

STATE OF NORTH CAROLINA

COUNTY OF WAKE

THE NORTH CAROLINA HUMAN
RELATIONS COMMISSION,
On behalf of

CINDY BLOCK, IAN BLOCK, and JEREMY
BLOCK,
Plaintiffs,

And

CINDY BLOCK and IAN BLOCK,
Plaintiff-Intervenors

v.

CARRIAGES AT ALLYN'S LANDING
OWNERS ASSOCIATION, INC., V.P. J.
ENTERPRISES, INC., and VICTOR JONES,
Defendants,

FILED
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2014 AUG -8 P 1:39
File No. 13 CVS 000075

WAKE COUNTY, C.S.C.
BY _____)

FIRST AMENDED
COMPLAINT IN
INTERVENTION

DEMAND FOR JURY TRIAL

Plaintiff-Intervenors Ms. Cindy Block and Mr. Ian Block, through the undersigned
counsel, respectfully state the following:

STATEMENT OF JURISDICTION

1. The North Carolina Human Relations Commission (hereinafter "the Commission") filed this action on January 7, 2013, pursuant to its authority under N.C. Gen. Stat. 143B-391, the North Carolina Fair Housing Act (N. C. Gen. Stat. Chapter 41A), and agreement with the United States Department of Housing and Urban Development ("HUD"), to enforce the substantially similar Federal Fair Housing Act, 42 U.S.C. § 3601 et seq.

2. Ms. Cindy Block and Mr. Ian Block (hereinafter "Plaintiff-Intervenors"), together with their son, Mr. Jeremy Block, filed a complaint against the Carriages at Allyn's Landing Owners Association, Inc. (the "Association"), V.P.J. Enterprises, and Victor Jones ("Jones") with HUD on or about March 10, 2011, which HUD referred to the Commission for investigation. The Commission completed its investigation of the complaint on or about April 27, 2012, and issued a determination that reasonable grounds exist to believe that an unlawful discriminatory housing practice had occurred. Conciliation efforts failed, and Plaintiff-Intervenors, then Complainants in the administrative matter, elected to have this complaint filed in civil superior court, pursuant to N.C. Gen. Stat. § 41A-7(k). A civil complaint was subsequently filed by the Commission in

civil superior court. Pursuant to a Consent Order signed by the parties and the Court and filed on July 26, 2014, the Blocks' motion to intervene in this matter was granted.

3. Cindy Block has medically documented disabilities as defined within N. C. Gen. Stat. § 41A-3(3a) and 42 U.S.C. § 3602(h). In addition, at relevant times, one of the Blocks' parents was medically disabled and lived with the Blocks; this parent died before the Blocks' Complaint was filed. Thus, the Blocks belong to a class of persons whom N. C. Gen. Stat. § 41A-4 and 42 U.S.C. § 3604 each protect from unlawful discrimination based upon their handicapping conditions.

4. At all relevant times, Plaintiff-Intervenor Cindy Block and her husband, Plaintiff-Intervenor Ian Block, have resided at 8204 Lloyd Allyn's Way (the "subject property"), a town home located in The Carriages at Allyn's Landing community in Raleigh, Wake County, North Carolina.

5. Defendant Carriages at Allyn's Landing Owners Association, Inc., ("the Association") is a North Carolina Non-Profit Corporation doing business in Wake County, North Carolina; its address is 3903 Edwards Mill Road, Raleigh, NC. The Association is the controlling homeowners association for the Carriages of Allyn's Landing community, and is governed by a Board of Directors.

6. Defendant V.P.J. Enterprises, Inc. ("V.P.J.") is a North Carolina corporation with its principal place of business in Wake County, North Carolina; its address is 14100 Possum Track Road, Raleigh, NC. Upon information and belief, Defendant V.P.J. was, at all times relevant to this action, and still is, responsible for the management of the Association.

7. Defendant Victor Jones, president of Defendant V.P.J. Enterprises, is the registered agent and community manager for the Association, property manager for the subject property, and does business in Wake County, North Carolina; his office address listed for the Association with the NC Secretary of State is 7512-105 Mourning Dove Road, Raleigh, NC.

