

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARSHA WETZEL,)	
)	
Plaintiff,)	
v.)	
)	Civil Action No. 1:16-cv-07598
GLEN ST. ANDREW LIVING)	
COMMUNITY, LLC; GLEN HEALTH &)	
HOME MANAGEMENT, INC.; ALYSSA)	
FLAVIN;)	
CAROLYN DRISCOLL; and SANDRA)	
CUBAS,)	
)	
)	
)	
)	
Defendants.)	
)	

**FIRST AMENDED COMPLAINT
FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF**

1. Plaintiff Marsha Wetzel (“Plaintiff” or “Marsha”) brings this complaint for declaratory, injunctive, and other relief against Defendants Glen St. Andrew Living Community, LLC; Glen Health & Home Management, Inc.; and their administrators Alyssa Flavin, Carolyn Driscoll, and Sandra Cubas (collectively, “Defendants”). Plaintiff seeks to end, and obtain redress for, Defendants’ discriminatory denial of equal housing opportunity. In support of her claims, Plaintiff alleges as follows:

INTRODUCTION

2. Marsha moved into an apartment at Glen St. Andrew Living Community (“GSALC”) in Niles, Illinois in November 2014.

3. Marsha is a lesbian. She moved into GSALC after the death of her partner of 30 years, Judith Kahn (“Judy”), with whom she raised a son.

4. Throughout most of her time at GSALC, Marsha was subjected to a pattern of discrimination and harassment because of her sex and sexual orientation, including persistent verbal harassment, threats, intimidation, and three separate assaults, at the hands of other residents. She has been called countless homophobic slurs, taunted about her relationship with Judy and their child, threatened with bodily harm, bullied and intimidated in all of the communal spaces in the facility, and physically injured by other residents, all because she had a committed relationship and created a family with another woman and because she is a lesbian.

5. Marsha repeatedly complained about the sex- and sexual orientation-based harassment she has experienced to the administration of GSALC, including Executive Director Alyssa Flavin, Director of Supportive Services Carolyn Driscoll, and Regional Director of Operations Sandra Cubas (collectively, “the Administration”). Other GSALC staff and residents witnessed some of the incidents and reported them to the Administration. Defendants took no meaningful action to stop the harassment, but instead marginalized and alienated Marsha and retaliated against her for complaining about the harassment.

6. The harassment and violence Marsha has experienced at GSALC because of her sex and sexual orientation was so severe and pervasive that it created a hostile housing environment, resulting in her constructive eviction from the facility. Marsha lived with tremendous fear and anxiety, and was deprived of the right to live in her home in peace. Defendants’ failure to correct and end the harassment and discrimination Marsha faced because of her sex and sexual orientation denied Marsha equal housing opportunity.

7. Marsha now brings this action for violation of her civil rights, as secured by the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended (“the Fair Housing

Act” or “FHA”), 42 U.S.C. §§ 3604, 3617, and by the Illinois Human Rights Act (“IHRA”), 775 Ill. Comp. Stat. Ann. 5/3-102, 5/3-105.1.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this matter pursuant to 42 U.S.C. § 3613 and 28 U.S.C. §§ 1331 and 1343, because Plaintiff is an aggrieved person alleging discrimination in violation of the Fair Housing Act and because the Fair Housing Act claims alleged herein arise under the laws of the United States, including those laws providing for the protection of civil rights.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) because the alleged discrimination occurred in this district and the housing property at issue is located in this district.

10. This Court has supplemental jurisdiction over Plaintiffs’ claims under the laws of the State of Illinois because they are so related to the Plaintiff’s federal claims that the state and federal claims form part of the same case or controversy pursuant to 28 U.S.C. § 1367(a).

AGGRIEVED PERSON, DEFENDANTS, AND THE SUBJECT PROPERTY

11. Plaintiff Marsha Wetzel, age 71, is a lesbian. She is a woman who had a thirty-year intimate, committed relationship with another woman and who raised a son together with her female partner. At all times relevant to this action, Marsha lived at GSALC. Marsha has been harmed by Defendants’ discrimination against her in the terms, conditions, and privileges of housing rental; discrimination against her in the provision of housing related services and facilities; creation of a hostile housing environment; threats, intimidation, and interference with her enjoyment of a dwelling; retaliation against her for complaining about the discrimination she has experienced; and constructive eviction of her from GSALC, all because of her sex and sexual orientation.

