

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FAIR HOUSING JUSTICE CENTER, INC.;
LISA DARDEN; JAMES EDWARD BECTON;
and BIANCA JONES,

Plaintiffs,

v.

NASA REAL ESTATE CORPORATION; and
IRFAN BEKDEMIR,

Defendants.

Civ. _____ (ECF)

COMPLAINT

**JURY TRIAL
DEMANDED**

Plaintiffs, Fair Housing Justice Center, Inc. (“FHJC”), Lisa Darden, James Edward Becton, and Bianca Jones (collectively, the “Plaintiffs”), by their attorneys, Emery Celli Brinckerhoff & Abady LLP, for their Complaint against Defendants NASA Real Estate Corporation and Irfan Bekdemir (collectively, the “Defendants”), allege as follows:

INTRODUCTION

1. Plaintiffs file this lawsuit to dislodge the egregious and blatant racial discrimination that prevents African-Americans from renting or viewing apartments at 41-41 46th Street in Sunnyside, Queens (the “Building”), a building that has over 100 apartments. African-Americans who ask about apartments at the Building are repeatedly lied to and told no apartments are available, while whites who ask about apartments (often less than an hour later) are welcomed and encouraged to become residents of the Building.

2. Plaintiff FHJC conducted a testing investigation at the Building and discovered the discriminatory treatment. Defendants cannot deny the discrimination because all the encounters were recorded and carefully documented.

3. In each test, the Building's superintendent blatantly lied to the African-American testers, turned them away, and told them no apartments were available. In some cases, the superintendent went further—claiming that he did not handle leasing, sending the African-Americans to a real estate agent who he said could find the African-Americans apartments elsewhere, and giving the African-Americans a false name when asked to identify himself.

4. The superintendent acted in stark contrast when the white testers arrived at the Building. In each case, sometimes less than an hour after he lied to the African-American testers and claimed he did not handle leasing, the superintendent told the white testers that apartments were available, immediately showed them an available unit, and offered them a rental application. Not only did the superintendent offer to lower the rent for “nice people” such as the white testers, he offered to help them avoid a broker's fee by renting directly through him. The superintendent also provided his real name and phone number to the white testers.

5. If the racial motivation of the superintendent's lies to the African-American testers were not clear enough, the superintendent crystallized his clear preference for white residents and antipathy towards African-Americans by stating to a white tester, “I chose the people. . . . You look like nice people, that's why I show you.” “Sometime, nice people, my office say, keeping the, the good people, you rent, they say to me. But not everybody you know? If it looks nice people, I show you. But otherwise, never.”

6. The superintendent's statements that he did not “take everybody” and did not “show everybody” the Building, combined with his lies to the African-American testers, make clear that the ongoing racial discrimination towards African-Americans who wish to view, rent, and live in apartments in this Building will continue absent a Court-ordered injunction.

7. Plaintiffs FHJC, along with African-American testers Lisa Darden, James Edward Becton, and Bianca Jones, file this action to reform Defendants' blatantly discriminatory policies and practices. Plaintiffs therefore seek extensive injunctive relief (such as the creation of non-discriminatory policies, training, and monitoring), as well as monetary damages for these violations of Plaintiffs' civil rights.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, 28 U.S.C. § 2201 and 42 U.S.C. § 3613. This Court has supplemental jurisdiction over the New York City law claims pursuant to 28 U.S.C. § 1367.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendant NASA Real Estate Corporation is headquartered and conducts business in the district and Defendant Irfan Bekdemir resides in the District. In addition, venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rising to the claims occurred in this District.

THE PARTIES

10. Plaintiff FHJC is a non-profit New York City-based organization dedicated to ensuring that all people have equal access to housing opportunities in the New York City region by eliminating housing discrimination and creating open, accessible, and inclusive communities. FHJC expended staff time and other resources to investigate and to respond to the discriminatory rental practices at the Building. This investigation diverted resources away from other FHJC activities. Furthermore, Defendants' discriminatory rental practices frustrated the FHJC's mission to ensure that all people have equal access to housing opportunities in the New

York City region by, among other things, making apartments for rent unavailable and more expensive to African Americans because of race and color.

11. Plaintiff Lisa Darden is an African American woman who resides in New York, New York and during all relevant times was employed as a tester by the FHJC. On February 22, 2012, Ms. Darden met with Defendant Bekdemir, an agent of Defendant NASA Real Estate Corporation, to inquire about the availability of rental units at the Building.

