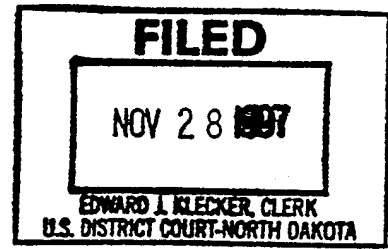


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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWEST DIVISION

North Dakota Fair Housing Council, Inc.,)

Plaintiff,)

v.)

Pioneer Enterprises, Inc., d.b.a. Midweek Eagle)
and Midweek Plus, John Doe #1 d.b.a. 287-1454,)
John Doe #2 d.b.a. 235-1762, and John Doe #3)
d.b.a. 235-9238,)

Defendants.)

AI-97-148

CASE No. _____

COMPLAINT

COMPLAINT

COMES NOW the plaintiff who complains against the defendants as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 42 U.S.C. §3613 of the federal Fair Housing Act and pendent jurisdiction over violations of state law.

PARTIES

2. The plaintiff is North Dakota Fair Housing Council, Inc., ("ND Fair Housing" or "NDFHC"), a nonprofit corporation with its principal place of business in Bismarck, North Dakota. Its former and current employees, volunteers and associates include both men and women and persons who have children under the age of 18 years of age.

3. The primary purpose of ND Fair Housing is to promote equal availability of housing opportunities throughout the state to all persons regardless of race, color, creed, religion, gender, national origin, familial status, or disability and to take all appropriate actions in furtherance of that goal.

4. In support of its equal housing opportunity goals, NDFHC (a) provides education, counseling, information resources and other assistance to its members and other housing consumers and providers throughout the state of North Dakota concerning their rights and responsibilities under state and federal fair housing laws; (b) conducts research regarding the occurrence and incidence of equal housing opportunities and conducts investigative tests necessary to collect information about the true availability of housing in markets served by ND Fair Housing; (c) identifies and distributes information about housing in North Dakota which is available without regard to race, color, creed, religion, national origin, sex, familial status, or disability for the benefit of persons afforded protections under state and federal fair housing laws; (d) provides information to audio, visual and print media concerning fair housing issues; and (e) participates in other activities designed to promote equal housing opportunities in the state.

5. As a result of the NDFHC public information activities, ND Fair Housing receives numerous phone calls and inquiries from individuals who have a variety of needs with respect to fair

housing opportunities. Many of these individuals bring complaints of housing discrimination to NDFHC, including complaints of the denial of equal housing opportunity to families with children, women, men, and others. NDFHC counsels these individuals on the options available to them to obtain access to housing and refers them to appropriate government and community agencies for assistance, and, when appropriate, conducts investigations and fair housing tests in response to these complaints. ND Fair Housing is required to act in response to complaints of discrimination in order to obtain information essential to its community education programs, to protect the effectiveness of its counseling and referral services, to promote a supply of housing available on a nondiscriminatory basis, and to preserve its reputation and good will as an organization that promotes equal housing opportunities.

6. ND Fair Housing brings this complaint on its own behalf, on behalf of its employees, volunteers and associates who have children, men and women, and on behalf of all similarly situated persons who have been denied equal housing opportunities as a result of the discriminatory housing practices of the defendants as described below.

7. The defendant Pioneer Enterprises, Inc. ("Pioneer") does business as the *Midweek Eagle* and the *Midweek Plus*.

8. On information and belief, Pioneer is a North Dakota corporation engaged in making, printing, publishing and distributing classified advertisements, including classified housing ads concerning residential real properties that are available for sale or purchase or rent and are located in the Fargo and West Fargo housing markets in North Dakota and in the Moorhead housing market in Minnesota.

9. John Doe #1 is an advertiser of residential rental property and, on information or

belief, owns or manages the residential rental property which he has advertised. John Doe #1 has done business as telephone number 287-1454. The actual name and address of John Doe #1 are unknown at this time to the plaintiff.

10. John Doe #2 is an advertiser of residential rental property and, on information or belief, owns or manages the residential rental property which he has advertised. John Doe #2 has done business as telephone number 235-3607. The actual name and address of John Doe #2 are unknown at this time to the plaintiff.

11. John Doe #3 is an advertiser of residential rental property and, on information or belief, owns or manages the residential rental property which he has advertised. John Doe #3 has done business as telephone number 235-9238. The actual name and address of John Doe #3 are unknown at this time to the plaintiff.