12. Upon information and belief, Glen St. Andrew Living Community, LLC is an Illinois corporation that operates GSALC (“the Subject Property”), located at 7000 North Newark Avenue, Niles, Illinois. The Subject Property includes a 55-bed intermediate care unit, 47 units of assisted living, and 107 independent living apartments, which are intended as residences for older adults. Defendant Glen St. Andrew Living Community, LLC is licensed by the State of Illinois to provide assisted living and long term care at the Subject Property.

13. Upon information and belief, Defendant Glen Health and Home Management, Inc., manages the Subject Property. (Collectively, Defendants Glen St. Andrew Living Community, LLC and Glen Health & Home Management are the “Corporate Defendants.”)

14. Upon information and belief, at all times relevant to this action, Defendant Alyssa Flavin (“Flavin”) was the Executive Director of the Subject Property and was employed and authorized by the Corporate Defendants to act on their behalf in the overall operation and maintenance of the Subject Property, including in taking adverse actions against residents.

15. Upon information and belief, at all times relevant to this action, Defendant Carolyn Driscoll (“Driscoll”) was employed and authorized by the Corporate Defendants to serve as an agent and as the Director of Supportive Services and Director of Resident Relations at the Subject Property.

16. Upon information and belief, at all times relevant to this action, Defendant Sandra Cubas (“Cubas”) was employed as the Regional Director of Operations for Defendant Glen Health & Home Management, and was authorized by the Corporate Defendants to serve as their agent with responsibility for the overall operation and management of the Subject Property.

17. The Subject Property constitutes a “dwelling” within the meaning of 42 U.S.C. § 3602(b) and is not exempt from the requirements of the FHA.

18. The Subject Property constitutes both “real property” and a “housing accommodation” within the meaning of 775 Ill. Comp. Stat. Ann. 5/3-101 and is not exempt from the requirements of the IHRA.

FACTS

19. Marsha was born in Hammond, Indiana. She grew up in Indiana, earned a high school degree, and worked a variety of jobs, including factory work and as a security guard. Marsha has faced a variety of health issues throughout her life, including severe arthritis and gastrointestinal issues, has had multiple leg surgeries, and has been disabled since in or about the early 1980s.

20. Marsha is a lesbian. She is a woman whose primary emotional and romantic attachments are to other women, and she shared an intimate committed relationship with Judith Kahn (“Judy”) for thirty years.

21. Marsha met Judy in 1982 and they quickly fell in love. Although they could not legally marry, Marsha and Judy had a commitment ceremony in their home on May 8, 1983, after which they went on a honeymoon road trip across the United States. They built a life together, sharing three different homes. Marsha supported Judy as she completed her studies to become a psychologist. In 1993, they welcomed an adopted baby into their family, whom they named Joshua (“Josh”).

22. In 2011, Judy was diagnosed with stage IV colon cancer. Marsha cared for Judy throughout her illness, seeing to her every need until she entered hospice care. Judy died in November 2013.

23. After Judy’s death, Judy’s family evicted Marsha from the home she and Judy had shared. She also became estranged from Josh, who struggled emotionally after Judy’s death.

Marsha had lost the love of her life, was isolated from her son, and had nowhere to live. A social worker helped Marsha find an apartment to rent at GSALC.

24. Marsha moved into GSALC in November 2014. During her intake interview with GSALC staff member Debbie DuFore (“Debbie”), Marsha talked openly about her sexual orientation and about her life with Judy and Josh.

25. Marsha signed a Tenant’s Agreement with GSALC on November 26, 2014 to rent Apartment 204 and moved in. The Agreement set forth that, in exchange for her rental payment, GSALC would provide Marsha with a private room and bathroom, utilities, maintenance, laundry facilities, three meals a day, and access to community rooms, enrichment programs, and consultation about health care and other necessities. Upon information and belief, the Corporate Defendants are parties to the Agreement.

26. From the beginning of her time at GSALC, Marsha was open with other residents about her relationship with Judy, their raising Josh, and her sexual orientation.

27. In or about April of 2015, another GSALC resident named Robert Herr (“Bob”) began verbally harassing Marsha, regularly calling her names and using homophobic slurs like “fucking dyke,” “fucking faggot,” “homosexual bitch,” and other words to that effect when they would encounter each other in the facility. He taunted her about her relationship with Judy, and told Marsha that if she had ever had a sexual relationship with a man, she would never want a woman again, or words to that effect. Bob is a former police officer, and Marsha felt intimidated and upset by Bob’s behavior.

28. Marsha complained about Bob’s harassment to Defendants Flavin, Driscoll, and Cubas, and for a time, Bob’s harassment seemed to decrease. Marsha sent a thank you note to Defendant Cubas for her help with the situation.