12. Plaintiff James Edward Becton is an African American man who resides in Queens, New York and during all relevant times was employed as a tester by the FHJC. On February 27, 2012, Mr. Becton met with Defendant Bekdemir, an agent of Defendant NASA Real Estate Corporation, to inquire about the availability of rental units at the Building.

13. Plaintiff Bianca Jones is an African American woman who resides in Brooklyn, New York and during all relevant times was employed as a tester by the FHJC. On February 23, 2012, Ms. Jones met with Defendant Bekdemir, an agent of Defendant NASA Real Estate Corporation, to inquire about the availability of rental units at the Building.

14. Upon information and belief, Defendant NASA Real Estate Corporation is the owner and lessor of a multi-family rental building with 107 apartments located at 41-41 46th Street, Sunnyside, Queens (the “Building”). Upon information and belief, NASA Real Estate Corporation is a New York corporation with a principal place of business located in Queens, New York. Upon information and belief, the Building owned and leased by NASA Real Estate Corporation is a housing accommodation, as defined by Section 8-102(1) of the New York City Administrative Code to include “any building . . . which is used or occupied . . . as the home, residence or sleeping place of one or more human beings.” Upon information and belief, the Building owned and leased by NASA Real Estate Corporation is a dwelling as defined by

Section 802(b) of the Fair Housing Act to include “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families.”

15. During all relevant times, Defendant Irfan Bekdemir resided at 41-41 46th Street, Sunnyside, Queens and worked as a building superintendent for the Building. As part of his responsibilities, Mr. Bekdemir provides information about and shows units for rent to prospective tenants, and provides prospective tenants with rental applications. Upon information and belief, Mr. Bekdemir was acting at all relevant times as an agent of Defendant NASA Real Estate Corporation.

FACTUAL BACKGROUND

Fair Housing Justice Center, Inc.

16. Among other things, the FHJC: (a) provides information to the public and other nonprofit organizations in the New York City regional area about fair housing laws; (b) provides intake counseling to individuals and organizations with allegations of housing discrimination; (c) conducts testing and other investigations of allegations of housing discrimination; (d) makes legal referrals to cooperating attorneys; (e) assists with the preparation and filing of administrative housing discrimination complaints; and (f) provides post-referral litigation support services. The FHJC provides these services free of charge and without regard to income.

17. The FHJC also conducts testing investigations for government law enforcement agencies, provides technical assistance to nonprofit organizations engaging in fair housing enforcement activities, and engages in policy initiatives that further the FHJC’s mission, including the publication and dissemination of reports and educational materials.

18. The FHJC employs individuals as “testers”— persons who pose as renters or homebuyers for the purpose of obtaining information about the conduct of landlords, real estate companies, agents, and others to determine whether illegal housing discrimination is taking place. During all times relevant to this Complaint, Plaintiffs Darden, Jones, and Becton, as well as all the white testers sent to the Building, were employed as testers by the FHJC. Prior to conducting the tests at the Building, Plaintiffs Darden, Jones, and Becton, as well as all the white testers sent to the Building, received training from the FHJC, which included instructions on conducting tests, preparing tester report forms, and using concealed digital audio recorders during tests.

19. The FHJC, through three of its African American employees, was provided untruthful information by Defendants about apartments available for inspection or rent based on race or color in violation of local and federal fair housing laws.

The Building and Available Apartments

20. The Building is located in an area where less than 2% of all renter-occupied housing units are occupied by African American households according to the 2010 Census. In contrast, African American renter households make up 18% of all renter households in Queens and 27% of all renter households in New York City.

21. In late 2011 and early 2012, FHJC sent white testers to the Building to learn how apartments are leased at the Building, the rent range for one-bedroom apartments at the Building, and whether any one-bedroom apartments at the Building were available to rent.

22. Through these tests, FHJC learned that Defendant Bekdemir was the superintendent for the Building and handled leasing of apartments.

23. On February 16, 2012, a white tester sent to the Building by FHJC learned that a one-bedroom apartment was available to rent in the Building. The white tester was shown a vacant one-bedroom apartment in the Building, Unit 2M, by Defendant Bekdemir, who identified himself as the superintendent of the Building.

Test 1: February 22, 2012

24. On February 22, 2012, FHJC sent two testers to the Building: Plaintiff Darden and a white tester, who inquired as to the availability of one-bedroom apartments for rent in the Building. Defendant Bekdemir lied to Plaintiff Darden and told her that no apartments were available, while he not only offered and showed a vacant one-bedroom apartment in the Building to the white tester, but also offered to lower the rent for the white tester.