8. Venue is proper in this District because the cause of action arose in Wake County, the subject property lies in Wake County, and Defendants do business and have addresses in Wake County.

FACTUAL ALLEGATIONS

9. The allegations of paragraphs 1-8 are re-alleged and incorporated herein by reference.

10. Plaintiff-Intervenor Cindy Block is disabled. She is congenitally visually impaired and is legally blind. She has problems with depth perception and this condition affects her mobility.

11. The Blocks own the subject property, including the land extending six feet beyond the perimeter of the town home. The Blocks have resided at the subject town home since they purchased it in February 2009, and are members of and pay fees assessed by the Association.

12. The Defendant Association is the controlling homeowners association for the subject property. The Association operates a Declaration of Covenants, Conditions and Restrictions, applicable to all residents of the subject property, which provides Defendant Association with architectural and aesthetic control over all properties in the community.
13. Cindy and Ian Block submitted an application to the Association for permission to install a wheelchair ramp at the subject town home on or about June 12, 2009, as a reasonable accommodation of the Association's building and architectural rules and covenants. The ramp was necessary to allow Plaintiff-Intervenor Cindy Block's disabled, mobility impaired mother to access the subject property, in which she resided at that time.
14. The Association approved the application on or about July 2, 2009, with two conditions: 1. that the Blocks paint the ramp to match the town home's siding; and 2. that the Blocks remove the ramp and return the site to its previous condition "if, and when, it is no longer needed by the town home owner."
15. The Blocks, in order to have the needed ramp approved, agreed to these conditions and constructed the ramp within the six-foot curtilage of the subject property. The ramp was well designed and constructed in harmony with surrounding structures.
16. In September 2010, Cindy Block's mother passed away. The Blocks have at least four mobility impaired friends who have routinely visited the subject town home..
17. On or about January 13, 2011, the Association sent the Blocks a letter stating that in 2009, they had approved the installation of a wheelchair ramp for Cindy Block's mother, with a condition that the Blocks remove it when it was no longer required for the purpose for which it was built. Additionally, the Association noted that it was their understanding that effective September 5, 2010, the wheel chair ramp was no longer required for the purpose for which it was built. Lastly, the Association requested the dismantling of the wheel chair ramp within 30 days "of this letter."
18. Cindy Block met with Association Board member George Bode within a few days of receiving the January 13, 2011 letter. In this meeting she explained her family's concerns about removing the ramp, and the lack of any objective reason for the Association to require removal of the ramp.
19. On or about January 31, 2011, the Association sent the Blocks a second letter stating that the Association's Board had met and consulted with real estate experts regarding the marketing impact of removing the ramp and that the Association's Board unanimously concurred that, in accordance with the North Carolina Planned Community Act as well as the Declaration of Covenants and Restrictions for the community, the requirements of the January 13, 2011 letter remained valid. Additionally, the Association required the removal of the ramp by March 3, 2011.
20. On or about February 4, 2011, the Association received a letter (dated February 2, 2011) from Ian Block which stated as follows:

"I am in receipt of your letter of 1/13/11, requesting me to remove the wheel chair ramp on my home. Enclosed, please find a letter from my wife's doctor specifying her need for said ramp. I will not remove the ramp. Please acknowledge receipt of this letter. Thank you. Ian Block."

Attached was a letter from Academy Eye Associates, dated January 27, 2011, stating that Cindy Block is legally blind and recommending she have ramp access to her home because of the mobility and depth perception impairment resulting from her poor eyesight. Dr. Henry A. Greene, O.D., Ms. Block's optometrist, signed the letter.

21. In a letter dated February 25, 2011, the Association told Plaintiff-Intervenors that they could retain the ramp as long as a member of the family had a certifiable disability that required it, and that they needed to paint or stain the ramp to match the siding by March 31, 2011.

22. The Association further stated on February 25, 2011 that Plaintiff-Intervenors had to remove the ramp if at any time there was not a resident who needed it or if they sold the subject property to a non-disabled buyer. The Association stated that Plaintiff-Intervenors must disclose to any prospective buyer that the ramp would be removed, unless the buyer submitted a reasonable accommodation request which the Association's Architecture Committee approved.