29. Starting in or about late June 2015, Bob was out of GSALC for several weeks. Not long after he returned to GSALC in late July 2015, Marsha encountered Bob in the lobby. Marsha was going up a ramp in the lobby in the scooter she uses to move around GSALC due to her disability. Bob came down the ramp, uttered a homophobic slur, and rammed Marsha's scooter with his walker hard enough to tip her chair and knock her off the ramp, leaving a large bruise on her arm. This incident was witnessed by a GSALC staff member – Patty Hayes (“Patty”), the receptionist—who stated at the time that she saw the whole thing, or words to that effect.

30. On or about August 3, 2015, Marsha spoke to Defendant Cubas and reported Bob's behavior and the assault. Marsha believed that Patty had also reported the incident to Defendant Cubas. Defendant Cubas was aloof, told Marsha not to worry about Bob's behavior or words to that effect, and said that Patty never reported the incident. Marsha talked with Patty, who said she had reported it, but also started suggesting that maybe she did not really see anything. At some point, Marsha also showed Defendant Cubas her bruised arm and Defendant Cubas stated that she did not see a bruise at all, or words to that effect.

31. After Marsha reported Bob's behavior and the assault to Defendant Cubas, Bob started harassing Marsha with greater frequency again. In addition to using slurs when he encountered her, Bob told Marsha that Defendant Flavin does whatever he tells her to, or words to that effect. Marsha complained to Defendants Flavin and Driscoll about Bob's ongoing behavior, and they argued with Marsha about the assault and called Marsha a liar. Marsha met with Defendant Driscoll on or about August 28, 2015. Defendant Driscoll and GSALC's business manager, Alona Valencia (“Alona”), called Marsha into an office and locked the door to the room behind her. Defendant Driscoll showed Marsha a copy of her tenant's agreement with

several post-it arrows pointing to various provisions, and told Marsha they could not believe her because she is a trouble maker who always lies and twists things, or words to that effect. Marsha responded that she believed she was being treated unfairly based on her sexual orientation, told them that she was having chest pains, and asked them to open the door three times before they let her leave.

32. Around this same time, another GSALC resident, Elizabeth Rivera (“Elizabeth”), also began harassing Marsha, saying things like, “you look like a man,” and “homosexuals will burn in hell,” or words to that effect. At or about the end of September, Elizabeth made similar comments again while she rammed her wheelchair into the table where Marsha was sitting in the dining hall. The table was knocked on top of Marsha and kitchen staff had to help remove it.

33. A few days thereafter, Marsha encountered Elizabeth in the elevator. Elizabeth once again made similar homophobic comments and spit at Marsha. Marsha went back to her room to change her shirt, which had become stained with Elizabeth’s spit.

34. Soon after, Marsha was talking about Elizabeth having spit on her with other residents out on the patio. One resident, Audrey Chase (“Audrey”) thought it was funny and directed a homophobic slur at Marsha. Marsha became angry with Audrey, and Audrey falsely reported to Defendants Flavin and Driscoll that Marsha was saying negative things about her.

35. On another occasion in or about late summer 2015, Marsha was in the elevator with both Bob and Audrey. Bob hit the back of Marsha’s scooter with his walker. Audrey told the Administration that it was Marsha who had hit Bob.

36. When Marsha complained to Defendants Flavin and Driscoll about both Elizabeth’s and Audrey’s conduct, rather than addressing it, the Administration placed the blame on Marsha and responded by changing Marsha’s seating in the dining room to less desirable

locations. Marsha began eating in her room more often because she was afraid of what would happen in the dining room despite that GSALC was supposed to provide all of her meals.

Marsha was later told by Defendant Cubas that there was an incident report for Elizabeth's behavior in the dining room. Marsha asked the Administration for a copy, but never received one.

37. Through about the end of October 2015, Marsha had several negative interactions with Defendant Flavin, who repeatedly said Marsha was lying and told Marsha that ten people a day complain about her. Defendant Flavin also barred Marsha from spending time in the lobby for a period of time.

38. Marsha had a phone call with Defendant Cubas in or about late October 2015, and soon after, spoke to her in the day room. Marsha told Defendant Cubas that if they want her to leave, she would but that they had better put it in writing that the reason is because she is gay. Defendant Cubas responded that she was not telling Marsha to leave, and Marsha said, "Then do something to help me," or words to that effect.

39. At the beginning of November 2015, Marsha did not receive a rent notice taped to her door as had been the usual procedure, although other residents did. Marsha went to Alona to pay her rent. Alona accepted Marsha's check, but initially would not give her a receipt. Marsha stayed in Alona's office until she received a receipt, although it did not look like the same receipt she had received every other month when she had submitted her rent. It also was not signed, as the usual receipts were. Marsha insisted that Alona sign the unusual receipt, which Alona eventually did.

