

## **News Handout – Housing Discrimination Against Disabled Family Members at Fort Lewis**

### **Factual Background**

#### **Lawsuit Details**

1. The case is filed in the federal District Court for the Western District of Washington. It is a class action on behalf of all military families with at least one immediate family member who is disabled and alleges that Equity/Fort Lewis Communities LLC (“Equity”) has discriminated against these families in regard to the provision of military family housing.

#### **Plaintiffs**

2. The organizational plaintiff, Parents Against Disability Discrimination (PADD), is an organization comprised of military families who are stationed at Fort Lewis and who have family members with disabilities. Almost all of these families have personally experienced disability discrimination in on-post housing since Equity began managing the housing at Fort Lewis.
3. Plaintiff Charo “Tina” Agee is a military spouse with fibromyalgia who uses a motorized scooter part of the time for mobility. Most of the interior doors in her house and the hallway are too narrow for her to pass through with her scooter. This makes it very difficult for Mrs. Agee to get around the house at times when her fibromyalgia requires her to use her scooter. She would also like to use the bus stops and playground in her neighborhood, yet she cannot because they are inaccessible. Equity has refused to make physical modifications to her housing.
4. Plaintiff Debra Beck is a military spouse with a mobility disability. In December, Equity conducted a surprise “sanitation inspection” of her house and threatened to evict her because it was too messy. She told the inspectors that her disability made it difficult for her to keep the house clean, and asked for additional time to find help. Equity refused to allow this reasonable accommodation.
5. Plaintiffs Garth and Tammarra Johnson are both soldiers stationed at Fort Lewis. When they moved into on-post housing, Equity employees asked whether anyone in their family was disabled and what kind of disabilities they had, in violation of federal law. The Johnsons disclosed their children’s disabilities to Equity because they believed they had to or else they would not receive housing, although they felt uncomfortable doing so.
6. Plaintiffs Kenn and Melanie “Summer” Krook are a soldier and spouse stationed at Fort Lewis. The Krooks’ daughter has disabilities and was subjected to harassment from a neighbor at school and in their neighborhood. They complained several times to Equity about their neighbor’s harassment because of their daughter’s disabilities, but Equity refused to do anything about the problem.

7. Plaintiff Desiree Snowden is a military spouse with severe asthma and other physical disabilities, and her two children have learning disabilities. When the Snowdens moved to Fort Lewis, they were illegally required to disclose the disability status of all family members, and were told that they could not have the keys to their new house unless they provided confidential medical records to Equity. In addition, Mrs. Snowden requested that the furnace filter be changed and air ducts be cleaned according to her doctor's orders. Equity refused to provide this reasonable accommodation and further refused to allow Mrs. Snowden to hire someone herself to perform the work.
8. Plaintiffs Ronald and Krysten Spire are a soldier and spouse stationed at Fort Lewis. Mrs. Spire and their son Devin have disabilities. The Spires' on-post apartment was contaminated with visible mold which could not be cleaned away, and soon after moving in, Mrs. Spire and Devin became ill with persistent respiratory infections. Devin eventually became so ill that he had to be hospitalized. The Spires requested a change of quarters, but Equity denied the request and reported to the Army that Mrs. Spire was harassing them. The Spires were forced to move off-post.
9. Plaintiff Connie Whalen is a spouse whose son has autism. Because her son kept leaving the home at night, Mrs. Whalen requested that Equity install door alarms. Equity refused to install the alarms, and refused to allow Mrs. Whalen to install the alarms herself. Mrs. Whalen's son continued to escape at night and Child Protective Services became involved. Finally, Mrs. Whalen installed the alarms herself. Equity has never reimbursed her for the expense.

#### Defendant

10. The defendant is Equity/Fort Lewis Communities LLC, a joint venture between Equity Residential and Lincoln Property that rehabilitates, builds, and manages the housing for 3,600 military families at Fort Lewis, Washington. Fort Lewis is the West Coast headquarters of the United States Army. Combined, Equity Residential and Lincoln Property have 300,000 homes managed nationwide. Equity Residential is the largest publicly traded owner, operator, and developer of multifamily properties in the United States. Lincoln Property is one of the nation's largest diversified real estate companies.