12. During the period April 1989 through the present, defendant Pioneer distributed or caused to be distributed issues of the *Midweek Eagle* and the *Midweek Plus* containing classified housing ads to persons living in the Fargo and West Fargo housing markets in North Dakota and in the Moorhead housing market in Minnesota and to persons living in other areas of North Dakota and to persons in other states.

13. On January 10, 1996, NDFHC filed a housing discrimination complaint with HUD against Defendant Pioneer alleging that Defendant Pioneer had engaged in a continuing practice of discriminatory advertising based on familial status and gender and in violation of the federal Fair Housing Act, 42 U.S.C. §§3601 et seq.

STATEMENT OF CLAIMS

14. On December 4, 1995, defendant Pioneer made, printed, published, and distributed

in the *Midweek Eagle* a classified housing ad regarding a 2-bedroom upper duplex dwelling for rent in the Shanley High area which stated the property was for "Adults."

15. On December 4, 1995, defendant Pioneer made, printed, published, and distributed in the *Midweek Eagle* a classified housing ad regarding a 2 bedroom housing unit for rent which stated the property was for "one person."

16. On November 30, 1995, defendant Pioneer made, printed, published, and distributed in the *Midweek Plus* a classified housing ad for a one bedroom semi-basement housing unit which stated the property was for a "responsible adult."

17. On November 30, 1995, defendant Pioneer made, printed, published, and distributed in the *Midweek Plus* a classified housing ad regarding a 2 bedroom housing unit for rent which stated the property was for "one person."

18. During the period March 30, 1995, through November 30, 1995, defendant Pioneer made, printed, published, and distributed or caused to be made, printed, published, and distributed in the *Midweek Eagle* and/or the *Midweek Plus* classified housing ads regarding:

a. "one and two bedroom upper" housing units which stated the units were for "one or two adults";

b. a "one bedroom, garden level" housing unit which stated "prefer single person";

c. a furnished apartment for rent which stated the unit was available for a "non-drinking gentleman";

d. a furnished housing unit in "Moorhead" which stated the unit was available for "one quiet" person;

e. 1 bedroom housing units which stated the units were available for "young

professionals/college students”;

f. an efficiency apartment for rent which stated "Female preferred" for the unit;

g. a "furnished efficiency" unit for rent in North Fargo which stated the unit was for a "single, quiet person”;

h. a 2-bedroom apartment in a fourplex near MSU which stated the unit was for "students/quiet couple”;

i. a 1 bedroom apartment which stated the unit was for a "single person”;

j. a garden level housing unit which stated the unit was for "single occupancy”;

k. a 1 bedroom apartment in Moorhead which stated the unit was for an "employed gentleman”;

l. a two-bedroom upper duplex apartment which stated the unit was for a "quiet adult or two”;

m. a one bedroom apartment which stated the unit was for a "mature tenant”;

n. a "furnished efficiency" unit near MSU which stated "female preferred”;

o. a large one bedroom apartment close to MSU/Concordia which stated the unit was for "quiet couple or student”;

p. a two-bedroom apartment stating the unit was available for a "quiet individual or two”;

q. a furnished one bedroom housing unit stating the unit was available for "females only”;

r. a one bedroom apartment stating the unit was for a "mature adult”;

s. a one bedroom housing unit stating the unit was for a "mature adult”;

t. a furnished one bedroom apartment stating the unit was for a "lady";

u. an unfurnished one bedroom apartment stating the unit was for a "quiet, mature adult";

v. an efficiency stating the unit was available for a "male."

19. On information and belief, in addition to the 26 housing advertisements indicating preferences, limitations or discrimination against families with children or men or women described in Paragraphs No. 14 through 18 above, which limited the housing choices and otherwise denied equal housing rights to families with children or men or women, defendant Pioneer made, printed, published and distributed more than one hundred (100) additional listing notices in the *Midweek Eagle* and/or *Midweek Plus* during the period April 1989 through at least December 1995, which indicated preferences, limitations, or discrimination against families with children and/or others.

20. Each and every classified housing advertisement described in Paragraphs No.14 through 19 above which were made, printed, published and distributed by defendant Pioneer indicated a preference, limitation or discrimination based on familial status and/or gender.

21. On each occasion that defendant Pioneer made, printed, published, and distributed or caused to be made, printed, published and distributed any of the classified housing ads described in Paragraphs No. 14 through 19 above, defendant Pioneer violated the federal Fair Housing Act, 42 U.S.C. §3604(c).