40. On or about November 2, 2015, Defendant Flavin told Marsha that, while she was allowed to go to the lobby to get coffee, Defendant Flavin still did not want Marsha being in the

lobby. Marsha asked why everyone else, including Bob, was allowed to be in the lobby and she was not. Defendant Flavin did not respond.

41. On or about November 17, 2015, Marsha and her social worker, Kristi Kagan, had a meeting with Defendants Flavin, Driscoll, and Cubas, set up by Ms. Kagan in an attempt to improve the relationship between the Administration and Marsha. Marsha complained about the harassment and the two incidents of physical assault against her, and showed them the unusual receipt she received after not getting her rent notice. The Administration denied that the incident with Bob had occurred, said Patty had changed her story, claimed the incident with Elizabeth was an accident, said that Marsha was wrong about what was happening, and said that Marsha is the problem. Defendant Cubas stated, "I see no discrimination here," or words to that effect.

42. Through the remainder of November and December 2015, Marsha continued to experience verbal harassment from Bob. Bob also worked to alienate Marsha from other residents, including Ed Sloper ("Ed"), who began pulling his wife away whenever she spoke to Marsha because Bob had told Ed that Marsha was gay, and who began glaring at Marsha, making her feel uncomfortable in the dining room. Marsha also continued to be subjected to discriminatory and retaliatory treatment by the Administration, with Defendants Flavin and Driscoll responding to Marsha's complaints about a particular maintenance employee by ending all room cleaning for Marsha and Defendant Driscoll taunting Marsha for not having visitors on Christmas.

43. On January 5, 2016, Marsha was attacked from behind while she was in the mailroom. She did not see the person who hit her on the head, but heard them say "homo" as she was knocked forward over the front of her scooter. She went back to her room and cried, but did

not seek medical attention. She did not report it to the staff immediately because she did not think they would believe her and because she felt that they twist everything she says.

44. On January 6, 2016, Marsha reported the attack to Defendants Flavin and Driscoll, who offered for her to see the on-site doctor. Marsha refused because that doctor does not accept Medicaid and she would have had to pay him in full. Marsha had a bump on her head and a black eye but did not lose consciousness or have vision problems so she did not pursue it. Below is a true and correct copy of a photograph that accurately shows how Marsha looked on January 6, 2016.



45. On or about January 10, 2016, Marsha asked a staff person named Linda at the front desk for a copy of any incident reports from the mailroom assault and Linda could not find one. On or about January 12, 2016, Marsha asked Carolyn for a copy and was told residents cannot see or have copies of reports.

46. After the January 5 incident, in addition to the verbal harassment, Bob repeatedly laughed at Marsha while rubbing his head and saying “Ouch.” As a result, and because of Bob’s previous harassment of and assault on Marsha, Marsha strongly suspects he is the person who attacked her on January 5, 2016. She is extremely scared of Bob and feels threatened and intimidated by him. Marsha also encountered Bob early in the morning on or about January 18 lurking in the mailroom while she was doing her laundry. She quickly went to the lobby where there were other people, and has since stopped doing laundry early in the day in order to avoid encountering Bob while she is alone. In addition, she has stopped going to the third floor of GSALC because that is where Bob lives. She also has eaten in her room more often, rather than getting all of her meals in the dining room, the dining room in order to avoid Bob.

47. On or about January 24, 2016, Defendant Driscoll asked Marsha if Debbie from admissions knew she was gay. Marsha said yes.

48. In or about February 2016, Marsha’s friend Kathy was receiving hospice care on the fifth floor. Marsha visited her regularly and overheard the nurses complaining about Marsha’s visitation, asking something to the effect of “what are they, a gay couple?”

49. Bob’s verbal harassment of Marsha continued through the early months of 2016. In addition to regularly calling her names and saying things like “Judy died to get away from you,” or words to that effect, he began referring to Josh as Marsha’s “homosexual-raised faggot son,” or words to that effect.

50. Marsha felt intimidated by Bob’s seemingly close relationship with the Administration. On or about February 5, 2016, she saw Bob coming out of Defendant Flavin’s office. Defendant Flavin had her arm around Bob’s shoulder and the two of them were laughing and petting Defendant Flavin’s dog. On or about April 14, 2016, Marsha saw Defendant Cubas

go over to Bob's table in the dining room, put her arm around him and pat him warmly, as the two of them talked and laughed together.