25. At approximately 11:45 a.m. on February 22, 2012, Plaintiff Lisa Darden, who is African American, went to the Building to inquire about the availability of a one-bedroom apartment for rent. Plaintiff Darden met with a man who identified himself as “Irfan,” the building superintendent, in the lobby of the Building. On information and belief, “Irfan” is Defendant Bekdemir.

26. When Plaintiff Darden asked whether any apartments were available, Defendant Bekdemir lied and said that no apartments were available for rent. He further lied to Plaintiff Darden by claiming that he did not handle leasing in the Building and that he did not know when an apartment would become available. He stated that a one-bedroom apartment had just been rented for \$1500, \$1600, or \$1700 per month, and he said apartments with large kitchens rented for \$1700 to \$1800 per month. When Plaintiff Darden asked for information about the Building’s management company, Defendant Bekdemir discouraged her from contacting the management company, saying that they would give her the same information he

did. When pressed, Defendant Bekdemir first stated that the management company was in the Bronx and then stated it was in New Jersey. When Plaintiff Darden specifically asked whether there was an office in the Building, Defendant Bekdemir said that the manager, named Frank, lived in the Building but was on vacation and that he did not know when the manager would return. Defendant Bekdemir gave Plaintiff Darden a name and phone number for a real estate company, but told her that the company would give Plaintiff Darden the same information. Upon information and belief, the phone number provided by Defendant Bekdemir belongs to a licensed real estate broker.

27. A little over an hour later on that same day, February 22, 2012, a white female tester went to the Building to inquire about the availability of a one-bedroom apartment for rent. The white tester met with Defendant Bekdemir, who told her that a one-bedroom apartment was available for rent immediately. Defendant Bekdemir showed her Unit 2M, a vacant one-bedroom apartment, in the Building. He told the white tester that, though the rent was usually \$1500, he would lower the rent to \$1400 for “nice people, nice family” and would not charge a broker’s fee. Defendant Bekdemir further described the Building as, “This building is choice people. Not everybody.” He gave the tester a rental application and encouraged her to come back quickly with her husband to view the apartment again. Defendant Bekdemir also gave his name and phone number to the tester, and confirmed that he lived in the Building.

28. In summary, on February 22, 2012, Plaintiff Darden, who is African American, was told by Defendant Bekdemir that there were no apartments available in the Building, and that one-bedroom apartments generally rented for \$1500 to \$1700. A white tester who visited only one hour later that same day was told that a one-bedroom apartment was

available to rent for \$1400 per month and was shown the same vacant apartment that he had shown to the white tester who visited the Building on February 16, 2012.

Test 2: February 23-February 24, 2012

29. The next day, FHJC sent out another African-American tester, Plaintiff Jones, to inquire about one-bedroom apartments in the Building. Defendant Bekdemir lied to Plaintiff Jones, as he had to Plaintiff Darden, and told Plaintiff Jones that no one-bedroom apartments were available. Defendant Bekdemir did not tell Plaintiff Jones about the available one-bedroom apartment in the Building, even though he had shown the same vacant apartment to a white tester the day before Plaintiff Jones's visit and would show it to a white tester the day after Plaintiff Jones's visit.

30. At approximately 12:45 p.m. on February 23, 2012, Plaintiff Jones visited the Building. She met a man who confirmed that he was the superintendent of the Building. Upon information and belief, this man was Defendant Bekdemir. When Plaintiff Jones asked Defendant Bekdemir whether a one-bedroom apartment was available, Defendant Bekdemir lied and told her that he had just rented a one-bedroom apartment the prior week and had nothing else available. He claimed that a real estate company, and not himself, rented apartments in the Building and gave Plaintiff Jones the name and phone number of a person at a real estate company. He suggested that the company might know of available apartments somewhere else. Upon information and belief, the phone number provided by Defendant Bekdemir belongs to the same licensed real estate broker that Defendant Bekdemir gave to Plaintiff Darden. Defendant Bekdemir also lied to Plaintiff Jones by saying that his name was "Mike." Upon information and belief, Plaintiff Jones was actually speaking to Defendant Bekdemir.

31. The next day, on February 24, 2012, at approximately 1:30 p.m., a white female tester went to the Building and met Defendant Bekdemir, who identified himself as “Irfan” and confirmed that he was the superintendent. When the white tester asked whether a one-bedroom apartment was available in the Building, Defendant Bekdemir told her that a one-bedroom apartment was available for rent immediately and showed her the vacant unit right away (Unit 2M). He said, “I’m not take everybody.” “This building. I’m not show everybody. I have one apartment ready.” He also said, in reference to the Building, “I chose the people. . . . You look like nice people, that’s why I show you.” He stated that, though the rent was \$1500 per month, he would lower the rent to \$1400 for “nice people.” Defendant Bekdemir also offered to help the white tester avoid a broker’s fee by allowing her to rent the apartment directly through him rather than through a real estate agent. Defendant Bekdemir gave the tester a rental application and his phone number, and offered to show the apartment to her husband and to introduce her to the manager the next day. He also stated, “Sometime, nice people, my office say, keeping the, the good people, you rent, they say to me. But not everybody you know? If it looks nice people, I show you. But otherwise, never.”