22. By making, printing, publishing and distributing or causing to be made, printed, published and distributed the discriminatory housing ads described in Paragraphs Numbers 14 through 19 above, defendant Pioneer aided, abetted and otherwise participated in and was a party to plans and agreements to discriminate against persons because of their familial status or gender with the intent

and effect of steering families with children, men, and/or women away from the housing opportunities identified in the classified housing ads.

23. The practices of defendant Pioneer in steering families with children and others away from housing opportunities as described in the preceding paragraph violated the Fair Housing Act, 42 U.S.C. §3604(d).

24. John Doe #1 d.b.a. 287-1454 caused the advertisements described in the Paragraph Numbers 15 and in other paragraphs of this Complaint to be made, printed, published and distributed for the purpose of steering families with children away from the subject property and otherwise denying families with children equal housing opportunities and in violation of 42 U.S.C. §3604(c).

25. John Doe #2 d.b.a. 235-1762 caused the advertisements described in Paragraph No. 14 and in other paragraphs of this Complaint to be made, printed, published and distributed for the purpose of steering families with children away from the subject property and otherwise denying families with children equal housing opportunities and in violation of 42 U.S.C. §3604(c).

26. John Doe #3 d.b.a. 235-9238 caused the advertisements described in the Paragraph No. 16 and in other paragraphs of this Complaint to be made, printed, published and distributed for the purpose of steering families with children away from the subject property and otherwise denying families with children equal housing opportunities and in violation of 42 U.S.C. §3604(c).

27. The defendants' violations of the Fair Housing Act as described in Paragraphs Nos. 14 through 19 above constituted a continuing course of unlawful and discriminatory conduct and were undertaken knowingly and willfully and in accordance with a policy and practice of conscious indifference to and reckless disregard of the equal housing rights of families with children and others.

28. As a result of the defendants' violations of the Fair Housing Act as described above,

families with children and others, including employees, volunteers, and associates and employees of ND Fair Housing, have been denied equal housing opportunities in the Fargo and North Fargo housing markets in North Dakota and in the Moorhead housing market in Minnesota and those housing markets have been unlawfully manipulated as a result, increasing the costs of housing for families with children and others.

29. As a result of the defendants' violations of the Fair Housing Act as described above, plaintiff has had to divert time and resources from its other programs to investigate the discriminatory advertising practices and the manipulation of the referenced housing markets by defendants, plaintiff has had to engage in other activities to counteract the unlawful discrimination of the defendants, plaintiff has had its organizational goals frustrated by the loss of equal housing opportunities caused by the defendants, and plaintiff has lost good will in the housing provider community as a result of having to take legal action to preserve its reputation for promoting equal housing opportunities throughout the state of North Dakota.

WHEREFORE, plaintiff requests that the Court:

A. Enjoin each defendant from making, printing, publishing or distributing or causing to be made, printed, published, or distributed any further statement or advertisement which indicates a preference, limitation, or discrimination based on familial status or gender in violation of federal fair housing laws;

B. Enjoin each defendant from representing to any person that a housing accommodation or property is not available for inspection, sale, rental, or use because of that person's familial status or gender in violation of federal fair housing laws:

C. Award the plaintiff compensatory damages of \$15,000 or such greater sum as is found to

be sufficient by a jury to compensate the plaintiff for the diversion of its resources, frustration of its organizational purpose, loss of its good will, and other harm caused by the discriminatory practices of the defendants;

D. Order the defendants, at their expense, to furnish to plaintiff copies of all publications printed or distributed by defendants in the next five years for the purpose of monitoring the defendants' compliance with the Fair Housing Act;

E. Order the defendants to submit to, cooperate with, and pay for fair housing testing done by plaintiff on a regular basis over the next five years for the purpose of monitoring the defendants' compliance with the Fair Housing Act and for the purpose of counteracting the past manipulation of the housing markets referenced above;

D. Award the plaintiff exemplary damages as is deemed necessary and sufficient to deter the defendants and others from engaging in like discrimination in the future;

E. Award the plaintiff attorney fees and costs in investigating and bringing this action;

F. Order such other relief as is deemed just and equitable and eliminates the effects of the past discrimination by the defendants and minimizes the likelihood of such discrimination in the future.

Dated this 28th day of November 19 97.



Gregory Jan Runge, Attorney for Plaintiff
North Dakota Fair Housing Council, Inc.