23. The Association also stated on February 25, 2011 that the Association "anticipates . . . Mrs. Block will use the wheelchair ramp as the sole entry/exit point for your town home, since the courtyard, garage and rear door entrances pose a safety hazard to her due to her stated disability."

24. The Association's February 25, 2011, letter was signed "For the Board of Directors, Victor Jones, Property Manager."

25. On March 8, 2011, the Blocks filed a fair housing complaint against the Defendants.

26. The Association rescinded the February 25, 2011, letter in its entirety in mid-July 2011, approximately four months after the Blocks brought the fair housing complaint.

INJURY TO PLAINTIFF-INTERVENORS

27. As a direct and proximate result of Defendant's discriminatory conduct described above, the Blocks have experienced worry, stress, apprehension, embarrassment, humiliation, and emotional distress. In addition, Defendants' conduct has caused the Blocks to feel ostracized from their neighbors and no longer welcome or accepted within the Association and their community.

28. Through the actions described above, Defendants have acted intentionally, maliciously, and with willful, wanton, and reckless disregard for the federal and state fair housing rights of Plaintiffs Cindy and Ian Block.

CAUSES OF ACTION

VIOLATION OF STATE AND FEDERAL FAIR HOUSING ACTS BY DENIAL OF A REASONABLE ACCOMMODATION; IMPOSITION OF DISCRIMINATORY TERMS AND CONDITIONS; AND DISCRIMINATORY STATEMENTS

29. The allegations contained in paragraphs 1-28 are re-alleged and incorporated as if fully set forth herein.

30. Defendants' actions constitute an illegal discriminatory housing practice against the Blocks within the meaning of N.C. Gen. Stat. § 41A-4, and 42 U.S.C. § 3604, in that they refused to grant the Blocks' request for a reasonable accommodation allowing them to keep the ramp without an obligation to remove it, in violation of N.C. Gen. Stat. § 41A-4(f)(2) and 42 U.S.C. § 3604(f)(3)(B); they imposed discriminatory terms and conditions of ownership on the Blocks in violation of N.C. Gen. Stat. § 41A-4(a)(2) and 42 U.S.C. § 3604(f)(2); and they made discriminatory statements indicating an intent to make a limitation, specification, or discrimination, on the Blocks and their property based on the handicapping conditions of the Blocks and their friends in violation of N.C.G.S § 41A-4(a)(6) and 42 U.S.C. § 3604(c).

Prayer for Relief

WHEREFORE, Plaintiffs pray the Court:

a. Enter a declaratory judgment pursuant to N.C. Gen. Stat. § 1-253 holding that the Defendants' practices violated 42 U.S.C. § 3604 and N.C. Gen. Stat. § 41A-4.

b. Enter an injunction directing Defendants to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;

c. Enter judgment against Defendants in a sum in excess of ten thousand dollars (\$10,000) as compensatory damages for humiliation, embarrassment, and emotional distress caused Plaintiff-Intervenors by Defendants' actions alleged herein;

d. Enter judgment against Defendants in a sum in excess of ten thousand dollars (\$10,000) as punitive damages for the Defendants' willful and wanton actions in reckless disregard for the Blocks' rights and emotional wellbeing, and causing them extreme emotional distress alleged herein and that would effectively deter Defendants from engaging in similar conduct in the future;

e. That the costs of this action be taxed against Defendants;

- f. That the Court award the Plaintiff-Intervenors a reasonable attorney's fees;
- g. That Defendants be enjoined from further violations of the State and Federal Fair Housing Acts;
- h. That a trial by jury be had on all issues; and
- i. That the Court award such other and further relief that the Court deems just and proper.

This the 8th day of August, 2014.

**NORTH CAROLINA FAIR HOUSING
PROJECT, LEGAL AID OF NC
Plaintiff-Intervenors' Counsel**

BY: 

Jack Holtzman
N.C. Justice Center
NC State Bar # 13548
E-mail: jack@ncjustice.org
P.O. Box 28068
Raleigh, NC 27611

BY: 

Lauren R. Brasil
N.C. State Bar No. 44246
Post Office Box 26087
Raleigh, NC 27611
LaurenB@LegalAidNC.org
(919) 277-9021