#### Military Housing Privatization

11. In recent years, the Department of Defense ("DoD") has struggled with the worsening problem of old and dilapidated military family housing. The DoD has estimated that nearly two-thirds of its housing inventory needs repair or complete rehabilitation, which represents about 200,000 housing units out of a total of over 300,000 family housing units in DoD's inventory. To help remedy this problem, Congress enacted the Military Housing Privatization Initiative (MPHI) in 1996 as part of the National Defense Authorization Act for Fiscal Year 1996.

12. The standard method of funding the repair and replacement of military family housing is through military construction dollars. However, declining defense budgets and increasingly rigid government procurement processes have contributed to the deterioration of military family housing. With the MHPI, Congress gave DoD the legal authority to use a variety of methods to obtain private sector financing, expertise and management to repair, renovate and construct military family housing. The MHPI authorizes direct loans and loan guarantees, rental occupancy guarantees, conveyance or lease of existing properties and facilities, differential payments to supplement service members' housing allowances, and investments such as limited partnerships and stock/bond ownership. These tools provide flexibility in structuring agreements with private developers to provide military family housing. They enable the services to draw upon private sector investment capital and housing construction expertise.
13. As of December 2003, the military services have awarded 25 housing projects, with 40 more in various stages of solicitation. The first military housing privatization project was awarded at Lackland Air Force Base, Texas, in August 1998. The Army's first MHPI project was at Fort Carson, Colorado, awarded in September 1999.
14. In August 2000, the Army awarded the Fort Lewis project to joint developers Equity Residential and Lincoln Property. The Army collaborated with these private developers to develop a Community Development and Management Plan (CDMP) for Fort Lewis. The CDMP was adopted and now serves as a major part of the contract between Equity and the Army that governs the Army's residential community at Fort Lewis.
15. Equity Residential took over the day-to-day management of on-post housing at Fort Lewis on or about April 1, 2002. All military families living in on-post housing were required to sign new leases with Equity Residential.

#### Fort Lewis

16. Fort Lewis has an advanced medical facility on post called the Madigan Army Medical Center ("Madigan"). As part of its Exceptional Family Member Program ("EFMP"), the Army attempts to station military families with disabled members at bases that have the medical and social capacity to accommodate their needs. Because Madigan has substantial capacity in this regard, Fort Lewis has a relatively high population of reported military families who have at least one family member with a disability. The reported population is 13%, or about 3000 people, the second highest of any base in the Army.
17. Almost all military families with disabled members want to live in on-post housing so they can have easier access to Madigan, both for regularly scheduled medical visits as well as emergency room visits, which are common for children with disabilities. In fact, these families are strongly pressured by the Army's medical insurance program, Tri-Care, to live on-post because if they do not, they

often have to receive medical care from civilian hospitals in the area. Tri-Care prefers military families to receive medical care from military medical facilities in order to keep costs down.

18. Since Equity took over Fort Lewis family housing, just as before, military members are allotted a Basic Allowance for Housing (BAH) each month. The BAH appears as a distinct amount on the soldier's paycheck. However, the soldier does not have access to these funds: for soldiers who live in on-post family housing at Fort Lewis, the BAH is automatically withdrawn from the soldier's paycheck as an "allotment" and deposited with the private housing provider, which is known to the families as "Equity." All military families living in on-post housing at Fort Lewis pay their rent to Equity and are told that Equity manages their housing.

#### Legal Violations

19. Equity's pattern and practice of discrimination violate numerous federal and state laws, including the federal Fair Housing Act, the Americans with Disabilities Act, the Rehabilitation Act of 1973, provisions of the U.S. Constitution, Washington State's Law Against Discrimination, and provisions of the Washington State Constitution.

#### The Lawyers

20. *Disability Rights Advocates* is a non-profit California-based law firm that brings class actions on behalf of people with disabilities. *Brancart and Brancart, P.C.* is a leading fair-housing law firm based in California. *Stritmatter Kessler Whelan Withey Coluccio* is a nationally-recognized plaintiff's firm specializing in personal injury litigation located in Washington state. *Trial Lawyers for Public Justice* is a national public interest law firm headquartered in Washington, D.C. with an office in Oakland, California.

#### Relief Requested

21. Plaintiffs are asking that Equity/Fort Lewis Communities LLC treat people with disabilities equally and fairly and in compliance with the law, and that the company institute fair and reasonable policies and procedures concerning prospective or actual tenants with disabilities or disabled family members. They also seek reasonable monetary damages.