

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,	:	No:
	:	
Plaintiff,	:	
	:	
v.	:	COMPLAINT
	:	
ALBRIGHT CARE SERVICES AND	:	
ASBURY COMMUNITIES, INC.	:	
d/b/a ASBURY RIVERWOODS,	:	
	:	
Defendants.	:	(Jury trial requested)

COMPLAINT

The United States of America, by and through its attorney, Gerard M. Karam, United States Attorney for the Middle District of Pennsylvania, brings this suit against Albright Care Services and Asbury Communities, Inc., doing business as Asbury RiverWoods in Lewisburg, Pennsylvania, for violating the Fair Housing Act, of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, *et seq.*, based on disability.

NATURE OF ACTION

1. This civil action is brought on behalf of HUD Complainant Harry Gural, on his own behalf and in his role as executor of the estate of his mother, Ruth Gural, pursuant to 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and

1345 and 42 U.S.C. § 3612(o).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b), because the events or omissions giving rise to this action occurred in this judicial district, in Lewisburg, Pennsylvania.

PARTIES

4. The Plaintiff is the United States of America, which brings this action on behalf of Harry Gural, on his own behalf and on behalf of the Estate of Ruth Gural, his mother. Mr. Gural and the Estate of Ruth Gural are “aggrieved persons” as defined by the Fair Housing Act, 42 U.S.C. § 3602(i).

5. Defendant Albright Care Services (Albright) is a Pennsylvania non-profit that owns and manages Asbury RiverWoods, located at 15 RidgeCrest Circle, Lewisburg, Pennsylvania 17837.

6. Defendant Asbury Communities, Inc. (Asbury) is a Maryland non-profit corporation that manages Asbury RiverWoods. Asbury’s corporate offices are located at 5285 Westview Drive, Suite 200, Frederick, Maryland 21703.

7. Asbury RiverWoods advertises itself as a continuing care retirement community (CCRC), providing independent residential living, personal care, skilled nursing, memory care, post-acute rehabilitation services, and home care services.

FACTUAL ALLEGATIONS

8. Between December 2017 and July 8, 2022, Mrs. Gural resided in a one-bedroom, one den independent living apartment at the RidgeCrest Court section of

Asbury RiverWoods (the subject property).

9. On July 8, 2022, Mrs. Gural moved out of the subject property into a private home in Lewisburg, Pennsylvania, with Harry Gural and his girlfriend. On September 29, 2022, Mrs. Gural died.

10. The subject property is a “dwelling” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

11. During all relevant times, Mrs. Gural was a person with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h).¹ Mrs. Gural had a cognitive impairment that substantially limited her ability to care for herself on a day to day basis, including obtaining groceries, preparing meals, cleaning the subject property, and taking her physician-prescribed medications.

12. In February 2018, Mrs. Gural granted her son, Mr. Gural, durable power of attorney and the authority to make medical decisions for her.

13. In the summer of 2018, Mr. Gural hired a personal aide to take Mrs. Gural grocery shopping and run errands for her once or twice a week.

14. In October 2019, Heather Colpetzer, director of Asbury RiverWoods’ Enhanced Services, contacted Mr. Gural, reporting that Mrs. Gural had become confused going back to her apartment.

¹ The Fair Housing Act uses the terms “handicap” and “handicapped,” which are considered antiquated terms. This Complaint uses the terms “disability” or “disabled” instead. Those terms have the same meaning as “handicap” or “handicapped,” as defined in the Fair Housing Act.

15. As power of attorney for Mrs. Gural, in October 2019, Mr. Gural increased Mrs. Gural's aide's hours, having the aide arrive a little before noon and stay past dinner to run errands, bring groceries, and provide companionship to Mrs. Gural.

16. On October 14, 2019, Mr. Gural took Mrs. Gural to an appointment with her physician. On October 16, 2019, Mrs. Gural's physician informed Asbury RiverWoods that he had evaluated Mrs. Gural and concurred with Mr. Gural's decision to increase the hours of Mrs. Gural's aide. The physician stated that "she would not need any additional services at this time."

17. For a resident living in an independent living apartment, Asbury RiverWoods offered, for an extra fee, what it called "Enhanced Services," which included attendant care, escort services, companion services, medication reminders, shopping, meal delivery, pet care, laundry, housekeeping, and transportation.

18. Residents could also use "outside home care agencies and individuals," provided they complied with Asbury RiverWoods' policies.

19. Asbury RiverWoods' policies prohibited residents from using family members as live-in aides.

20. The Residency Agreement at Asbury RiverWoods did not allow residents to have guests for more than 14 days without approval by the Executive Director.

A. COVID-19 And The Need For An Accommodation.

21. During the weekend of March 14-15, 2020, Mr. Gural was visiting his mother at Asbury RiverWoods. Ms. Colpetzer told him that Lennea Brown, the

Executive Director of Asbury RiverWoods, had announced that in light of the COVID pandemic, Asbury RiverWoods was locking down the subject property, and all visitors, including Mr. Gural, had to leave.

22. Also during the weekend of March 14-15, 2020, Asbury RiverWoods informed Mrs. Gural's aide that she could not enter the premises, thereby depriving Mrs. Gural of any assistance with her activities of daily living.

23. At all times relevant to this complaint, Asbury RiverWoods did not have providers available who could provide Enhanced Services to Mrs. Gural.

24. On March 15, 2020, Mr. Gural, knowing that his mother required a personal assistant for her activities of daily living and fearing for his mother's safety because of the dangers of COVID-19, told Ms. Colpetzer that he did not want to leave his mother without the necessary support. Mr. Gural asked Ms. Colpetzer to inform Ms. Brown of his intent to stay to ensure his mother's physical and mental wellbeing.

