

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MIAMI VALLEY FAIR HOUSING
CENTER, INC.,

Plaintiff,

v.

THE CARILLON HOUSE
ASSOCIATION, INC.

Defendant.

* CIVIL ACTION _____
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* **COMPLAINT FOR DAMAGES**
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* **JURY DEMAND**
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1. This is a claim for damages brought by Plaintiff Miami Valley Fair Housing Center, Inc. (MVFHC), against Defendant Carillon House Association, Inc., pursuant to the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (FHA), 42 U.S.C. §§ 3601-3619.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201, and 2202, and 42 U.S.C. § 3613(a).

3. Venue is proper in the Southern District of Ohio pursuant to 28 U.S.C. § 1391(b) because Defendant is a resident of this district, the events giving rise to these claims occurred in this district, and these claims concern or otherwise relate to real property located in this district.

PARTIES

4. Plaintiff Miami Valley Fair Housing Center, Inc. is a private non-profit organization incorporated under the laws of Ohio. Its mission includes the elimination of housing discrimination against all persons because of race, color, religion, national origin, sex, disability, familial status, or any other characteristic protected under federal, state, or local laws, and to ensure that housing opportunities are provided without illegal discrimination.

5. MVFHC provides counseling, guidance, information, and support to individuals who encounter discrimination in their search for housing. MVFHC also undertakes actions that are designed to encourage fair housing practices by educating consumers of their rights and professionals of their responsibilities under the FHA; identifying barriers to fair housing in order to counteract and eliminate discriminatory housing practices; and working with elected and government representatives to protect and improve fair housing laws.

6. Plaintiff is a Qualified Fair Housing Enforcement Organization within the meaning of 24 C.F.R. Subtitle B, Ch. I, Section 125–103. It is qualified to receive federal funding under the Fair Housing Initiatives Program, which is a critical component of the civil rights enforcement infrastructure in the United States. *See* Housing and Community Development Act of 1987, § 561 (42 U.S.C. § 3616a). Among other criteria, it has been certified by HUD to have at least two years of experience in complaint intake, complaint investigation, testing for fair housing violations, and enforcement of claims.

7. Defendant Carillon House Association, Inc., is a non-profit corporation established in 1973. It owns and operates Carillon House, a residential community of condominiums located at 2230 S. Patterson Blvd., Dayton OH, 45409. The building has fifteen stories, is serviced by two elevators and two parking garages, and has several areas available for

public and common use of residents and guests. The Carillon House Board of Directors is responsible for managing the affairs of the Association, and is comprised of unit owners who have been elected by fellow unit owners at the annual meeting or appointed by the Board in accordance with the Association By-Laws.

FACTS

Defendant Published and Distributed Notices and Statements Indicating a Limitation and Discrimination Based on Disability

10. In January, 2020, Defendant through its Board of Directors approved publication a tri-fold brochure entitled “Carillon House Pet Etiquette” (hereafter “the Brochure”). The Brochure set limitations, restrictions, and rules prohibiting the presence of “pets” in public and common use areas throughout Carillon House. Specifically, the ingress and egress of pets was restricted to a single door located in the north garage. Pets were no longer permitted to be present or pass through other common or public avenues of ingress or egress, such as the main entrance to Carillon House, and the south garage door unless the pet was being taken to the owner’s car in anticipation of leaving the building.

11. Although there was nothing improper about the limitations imposed on people with animals who own “pets,” the limitations and restrictions in the Brochure were expressly made applicable to residents with disabilities who need and use service animals and emotional support animals, even though such animals are not considered “pets” within the meaning of the Americans with Disabilities Act or the Fair Housing Act. Indeed, the Brochure stated: “Service, therapy and emotional support pets are not exempt from this policy.” The Brochure also discouraged residents from using the individualized “reasonable accommodation” process available under the Fair Housing Act, 42 U.S.C. §3604(f)(3)(B). To the contrary, the Brochure claimed to be making accommodations for all people with disabilities on a universal,

undifferentiated basis. The Brochure stated: “Reasonable accommodations have been made by [such residents] using the elevators, N. Garage ramp and N. Garage exits.” The Brochure did not advise residents of their rights to individualized determinations of their need for accommodation to the ingress/egress restrictions contained in the Pet Etiquette Brochure.

12. Assistance animals under the Fair Housing Act include, but are not limited to, “service animals,” as that term is used under the Americans with Disabilities Act (“ADA”). Under the Fair Housing Act, an assistance animal can also include “emotional support animals.” The ADA defines “service animal,” almost always a dog, as an animal “individually trained to do work or perform tasks for the benefit of an individual with a disability.” Emotional support animals need not be specifically trained to do work or perform tasks. 28 C.F.R. § 36.104.

