact it is so available or otherwise to deny or withhold any housing accommodation . . . from any person or group of persons because of the actual or perceived . . . sexual orientation . . . of such person or persons.

FACTUAL BACKGROUND

16. On or about October 10, 1999, plaintiffs Beaton and Alberti inquired with Josephine Brown (“Brown”), who on information and belief was a licensed real estate broker employed by defendant F.J. Kazeroid, Inc., about a one-bedroom apartment.

17. The apartment was publicly advertised in F.J. Kazeroid Inc.’s window.

18. The apartment was a separate dwelling in an 8-unit building.

19. On information and belief, defendant Vinje Realty Corp. owned the apartment building.

20. On information and belief, defendant Vinje listed the apartment with F.J. Kazeroid, Inc., the real estate office that he duly authorized to negotiate its rental.

21. F.J. Kazeroid, Inc. held out Brown as its employee and agent responsible for screening applicants, accepting applications and ultimately signing a lease, and she responded to all of the inquiries at issue in this case.

22. On the evening of October 10, 1999, Brown showed the apartment to Beaton and Alberti after they submitted an application for it as co-applicants.

23. On the following day, October 11, 1999, Alberti submitted a deposit of \$1,800.00, the amount of the broker's fee for F.J. Kazeroid, Inc., to Brown for the apartment.

24. Brown promised that the apartment would be held for Alberti and Beaton.

A. They were the first and only applicants for the apartment before their rejection.

B. They paid the broker's fee, placing the apartment on hold for them pending the receipt of credit reports that were ultimately favorable.

25. On or about October 21, 1999, Beaton and Alberti were present while Brown had a phone conversation with Harold Vinje, the owner of Vinje Realty Corporation, at F.J. Kazeroid, Inc.

26. After this conversation, Brown told Beaton and Alberti that the apartment was no longer available because of Harold Vinje's refusal to rent to a gay couple.

27. On information and belief, the apartment was again available to other prospective renters on October 21, 1999 after Beaton and Alberti's application for it was personally rejected by Harold Vinje.

28. Subsequently, Brown rejected people perceived as members of same-sex couples who inquired about the apartment, while showing it to a member of a heterosexual couple.

CAUSES OF ACTION

FIRST CAUSE OF ACTION AGAINST DEFENDANT VINJE REALTY CORP. (REFUSAL TO APPROVE RENTAL)

29. Plaintiffs repeat and reallege paragraphs 1 - 28 as if set forth herein in full.

30. Harold Vinje, of Vinje Realty Corp., rejected Beaton and Alberti's application for the apartment because of their sexual orientation.

31. Because of this unlawful discriminatory practice, plaintiffs Beaton and Alberti have been denied the right to equal housing opportunity in violation of the New York City Human Rights Law and suffered damages.

SECOND CAUSE OF ACTION AGAINST DEFENDANT F.J. KAZEROID, INC. (REFUSAL TO RENT AND FALSE DENIAL OF AVAILABILITY)

32. Plaintiffs repeat and reallege paragraphs 1- 28 as if set forth herein in full.

33. F.J. Kazeroid Inc., through its employee and agent, Josephine Brown, refused to rent the apartment to Beaton and Alberti and continued to deny its availability based on their sexual orientation.

34. F.J. Kazeroid, Inc. also denied the apartment's availability to other prospective renters based on their perceived gay sexual orientation.

34. Because of these unlawful discriminatory practices, plaintiffs Beaton and Alberti were denied the right to equal housing opportunity in violation of the New York City Human Rights Law and suffered damages.

PRAYER FOR RELIEF

Plaintiffs Beaton and Alberti, therefore, requests the following relief:

1. Compensatory and punitive damages;
2. Attorney's fees and costs; and

3. Such other relief as may be appropriate.

Plaintiff Open Housing Center, Inc., therefore, requests the following relief:

1. A declaration that defendants' conduct violated the New York City Human Rights Law §§ 8-107(5)(a)(1) and 8-107(5)(c)(1);

2. An injunction permanently restraining each defendant from discriminating in the rental of housing accommodations on the basis of sexual orientation and mandating compliance with the New York City Human Rights Law;

3. Attorney's fees and costs; and

4. Such other relief as may be appropriate.

Dated: New York, New York
February 15, 2000

Respectfully submitted,

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