32. In summary, two white testers visited the Building two days apart, were told by Defendant Bekdemir that the same one-bedroom unit was available for rent, and were shown the same vacant one-bedroom apartment immediately by Defendant Bekdemir. On the intervening day, Defendant Bekdemir told Plaintiff Jones, who is African-American, that no one-bedroom apartments were available. Defendant Bekdemir further offered Plaintiff Jones less favorable rental conditions by telling her to contact a real estate agent, who could help her find an apartment elsewhere and would presumably charge a broker’s fee, while offering to rent apartments to the white testers directly at a reduced rent and without a broker’s fee.

Test 3: February 27, 2012

33. On February 27, 2012, FHJC sent out an African American tester, Plaintiff Becton, and a white tester to the Building to inquire about one-bedroom apartments for rent. Again, as in the previous two tests, Defendant Bekdemir lied to the African American tester by falsely claiming no one-bedroom apartments were available. In contrast, he showed the white tester, who arrived less than one hour later, a vacant one-bedroom apartment in the Building and offered to rent it to him at a reduced price.

34. At approximately 11:30 p.m. on February 27, 2012, Plaintiff Becton visited the Building. When Plaintiff Becton entered the lobby of the Building, he noticed a woman standing in the doorway of an apartment on the Building's first floor. When Plaintiff Becton asked for the superintendent, the woman responded in the affirmative. The woman told Plaintiff that a one-bedroom was available and, when Plaintiff Becton asked to view it, told him to wait. After approximately 10 minutes, a man entered the lobby of the Building. Plaintiff Becton asked the man whether he was the superintendent, and the man answered that he was. Upon information and belief, this man was Defendant Bekdemir. Defendant Bekdemir lied and told Plaintiff Becton that the one-bedroom apartment had been rented already and that one might become available in two to three months. Defendant Bekdemir also lied by telling Plaintiff Becton that his name was "Mike."

35. A little less than an hour later on that same day, February 27, 2012, a white tester visited the Building. The tester encountered a man, who identified himself as the superintendent's son. When the tester said he was interested in one-bedroom apartments in the Building, the man said that he would call his father. Defendant Bekdemir subsequently met the tester and identified himself as "Irfan," the Building's superintendent. Defendant Bekdemir told

the white tester that a one-bedroom apartment was available and showed the vacant unit to him immediately (Unit 2M). Defendant Bekdemir told the white tester, "I'm not take everybody in this Building. I chose the people. You looks nice people." Defendant Bekdemir said the rent was \$1500 but that for "nice people" he would lower the rent to \$1400. He offered the white tester an application and encouraged him to bring his wife back to view the apartment.

36. In summary, Defendant Bekdemir told Plaintiff Becton, who is African American, that there were no one-bedroom apartments available. But just an hour later, he told the white tester that a one-bedroom apartment was available for rent immediately, showed the tester the vacant apartment, offered to reduce the rent, and offered the white tester a rental application.

37. By reason of the foregoing, Plaintiff FHJC has suffered injury in the form of a diversion of its resources and frustration of its mission, including staff time expended to respond to Defendants' discriminatory conduct.

38. By reason of the foregoing, Plaintiffs Darden, Jones, and Becton have suffered a loss of civil rights and other damages including emotional distress, humiliation, and embarrassment.

COUNT I
Fair Housing Act
(42 U.S.C. § 3601 *et seq.*)

39. Plaintiffs repeat and reallege the foregoing paragraphs of their complaint as though fully set forth herein.

40. Defendant NASA Real Estate Corporation is a owner and lessor of a dwelling, as defined by Section 802(b) of the Fair Housing Act, 42 U.S.C. § 3602(b), to include

“any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families.”

41. Defendants’ conduct, as described above, constitutes representations made because of race or color that a dwelling is not available for inspection or rent when such dwelling was in fact so available, in violation of Section 804(d) of the Fair Housing Act, 42 U.S.C. § 3604(d).

42. Defendants’ conduct, as described above, constitutes discrimination against any person in the terms, conditions, or privileges of rental of a dwelling because of race or color, in violation of Section 804(b) of the Fair Housing Act, 42 U.S.C. § 3604(b).