51. On or about March 30, 2016, Marsha and another resident, Rachael Carlin ("Rachael"), were in the dining room waiting for breakfast to be served. Bob called Marsha "fruit loop" as he passed by and walked away laughing. Rachael reported Bob's name calling to Alona. When Marsha asked Defendant Driscoll about the incident on or about April 4, Defendant Driscoll told Marsha that Rachael said she never witnessed anything.

52. On April 19, 2016, Marsha received a letter from Defendants Cubas and Driscoll about needing to schedule a mandatory meeting within 24-48 hours to discuss an important matter. At the meeting, Defendants Cubas and Driscoll alleged that Marsha had been smoking in her room and asked Marsha to sign a letter reiterating her knowledge of the facility's smoking policy and pledging to stop violating the policy. Marsha refused to sign the letter because she had not been smoking in her room and would not sign something that suggested that she had been. Marsha told Defendants Cubas and Driscoll something to the effect of that she felt they were looking for a way to get rid of her because she is a lesbian. She asked why they do not do anything when she is called "faggot," even though they were so quick to respond to allegations about her smoking, or words to that effect. Marsha told them that she smokes outdoors only, asked Defendants Cubas and Driscoll why the smoke detector in her small room did not go off if she was allegedly smoking in it, and asked them for the names of those who reported her. Defendants Cubas and Driscoll did not respond to Marsha's questions, but told Marsha that if they received one more report about her smoking in her room, Marsha would be dismissed from GSALC.

53. On or about April 20, Marsha received a letter from Defendants Cubas and Driscoll, with a copy to Defendant Flavin, GSALC stating that she had been warned about smoking in her room and that she refused to sign an updated no smoking policy. The letter stated that if they smell smoke, or hear any reports of smoke, they will knock one time and then enter her room with or without her permission, and that any further violations of the no smoking policy would be grounds for termination of her lease.

54. On April 24, 2016, Marsha was awoken at around 5:00 in the morning by a pounding on her door. She opened the door to find two staff members who said that they were from the fifth floor, that they smelled cigarette smoke coming from her room, and that they wanted to know if she was smoking. Marsha had been sleeping and had not been smoking. She offered to let the staff members into her room to check for smoke or any remnants of a cigarette. They refused to enter. Marsha said something about how the staff members themselves smelled like smoke, and one of the staff members slapped Marsha across the face. After the staff members left, Marsha cried and went to Rachael's room. Rachael sat with Marsha while she called the police, who came to the facility and took a report. Although Marsha could describe the staff members generally, and could see that they were wearing staff name badges, she could not identify them specifically because she had not put on her glasses before she answered the door.

55. On April 25, 2016, Marsha and Rachael met with Defendant Flavin about the April 24 incident. Marsha told Defendant Flavin that she did not like being hit by anyone, resident or staff. Defendant Flavin questioned whether it had really been staff members involved. Marsha repeated the information she had given the police. Defendant Flavin seemed angry that Marsha took legal steps to address this incident.

56. Bob was out of the facility during May, and Marsha returned to eating regularly in the dining room while he was gone. After he returned on or about June 5, he resumed his harassment. In addition to using anti-gay slurs, Bob taunted and intimidated Marsha, seemingly taking photographs of her with his phone, and standing near her in the dining hall and laughing at her. Marsha was anxious and had trouble swallowing food whenever Bob was in the dining hall with her.

57. On or about June 7, Marsha encountered Bob as she was coming out of the lobby and was waiting for the elevator. Bob came down hallway, calling Marsha a “faggot” and a “fucking faggot,” or words to that effect and saying something about “the homosexual piece of garbage you raised.”

58. On or about June 8, 2016, Marsha was on the patio smoking. When she attempted to go back inside, Bob was blocking the entrance with his legs and cane. When Marsha said “excuse me,” Bob started yelling at her. He picked up his cane in the middle and Marsha thought he was going to hit her. Bob threatened “to rip [her] tits off,” or words to that effect. He went inside and grabbed the door and held it behind him so that Marsha could not get in for a short time before letting go and walking away. Marsha felt bullied, intimidated, and scared.

59. Marsha wrote a complaint about Bob’s behavior on the patio. In response, Defendant Flavin approached Marsha, and told her she had been smoking in the wrong place. When Marsha said that Bob was preventing her from going to the right place, Defendant Flavin said, “Bob will be Bob,” or words to that effect, and told Marsha to make sure to smoke in the right place. Defendant Flavin did not address Bob’s threatening behavior toward Marsha.