13. The Defendant was well aware of the rights provided under the Fair Housing Act to people with disabilities who use service animals or assistance animals. Prior to its adoption of the Pet Etiquette Brochure, a committee of residents had recommended that the Brochure exempt service and assistance animals from the ingress and egress rules, and that the Brochure include a statement that such animals be allowed to enter and exit through any door of Carillon House. Nevertheless, Defendant’s Board of Directors rejected this suggestion, and instead published its requirement that the restrictive ingress/egress rule applied even to service and assistance animals.

14. The Brochure was published, posted, and widely disseminated throughout Carillon House and its residents on or around March 6, 2020.

*Plaintiff Successfully Advocated to Eliminate, Modify, and Rescind
Defendant’s Discriminatory Publication.*

15. Plaintiff Miami Valley Fair Housing Center subsequently became aware of the publication and wide distribution of the Brochure to Carillon residents. On March 7, 2020, therefore, Plaintiff wrote to Defendant, advising it that the Brochure and its statements

improperly suggested to an ordinary reader that the ingress and egress of a particular group of people (specifically, people with disabilities) was being limited and restricted in violation of the Fair Housing Act. Plaintiff advised Defendant that a number of statements contained in the brochure were incorrect, and that enforcement of the new rules would result in illegal housing discrimination against individuals with disabilities, in violation of state and federal fair housing laws. Furthermore, Plaintiff advised Defendant that the Brochure mischaracterized the process applicable to requesting reasonable accommodations. Plaintiff included with its letter a copy of the Department of Housing and Urban Development's Joint Statement on Reasonable Accommodations (available at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.) Plaintiff requested that the Board rescind the brochure immediately.

16. Defendant did not rescind the Brochure immediately in response to Plaintiff's March 7, 2020, letter. Instead, it hired outside legal counsel, who thereafter engaged in a series of letter communications with Plaintiff throughout the remainder of March, 2020. By April 2, 2020, the matter had still not been resolved, the Brochure still stated the official policy and practice of Defendant, and so Plaintiff engaged its own counsel to engage in continued negotiation with Defendant's counsel.

17. Finally, after another month of communication between counsel for the parties, and as a result of Plaintiff's advocacy, Defendant officially modified its Rules and Regulations concerning animal ingress and egress to include acceptable language about the rights of people with disabilities.

*Plaintiff Incurred Damages and Costs as a Consequence of
Defendant's Unlawful Publication.*

18. As a result of the Defendant's unlawful publication of a notice and statement that indicated limitations and discrimination against people with disabilities as described above,

Plaintiff MVFHC suffered damages and incurred costs that are compensable under the Fair Housing Act. Specifically, Plaintiff MVFHC was forced to divert scarce resources to identify, investigate, and eventually successfully eliminate the Defendant's discriminatory Brochure.

19. The Defendant's conduct also frustrated MVFHC's mission to eradicate discrimination in housing, and undermined the effectiveness of the programs and services it provides, including encouraging integrated living patterns, providing assistance to individuals affected by discriminatory housing practices, and eliminating discriminatory housing practices.

20. As of the filing of this Complaint, Plaintiff has been damaged as a result of Defendant's actions in the amount of Six Thousand Five Hundred and Seventy Two Dollars (\$6,572.00). These damages are continuing and ongoing.

21. Plaintiff has made a demand for such damages and costs, but Defendant has refused to pay them.

Punitive Damages Are Warranted.

22. The conduct of Defendant described above was intentional and was carried out with malice and/or reckless indifference to the federally protected rights of Plaintiff and people with disabilities.

23. Defendant intentionally and knowingly engaged in the practice described above, with the intent of denying rights under the Fair Housing Act.

CLAIM FOR VIOLATION OF THE FAIR HOUSING ACT

24. Plaintiff adopts and re-alleges the allegations of paragraphs 1 through 23 of this Complaint.

25. Defendant injured Plaintiff in violation of the FHA by committing the following discriminatory practices:

a. Making, printing, or publishing, or causing to be made, printed, or published, statement with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination, or an intention to make any such preference, limitation, or discrimination based on disability, in violation of 42 U.S.C. § 3604(c).

JURY TRIAL DEMAND

26. Plaintiff hereby demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, for the foregoing reasons, Plaintiff prays that this Court grant judgment in its favor, and against Defendant, as follows:

- A. Award compensatory damages to Plaintiff in an amount to be proved at a trial before a jury that would fully compensate Plaintiff for the injuries it alleged herein resulting from Defendant's unlawful discrimination.
- B. Award punitive damages in an amount to be proved at trial before a jury, that would punish Defendant for the willful, wanton, and reckless conduct alleged herein and that would effectively deter Defendant from engaging in similar conduct in the future.
- C. Award Plaintiff its reasonable attorneys' fees and costs.
- D. Award Plaintiff such other relief as this Court deems just and proper.

Date: June 19, 2020

Respectfully Submitted,

/s/ Stephen M. Dane
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