25. During the weekend of March 14-15, 2020, Mr. Gural began staying in his mother's apartment, helping her cook meals, shop for groceries, and take care of other household responsibilities.

26. While he was living with his mother, Mr. Gural did not use the Asbury RiverWoods facilities. The only extra expense he created was the electricity he used for a laptop and showering once a day.

27. Between March 16, 2020, and May 17, 2020, Asbury RiverWoods' management voiced no concerns to the Gural's about that fact that Mr. Gural was living

in his mother's apartment to assist her with her activities of daily living.

28. During this period, although Asbury RiverWoods' management voiced no concern, Mrs. Gural and her son feared that Mrs. Gural would be evicted or forced to move to the Personal Care or the Nursing Care Center, which were more skilled portions of Asbury that would have required Mrs. Gural to give up her independent living apartment. The Gurals had this fear because Asbury RiverWoods had not affirmatively approved Mr. Gural's request to act as a live-in aide for Mrs. Gural.

B. Asbury RiverWoods Threatens To Evict Mrs. Gural And Takes Steps To Remove Mr. Gural.

29. On May 18, 2020, Ms. Brown called Mr. Gural and told him to vacate his mother's apartment by May 28, 2020, or Asbury RiverWoods would take steps to evict his mother.

30. On May 18, 2020, just minutes after her call with Mr. Gural ended, Ms. Brown delivered a letter to Mrs. Gural's attention that stated that Mr. Gural must vacate the apartment by May 28, 2020, and threatened to evict Mrs. Gural if he did not.

31. This letter caused Mrs. Gural and Mr. Gural significant distress.

32. On May 27, 2020, Shaun Smith, the president and CEO of Albright, during an in-person meeting at Asbury Riverwoods, threatened to evict Mrs. Gural if Mr. Gural did not leave the apartment.

33. On June 12, 2020, the Gurals' attorney sent a letter to the Executive

Director of Asbury Riverwoods, General Counsel for Asbury Communities, Inc., and both defendants' private outside counsel, formally requesting that the defendants make an exception to their 14-day overnight guest rule to allow Mr. Gural to serve as a live-in aide for his mother as a reasonable accommodation under the Fair Housing Act.

34. On July 6, 2020, counsel for Asbury RiverWoods responded to the Gurals' June 12, 2020, letter, denying the request for a reasonable accommodation and giving Mr. Gural until August 7, 2020, to vacate the subject property.

35. Between March 15, 2020, and July 8, 2022, when they moved out of the subject property, the Gurals lived under the constant threat that Asbury RiverWoods would evict Mrs. Gural, would not allow Mr. Gural to stay in the apartment to aid his mother with her activities of daily living, and/or would transfer Mrs. Gural to an assisted living unit without medical necessity and her physician's input during a time when at least 16 residents in the assisted living portion of Asbury RiverWoods had COVID-19.

C. HUD Investigation and Charge of Discrimination.

36. On July 31, 2020, the Gurals filed a Housing Discrimination Complaint with the United States Department of Housing and Urban Development (HUD), alleging that Asbury and Albright had violated the Fair Housing Act because of Mrs. Gural's disability.

37. Pursuant to 42 U.S.C. § 3610(a) and (b), HUD conducted an

investigation that included interviews of the complainants and officials at Asbury RiverWoods, and attempted unsuccessfully to conciliate the Gurals' complaint.

38. On January 11, 2022, the Secretary of HUD issued a Charge of Discrimination finding that there was reasonable cause to believe that Asbury and Albright had violated the Fair Housing Act by making unavailable or denying a dwelling because of Mrs. Gural's disability, discriminating against the Gurals in the terms and conditions of housing because of Mrs. Gural's disability, and denying the Gurals the reasonable accommodation of allowing Mr. Gural to serve as a live-in aide to his mother. 42 U.S.C. § 3604(f)(1)(A), (f)(2)(A), and (f)(3)(B).

39. On January 20, 2022, Mrs. Gural and Mr. Gural elected to have the claims asserted in the Charge resolved in a civil action heard in federal district court pursuant to 42 U.S.C. § 3612(a).

40. On January 21, 2022, an administrative law judge issued a Notice of Election of Judicial Determination and terminated the administrative proceeding on the Gurals' complaint.

41. Following this Notice of Election, the Secretary authorized the United States Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

42. The parties have entered into a series of tolling agreements extending the deadline by which the United States Attorney General must file a complaint to February 3, 2023.

CLAIMS FOR RELIEF

43. The allegations set forth above are incorporated by reference.
44. Defendants, through the above-referenced actions, have:
- a. Discriminated in the rental of, or otherwise made unavailable or denied, a dwelling to Mrs. Gural and Mr. Gural because of Mrs. Gural's disability, in violation of 42 U.S.C. § 3604(f)(1)(A);
 - b. Discriminated in the terms, conditions, or privileges of sale or rental of a dwelling because of Mrs. Gural's disability, in violation of 42 U.S.C. § 3604(f)(2)(A); and
 - c. Refused to make reasonable accommodations in rules, policies, practices, or services that were necessary to afford Mrs. Gural an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

43. As a result of Defendants' discriminatory policies and actions, Mrs. Gural and Mr. Gural suffered harm, including, but not limited to, pain and suffering, out-of-pocket expenses, and emotional distress.

WHEREFORE, the United States prays that the Court enter an order:

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

B. Enjoining the Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from discriminating

against any person because of a disability, in violation of the Fair Housing Act;

C. Ordering Defendants to take such actions as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of their unlawful conduct, including implementing policies and procedures to ensure that no applicants or tenants are discriminated against because of disability;

D. Awarding monetary damages to Harry Gural and the Estate of Ruth Gural pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

E. Ordering such additional relief as the interests of justice may require.

The United States demands trial by jury.

Respectfully submitted,

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Dated: April 6, 2023

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