60. On or about June 28, Marsha was standing with an activities staff member named Lisa waiting for the elevator. Bob came out of the lobby, and walked by saying words to the

effect of, “Too bad you can’t walk, or you’d be the fucking grand marshal of the gay pride parade.” Lisa said to Bob, “Don’t talk to her like that.” Bob continued, saying something to the effect of how great it is that all the gays were killed at the Pulse nightclub in Orlando. Lisa filed a report of Bob’s behavior, but Marsha is unaware of any action being taken against Bob.

61. After the filing of the original complaint in this matter, Marsha hoped the harassment would stop, that the administrators would take her complaints more seriously, and that her access to the full range of facilities and services at GSALC would be restored. Within days, however, the harassment persisted.

62. Over the course of the next nine months, Marsha repeatedly complained in writing to the Administration, chronicling the ongoing verbal and physical harassment, threats, and intimidation, as well as unequal treatment by members of the staff.

63. The discriminatory harassment Marsha reported included verbal harassment by Ed, who called her a “fucking cunt licker” or words to that effect; harassment by a resident named Suzanne, who berated Marsha for not dating men, yelled at people talking to Marsha not to do so because she is gay, and threatened to hit Marsha in the facility beauty shop; verbal harassment by a resident named Julie, who confronted Marsha on the patio, calling her words to the effect of “fucking lesbian” and a “fucking joke;” an incident in the hallway in the middle of the night in which Marsha heard a man’s amplified voice say, “slay the gay” in a threatening manner; and multiple instances of threats and intimidation by Bob, including putting his face two inches from Marsha’s as she bent down to untangle the wheel of her walker, repeatedly blocking her exit from the elevator, and, on one occasion, grabbing her walker as she attempted to exit the elevator, pushing it down the hall away from her, and saying, “fall on your face, faggot” as Marsha hobbled toward it.

64. Marsha's complaints also chronicled mistreatment by the dining room staff, including instituting new policies around available beverages solely for her, failing to set her place despite all others being set, obstructing her access to her table with the juice cart, and assigning a new resident to her seat. She also complained about a receptionist giving out her private phone number and about instances of intimidation by Defendant Flavin.

65. Defendants' responses to Marsha's complaints simply credited the denials of the perpetrators, refused to consider the corroboration of Marsha's contacts outside GSALC who witnessed particular events, ignored the details of her allegations, and sufficiently intimidated residents who witnessed events into changing their stories.

66. As a result of the harassment and discrimination Marsha experienced, she spent increased amounts of time in her room. She kept the door locked whenever she was in her room and she slept with the door barricaded so that no one could enter her room. She lived in fear that people would come into her room and hurt her or take or damage things that belonged to Judy. Marsha did not regularly sit at her table in the dining room for meals from the time of Bob's threats on June 8, 2016 through her departure from GSALC. She went to the dining room when it was closing down or closed in order to get out to the patio. She relied on the groceries her caregiver brought her for food, as well some meager food items the kitchen staff provided her, despite that her rent to GSALC was supposed to provide her with three meals a day.

67. As a result of the harassment and discrimination, Marsha experienced tremendous anxiety and fear. She felt unsafe and unwelcome in her own home. She lost a significant amount of weight. She worried every time she left her room. She felt shocked and degraded by the sexist and homophobic language being thrown at her so regularly, particularly comments

about her relationship with Judy and their son. She felt mistreated and humiliated by the Defendants' refusal to take action to protect her.

68. Approximately one month after Defendants' final finding that Marsha's complaints were unsubstantiated, in or about early April 2017, Bob threatened to kill Marsha in an elevator, telling her he would throw her down the elevator shaft. Approximately a few weeks later, as Marsha was exiting the lobby to go outside, Bob called to her and said something to the effect that he knew a guy who, for \$50, would put her in his crosshairs and blow her head off. There were no witnesses to either threat, and Marsha knew the Defendants would simply credit Bob's denial, as they had done repeatedly for the prior eighteen months.

69. After years of trying to withstand the harassment and abuse, Marsha knew she could no longer stay at GSALC. She began to look for other housing options that same month, but was limited by both the sources and amount of her income, by her limited resources and knowledge of appropriate options, and by her lack of mobility due to her disability. She began the process of qualifying for supportive living, and was able to leave GSALC in October 2017.

70. For more than two years, Marsha was subjected to a pattern of severe and pervasive verbal and physical harassment, threats, and intimidation because of her sex and sexual orientation. This created a hostile environment that unreasonably interfered with Marsha's right to use and enjoy her home, discriminated against her in the terms, conditions, and privileges of renting a place to live at GSALC, deprived her of the right to inhabit the premises she rented, and discriminated against her in the provision of services or facilities in connection with renting a place to live at GSALC.