43. Plaintiffs FHJC, Darden, Jones, and Becton are aggrieved persons as defined in 42 U.S.C. § 3602(i). They have been injured by Defendants’ discriminatory conduct, and have suffered damages as a result.

44. Defendants’ conduct was intentional, willful, and made in disregard for the rights of others.

45. Accordingly, under 42 U.S.C. § 3613(c), Plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys’ fees and costs.

COUNT II

New York City Human Rights Law
(New York Administrative Code, § 8-107 *et seq.*)

46. Plaintiffs repeat and reallege the foregoing paragraphs of their complaint as though fully set forth herein.

47. Defendant NASA Real Estate Corporation is the owner and lessor of a housing accommodation, as defined by Section 8-102(1) of the New York City Administrative

Code to include “any building . . . which is used or occupied . . . as the home, residence or sleeping place of one or more human beings.”

48. Defendants’ conduct as described above constitutes an unlawful discriminatory practice to refuse to rent or lease, refuse to approve the rental or lease, or otherwise withhold a housing accommodation because of race or color, in violation of New York Administrative Code § 8-107(5)(a)(1).

49. Defendants’ conduct as described above constitutes discrimination in the terms, condition, or privileges of the rental of a housing accommodation because of race or color, in violation of New York Administrative Code § 8-107(5)(a)(2).

50. Plaintiffs have been injured by Defendants’ discriminatory conduct and have suffered damages as a result.

51. Defendants’ conduct was intentional, willful, and made in disregard for the rights of others.

52. Accordingly, under the New York Administrative Code §8-502(a) and (f), Plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys’ fees and costs.

53. Plaintiffs have served a copy of the complaint upon the City Commission on Human Rights and Corporation Counsel, pursuant to the New York City Administrative Code § 8-502(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request judgment against Defendants as follows:

- (a) Declaring that Defendants' discriminatory practices violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*, and the New York City Human Rights Law, New York Administrative Code § 8-107 *et seq.*;
- (b) Enjoining Defendants, Defendants' agents, employees, and successors, and all other persons in active concert or participation from:
 - (i) Denying or withholding housing, or otherwise making housing unavailable on the basis of race or color;
 - (ii) Representing to any person that a dwelling is not available for inspection or rental when such dwelling is in fact so available because of race or color;
 - (iii) Discriminating in the terms, conditions, or privileges of rental because of race or color;
 - (iv) Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of any right granted or protected by the Fair Housing Act; and
 - (v) Aiding, abetting, inciting, compelling, or coercing the doing of any of the acts forbidden by the New York City Human Rights Law;
- (c) Enjoining defendants and their agents, employees, and successors, and all other persons in active concert or participation to:
 - (i) Make all necessary modifications to their policies, practices, and procedures to comply with fair housing laws;
 - (ii) Train all management, agents, and employees on fair housing laws;

- (iii) Advertise apartments available for rent in a non-discriminatory manner, including displaying an Equal Housing Opportunity logo (or statement to that effect) on all print and internet advertisements and displaying in all offices and rental buildings appropriate fair housing law posters;
 - (iv) Allow monitoring of their application and rental process;
 - (v) Retain advertising and rental records to allow for appropriate monitoring;
 - (vi) Develop written procedures on rental process and fair housing policy to be distributed to all employees, agents, tenants, and rental applicants; and
 - (vii) Establish a system for testing agents and employees for unlawful discriminatory practices;
- (d) Awarding such damages to Plaintiff FHJC as will fully compensate for the diversion of resources and frustration of mission caused by Defendants' unlawful practices;
- (e) Awarding such damages to Plaintiffs Darden, Jones, and Becton as will fully compensate for any loss of rights, as well as for the humiliation, embarrassment, and emotional distress suffered due to Defendants' discriminatory conduct;
- (f) Awarding punitive damages to Plaintiffs;
- (g) Awarding Plaintiffs reasonable attorneys' fees, costs, and expenses incurred in prosecuting this action; and
- (h) Granting Plaintiffs such other further relief as may be just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial on the merits by jury pursuant to Fed. R. Civ. P. 38.

Dated: December 5, 2012
New York, New York

EMERY CELLI BRINCKERHOFF
& ABADY LLP

By: /s/ Elizabeth S. Saylor
Elizabeth S. Saylor
Diane L. Houk
Vasudha Talla
75 Rockefeller Plaza, 20th Floor
New York, New York 10019
Telephone: (212) 763-5000
Facsimile: (212) 763-5001

Attorneys for Plaintiffs