

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL HEYER, et al.,

Plaintiffs,

-against-

80 Civ. 1196 (RWS)

NEW YORK CITY HOUSING AUTHORITY,
et al.,

Defendants.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KAREN BENNETT, et al.,

Plaintiffs,

-against-

NEW YORK CITY HOUSING AUTHORITY,
et al.,

02 Civ. 3499 (CPS)(SMG)

Defendants.

STIPULATION AND ORDER OF SETTLEMENT

WHEREAS, a complaint in Heyer et al. v. New York City Housing Authority et al., 80 Civ. 196 (RWS) (the "Heyer Action") dated February 29, 1980 alleged that the New York City Housing Authority (the "Housing Authority") failed to provide individuals with mobility impairments who have been, are, or will be qualified for the Section 8 program with effective assistance in finding accessible housing, and seeking declaratory and injunctive relief; and

WHEREAS, the Court certified a plaintiff class in the Heyer action on May 22, 1980; and

WHEREAS, the Court approved a Stipulation Of Settlement And Order in the Heyer action on September 13, 1982 (the “1982 Stipulation”), and the Court retained jurisdiction as set forth in paragraph 14 of the 1982 Stipulation; and

WHEREAS, an action was commenced in the United States District Court for the Eastern District of New York, entitled Karen Bennett et al. v. New York City Housing Authority et al., 02 Civ. 3499 (CPS), on or about June 7, 2002 (the “Bennett action”), asserting similar allegations to those in the Heyer action and asserting claims under the Americans with Disabilities Act and the Fair Housing Act and seeking class certification for a similar class, as well as injunctive and declaratory relief; and

WHEREAS, the Housing Authority denies the allegations in the Bennett action, and maintains that its policies and practices regarding assistance to individuals with mobility impairments who apply to or are participants in the Section 8 program comply with applicable law and regulations; and

WHEREAS, the parties wish to resolve their disputes amicably without any admission of liability, and without an adjudication on the merits, by replacing the 1982 Stipulation with this Stipulation, and by amicably resolving the Bennett action;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the plaintiffs in the Heyer action and in the Bennett action and the Housing Authority, that:

1 The 1982 Stipulation is hereby dissolved and extinguished; all rights, duties, and obligations of the parties created thereunder shall cease to exist; and this Stipulation and Order Of Settlement (the “Stipulation”) is substituted therefor; and the Heyer and Bennett actions are

consolidated for all purposes.

2. A class is now certified for the purpose of the consolidated cases consisting of all individuals with mobility impairments who are or will be holders of Section 8 Housing Choice Voucher Program vouchers through the Housing Authority.

3. It is and shall be the policy of the Housing Authority that its policies regarding individuals with mobility impairments who apply to or participate in the Section 8 program conform to the requirements of applicable federal law and regulations.

4. The Housing Authority shall inform mobility-impaired applicants for the Section 8 program that they may also apply for admission to public housing. For those mobility-impaired applicants who apply to both programs, the Housing Authority will process both applications in accordance with applicable federal law and regulations.

5. The Housing Authority shall inform applicants for the Section 8 program that, if they have a mobility impairment that would make it a hardship for them to appear in person for their eligibility interview, they may request that a telephone interview be scheduled.

6. The Housing Authority shall provide accommodation to individuals with mobility impairments applying to or participating in the Section 8 program, provided that the Housing Authority determines, in its discretion and on a case-by-case basis, that the accommodation requested is reasonable, and provided that the accommodation requested does not create an undue financial and administrative burden or fundamentally alter the Section 8 program.

7. Where appropriate, the Housing Authority shall provide a reasonable accommodation to Section 8 applicants or participants with mobility impairments, on an individualized, case-by-case basis, based on the facts and circumstances presented, regarding

attendance at Section 8 briefings and pickup of Section 8 vouchers.

8. The Housing Authority shall inform Section 8 participants that they may request an accommodation. The Housing Authority shall provide Section 8 participants with a form to request such accommodation. The form shall be provided to Section 8 participants at briefings and in annual recertification packets, and may be obtained at other times at the Section 8 participant's request. A copy of the form is annexed hereto as Exhibit A

9. The Housing Authority shall provide listings of available apartments to Section 8 participants at briefings and during their apartment searches, at their request, which include information regarding the accessibility of the apartments listed. In appropriate circumstances, and where requested as a reasonable accommodation, the Housing Authority will mail listings of available apartments to mobility-impaired Section 8 participants. At briefings, including those conducted pursuant to paragraph 7, the Housing Authority shall inform Section 8 participants that they may access listings of available apartments on the internet, and that they may request these listings to be mailed as a reasonable accommodation.