71. Marsha was subjected to this severe and pervasive verbal and physical harassment because she is a woman whose primary emotional and romantic attachments are to other women,

and because she shared an intimate, committed relationship with Judy for thirty years. Marsha would not have been subjected to this hostile housing environment if she were a man whose primary emotional and romantic attachments are to women, or if she were a man who shared an intimate, committed relationship with a woman for thirty years.

72. Marsha was subjected to this severe and pervasive verbal and physical harassment because she is a woman who defies sex-stereotypes, including stereotypes about the sex of the person to whom a woman should be attracted, about the sex of the person with whom a woman should have a relationship and raise children, and about how a woman should appear or act.

73. Marsha was subjected to this severe and pervasive verbal and physical harassment because of her association with women. If Marsha's primary emotional and romantic attachments were to men or had Judy been a man, Marsha would not have been subjected to this hostile housing environment.

74. Defendants utterly failed to take prompt action to correct or end the discriminatory conduct of the other residents toward Marsha despite having a duty to do so. Defendants knew that Marsha was being subjected to extensive unwelcome harassment because of her sex and sexual orientation and that this harassment was sufficiently severe and pervasive as to create a hostile environment. Defendants disregarded Marsha's complaints and those of witnesses to the verbal and physical harassment Marsha experienced. Defendants actively discouraged Marsha from taking steps to address the harassment and violence she has experienced because of her sex and sexual orientation. Any actions taken by Defendants in response penalized or harmed Marsha rather than correcting or ending the hostile environment created by the harassment and discrimination of the other residents.

75. Defendants also retaliated against Marsha for complaining about the illegal harassment and discrimination she was experiencing at GSALC because of her sex and sexual orientation. The Administration responded to Marsha's complaints by limiting her access to GSALC facilities and resources, and by threatening and attempting to kick her out of GSALC. Defendants coerced, intimidated, threatened, and interfered with Marsha's exercise and enjoyment of her housing rights.

76. Defendants' duty and ability to correct and end the discriminatory conduct of the other residents toward Marsha stem both from their own policies and from federal and state law.

77. The Tenant's Agreement governing independent living apartments at GSALC sets forth that "acts or omissions that constitute a direct threat to the health and safety of other individuals" are grounds for termination of the agreement, and sets forth that the obligation not to engage in such behavior is a responsibility of each tenant. It also obligates tenants not to engage in any activity that "unreasonably interferes with the peaceful use and enjoyment of the community by other tenants or threatens to damage the community's reputation." Despite ample evidence that multiple residents engaged in acts that directly threatened Marsha's health and safety and that unreasonably interfered with Marsha's peaceful use and enjoyment of GSALC, Defendants had many tools available to them, but failed to take any significant action against any of the perpetrators of harassment, intimidation, discrimination, and violence toward Marsha.

78. Defendants owed Marsha a duty to ensure her equal housing opportunity free from discrimination on the bases of sex and sexual orientation under the FHA and the IHRA, both of which make it unlawful to discriminate in making housing available, in the terms, conditions, and privileges of housing, and in providing services or facilities in connection therewith. The hostile environment created by the severe and pervasive harassment Marsha

experienced based on her sex and sexual orientation and Defendants' failure to correct or end the harassment had the effect of discriminating against Marsha's rental of a dwelling in violation of both the FHA and the IHRA.

CAUSES OF ACTION

COUNT I VIOLATION OF THE FAIR HOUSING ACT

79. Plaintiff realleges and incorporates by reference all allegations contained in paragraphs 1-72 as if set forth fully herein.

80. Pursuant to 42 U.S.C. § 3604, the FHA prohibits a person from making unavailable or denying a dwelling to any person "because of . . . sex." It also prohibits discriminating against any person in the terms, conditions, or privileges of renting a dwelling, or in the provision of services or facilities in connection therewith "because of . . . sex."

81. Pursuant to 42 U.S.C. § 3617, the FHA also makes it unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by substantive protections of the FHA.

82. Defendants engaged in unlawful sex discrimination in violation of the FHA, 42 U.S.C. § 3604(b). Defendants have discriminated against Marsha in the terms, conditions, and privileges of renting her apartment at GSALC, and in the provision of services and facilities in connection therewith because of Marsha's sex, including because of sexual orientation;

83. Defendants violated the FHA, 42 U.S.C. § 3604(b), by failing to fulfill their duty to take prompt action to correct and end the sex-based harassment suffered by Marsha at the hands of other residents;

84. Defendants violated the FHA, 42 U.S.C. § 3617, by failing to fulfill their duty to take prompt action to correct and end the sex-based harassment suffered by Marsha at the hands of other residents; and

85. Defendants retaliated against Marsha in violation of the FHA, 42 U.S.C. § 3617, by limiting her access to facilities and resources, by intimidating and threatening her, and by attempting to evict her through duplicity and fabrication because Marsha asserted her right to an equal opportunity to use and enjoy the property without being subject to sex-based harassment.

86. Defendants' actions were taken intentionally, willfully, and in disregard for Marsha's federally-protected rights, and constituted a discriminatory housing practice, as defined in 42 U.S.C. § 3602(f).

87. Marsha is an "aggrieved person" as defined in 42 U.S.C. § 3602(i).

88. Marsha has been injured by Defendants' discriminatory conduct and has suffered damages as a result. Accordingly, under 42 U.S.C. § 3613(c), Marsha is entitled to and seeks actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

COUNT II
VIOLATION OF THE ILLINOIS HUMAN RIGHTS ACT

89. Plaintiff realleges and incorporates by reference all allegations contained in paragraphs 1-72 as if set forth fully herein.

90. Pursuant to 775 Ill. Comp. Stat. Ann. 5/1-103, 5/3-102 (a), (b), the IHRA prohibits discrimination in making available the rental or lease of a home "because of" a person's sex or sexual orientation. It also prohibits discriminatorily altering the terms, conditions, or privileges of the rental or lease of a home, and discrimination in furnishing facilities or services in connection with the rental or lease of a home "because of" a person's sex or sexual orientation,

91. Pursuant to 775 Ill. Comp. Stat. Ann. 5/3-105.1, the IHRA also makes it unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by Article 3 of the IHRA.

92. Defendants engaged in unlawful sex and sexual orientation discrimination in violation of the IHRA, 775 Ill. Comp. Stat. Ann. 5/3-102. Defendants have discriminated against Marsha in the terms, conditions, and privileges of renting her apartment at GSALC, and in the furnishing of facilities and services in connection therewith because of Marsha's sex and sexual orientation;

93. Defendants violated the IHRA, 775 Ill. Comp. Stat. Ann. 5/3-102, by failing to fulfill their duty to take prompt action to correct and end the sex-based and sexual orientation-based harassment suffered by Marsha at the hands of other residents;

94. Defendants violated the IHRA, 775 Ill. Comp. Stat. Ann. 5/3-105.1, by failing to fulfill their duty to take prompt action to correct and end the sex-based and sexual orientation-based harassment suffered by Marsha at the hands of other residents; and

95. Defendants retaliated against Marsha in violation of the IHRA, 775 Ill. Comp. Stat. Ann. 5/3-105.1, by limiting her access to facilities and resources, by intimidating and threatening her, and by attempting to evict her through duplicity and fabrication because Marsha asserted her right to an equal opportunity to use and enjoy the property without being subject to sex-based and sexual orientation-based harassment.

96. Defendants' actions were taken intentionally, willfully, and in disregard for Marsha's state-protected rights, and constituted unlawful discrimination and a civil rights violation, as defined in the IHRA, 775 Ill. Comp. Stat. Ann. 5/1-103 (D), (Q), 5/3-102.

97. Marsha is an “aggrieved person” as defined in 775 Ill. Comp. Stat. Ann. 5/1-103 (B).

98. Marsha has been injured by Defendants’ discriminatory conduct and has suffered damages as a result. Accordingly, under 775 Ill. Comp. Stat. Ann. 5/10-102, Marsha is entitled to and seeks actual damages, punitive damages, injunctive relief, and reasonable attorneys’ fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter an order:

A. Declaring that the discriminatory conduct of Defendants as set forth above violated the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*;

B. Declaring that the discriminatory conduct of Defendants as set forth above violated the Illinois Human Rights Act, 775 Ill. Comp. Stat. Ann 5.1-101 *et seq.*

C. Awarding Plaintiff compensatory and punitive damages pursuant to the Fair Housing Act, 42 U.S.C. § 3613(c)(1), and the Illinois Human Rights Act, 775 Ill Comp. Stat. Ann. 5/10-102(C)(1);

D. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys’ fees; and

E. Granting such other and further relief in favor of Plaintiff as this Court deems just and proper to prevent unlawful discrimination (including on the basis of sex and sexual orientation) in the future and to eliminate, to the extent practicable, the effects of Defendants’ unlawful practices.

Respectfully submitted,

Dated: October 31, 2018

By: s/ Karen L. Loewy

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October, 2018, I electronically filed the following document:

First Amended Complaint for Declaratory, Injunctive, and Other Relief
with the Clerk of Court by means of the CM/ECF system, which will send notification of this filing to all counsel of record:

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Respectfully submitted,

/s/ Karen L. Loewy

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