10. The Housing Authority will regularly update its lists of available apartments.

11. In its next quarterly newsletter distributed to all Section 8 landlords, and once a year thereafter, the Housing Authority will recommend that landlords rent apartments to individuals with mobility impairments, will recommend that they modify apartments to suit individuals with mobility impairments, and will advise them that tax incentives may be available for such modifications.

12. The Housing Authority has asked all approved real estate brokers to notify the Housing Authority if they have knowledge or expertise in locating apartments that may be

accessible or otherwise suitable for individuals with mobility impairments, or have apartments that may be suitable for those with mobility impairments now or in the future. The Housing Authority will modify the real estate broker list it prepares to specify, based on brokers' responses, which brokers have indicated that they have such knowledge or expertise.

3 If an individual with a mobility impairment requests, as a reasonable accommodation, that the payment standard used to determine the shares of rent be increased, the Housing Authority will inform the individual within fifteen (15) days of his or her request of the documentation required by the Housing Authority to substantiate the need for this accommodation. The Housing Authority will request HUD's approval for such increase within fourteen (14) days after the individual submits all required documentation to the Housing Authority.

14. Every January and July during the Stipulation Period, the Housing Authority will provide plaintiffs' counsel with (a) a list of individuals with mobility impairments, and their names, addresses, and telephone numbers, who have made a request for accommodation in the Section 8 program; the nature of the accommodation requested; and the status of the requests; and (b) a list of requests by the Housing Authority to HUD for permission to grant rents above the payment standard for individuals with mobility impairments and the status of those requests.

15. Within 60 days of the execution of this Stipulation, the Housing Authority will train all relevant Section 8 personnel, including any relevant housing assistants, regarding the obligations contained in this Stipulation, and will continue to train relevant personnel as needed.

16. If plaintiffs have evidence that the Housing Authority is systemically failing to comply with this Stipulation, plaintiffs' counsel shall notify the Housing Authority's counsel in

writing of the specific basis and evidence for the claim of systemic non-compliance. The parties shall thereafter attempt to resolve the allegation of systemic non-compliance in good faith without the need for judicial intervention. If the parties are unable to resolve the allegation of systemic non-compliance to the satisfaction of plaintiffs' counsel within 30 days of plaintiffs' counsel providing written notice consistent with the terms of this paragraph, plaintiffs may seek relief from the Court

7. Where notices are to be provided to plaintiffs' counsel under the terms of this Stipulation, they will be sent to the address indicated below, or any updated address provided by the plaintiffs' counsel

Jane Greengold Stevens
New York Legal Assistance Group
450 West 33rd Street, 11th Floor
New York, N.Y. 10001

AND

Nancy Rosenbloom
Legal Aid Society
199 Water Street
New York, N.Y. 10038

Plaintiffs' counsel will inform the Housing Authority of any change of address during the Stipulation Period as defined in paragraph 19.

18. The issue of attorney's fees will be addressed privately between the parties.

19. Any and all rights, duties, and obligations created by this Stipulation will expire three years after the date this Stipulation is "so ordered" by the Court (the "Stipulation Period"), and this Stipulation will be dissolved and extinguished at the end of the Stipulation Period. The Court retains jurisdiction during the Stipulation Period.

20. During the Stipulation Period, the Housing Authority will adhere to the policies and procedures enumerated in paragraphs 3 through 15 of this Stipulation.

21. The Housing Authority may amend these policies and procedures during the Stipulation Period, so long as the amendments conform with applicable law, rules, and

regulations, only with the prior written consent of plaintiffs' counsel or with the prior written approval of the court. The Housing Authority will give plaintiffs' counsel prior written notice of any proposed change. Within fourteen days of the receipt of such notice, plaintiffs' counsel will give written notice to the Housing Authority's counsel whether or not they object to the proposed change. If plaintiffs' counsel do not object to the proposed change, the Housing Authority may then promptly implement it. If plaintiffs' counsel object to the proposed change, the Housing Authority must make an application to the Court and have that application approved by the Court if it wishes to be permitted to implement the change.

Dated:

SO ORDERED: _____
Robert W. Sweet, U.S.D.J.