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2005

Amended Complaint, Bloch vs. Frischholz, Docket
No. 1:05-cv-05379 (Northern District of Illinois
Sept 16, 2005)

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Lynne Bloch, Helen Bloch, and)	
Nathan Bloch,)	
Plaintiffs,)	
)	
v.)	No. 05 C 5379
)	
Edward Frischholz, and)	Judge: David H. Coar
Shoreline Towers Condominium)	
Association, an Illinois not-for-profit)	Magistrate: Judge Morton Denlow
corporation,)	
Defendants.)	Plaintiffs Demand Trial by Jury

AMENDED COMPLAINT

The Plaintiffs Lynne Bloch, Helen Bloch, and Nathan Bloch, by their attorneys F. Willis Caruso, Lewis W. Powell, III and the Senior Law Students of The John Marshall Law School Fair Housing Legal Clinic, complain of Defendants Edward Frischholz, and the Shoreline Towers Condominium Association an Illinois not-for-profit corporation, as follows:

JURISDICTION

1. This action arises under 42 U.S.C. §1982, 42 U.S.C. §3601 et seq.; and The Illinois Condominium Act 765 ILCS 605/1 §§18.4B.
2. Jurisdiction is conferred on this Court by 28 U.S.C. §1331, §1343(a) and §2201, and 42 U.S.C. §3613(a).
3. Venue is proper in the Northern District of Illinois, Eastern Division since Plaintiff and Defendants reside within the boundaries thereof.

PARTIES

4. Plaintiff, Lynne Bloch, is a Jewish American, female citizen of the United States who is the owner of and resides at 6301 North Sheridan Road units 12R, 12K, and 12L, Chicago, Illinois 60660 (“Subject Property”). Lynne Bloch is mother of Plaintiffs Helen Bloch and Nathan Bloch.

5. Plaintiff, Helen Bloch, is a Jewish American, female citizen of the United States who formerly resided at 6301 North Sheridan Road units 12R, 12K, and 12L, Chicago Illinois 60660. Plaintiff Helen Bloch is the daughter of Plaintiff Lynne Bloch, and sister of Plaintiff Nathan Bloch.

6. Plaintiff, Nathan Bloch, is a Jewish American, male citizen of the United States who resides at 6301 North Sheridan Road units 12R, 12K, and 12L, Chicago, Illinois 60660. Plaintiff Nathan Bloch is the son of Plaintiff Lynne Bloch, and brother of Plaintiff Helen Bloch.

7. Defendant, Edward Frischholz, on information and belief, is a Caucasian/White male citizen of the United States and at all times relevant hereto resided at 6301 North Sheridan Road and is made a party to this action for his individual acts. He continues to be the President of the Shoreline Towers’ Board of Directors and acts for and on behalf of the Association.

8. Defendant, Shoreline Towers Association, is an Illinois, not-for-profit corporation, and a condominium association located at 6301 North Sheridan Road Chicago, IL 60660.

FACTS RELEVANT TO ALL COUNTS

9. Commencing during or about May 2004 and continuing to the date hereof Defendants, Edward Frischholz, and Shoreline Towers Condominium Association, intimidated, threatened, and interfered with the Blochs by consistently removing and prohibiting the Blochs from placing a Mezuzah (a religious parchment encased in a small tube essential to observing Jewish

Religion) on the exterior of the Subject Property doorway.

10. Commencing during or about June 2004 and continuing to the date hereof, Defendants continued and continue to prevent the Blochs from placing a Mezuzah on the exterior of the Subject Property doorway, despite Jewish law requiring that Mezuzah be placed on the outside of the door of Jewish residences.

11. Commencing during or about May 2004, Defendants ordered the Mezuzah on the Subject Property to be removed to facilitate the repainting of the condominium hallway. The hallway painting was completed by approximately June 2004, after which Plaintiffs placed the Mezuzah back on their door.

12. On information and belief, Defendants ordered or directed the building maintenance staff or others to remove the Mezuzah from the door of the Subject Property. The Mezuzah on the Subject Property was removed by or on behalf of or at the direction and order of the Defendants three times before the death of Lynne Bloch's husband, Dr. Bloch. The Bloch family was informed by or for and on behalf of Defendants that if the Mezuzah was put up the Blochs would be fined by the Condominium Association.

13. Contemporaneously, Defendants claimed that they were enforcing a condominium association by-law, which purportedly prohibited anything from being placed on a doorpost in the hallway of the Condominium. The claimed provision of by-law and the purported interpretation given by Defendants had not previously been so interpreted or enforced in the manner employed by Defendants, despite having been added in the year 2001.

14. Commencing during or about May 2004, and continuing to the date hereof, Defendants began to remove and prohibit the Blochs from replacing the Mezuzah on the exterior doorway of the Subject Property during the Blochs' Shiva (a seven-day period of formal mourning created

by Jewish law and observed after the funeral of a close relative) for the passing of Plaintiff Lynne Bloch's husband Dr. Bloch, who was Plaintiff Nathan Bloch's and Plaintiff Helen Bloch's father.

15. On June 7, 2005, the Defendants removed or caused to be removed the Mezuzah on the Subject Property while the Blochs were at the funeral of their husband and father, Dr. Bloch. This caused the Blochs great anguish and embarrassment when a Jewish Rabbi who made a Shiva call (the term used when someone attends of a Shiva) put up his hand toward where the Mezuzah should have been and noticed it was not on the door. The Blochs, much to their embarrassment, had to explain to the Rabbi why they were in violation of Jewish law.

16. Commencing during or about June 2004, and continuing to the date hereof, Defendants continued to remove the Mezuzah and to prohibit the Blochs from placing the Mezuzah back on the doorway despite being advised there was a written agreement between Shoreline Towers and the Blochs allowing the Blochs to keep the Mezuzah on the doorway for the seven days of the period of the Shiva for Dr. Bloch.

17. Such actions deprived the Blochs of the use and enjoyment of their home by infringing on their right to freely practice their religious faith. These actions were based on the Blochs' status as members of the Jewish religion and because of race.

18. In the past two years, Defendant Edward Frischholz has insulted and harassed Lynne Bloch. Defendant Edward Frischholz published a letter making various false statements, including that Lynne Bloch is allegedly a racist, and encouraging other tenants to try to keep her off of the Board of Directors in the future because of religion and race.

19. Defendants have prevented Lynne Bloch from fully participating as a member of the Board of Directors. On or about September 1, 2005, Defendants held a special meeting and

would not allow Lynne Bloch, a duly elected board member, to attend the meeting.

20. As a direct consequence of Defendants' discriminatory, retaliatory, interfering and harassing actions, Plaintiffs continue to suffer emotional distress and mental anguish.

21. All of the actions of Defendants complained of herein were done willfully, maliciously, and with careless disregard for the rights of the Plaintiffs.

CLAIMS FOR RELIEF

As Against Defendant Edward Frischholz

Count 1: Religious and Race Discrimination Under 42 U.S.C. §3604

22. The Blochs restate and re-allege paragraphs 1 through 21 of this Complaint as though the same were fully set forth and pleaded herein.

23. The actions by Defendant are in violation of the Blochs' housing rights by discriminating in the provision of services or facilities and to make the housing otherwise unavailable in connection with the ownership and rental of a dwelling based upon the Blochs' Jewish religion and race constitutes discrimination on the basis of race and religion in violation of the Fair Housing Act 42 U.S.C. §3604 (a) and (b).

24. The Blochs have sustained direct injuries including, but not limited to, being barred from the full use and enjoyment of Subject Property, as guaranteed by the Fair Housing Act.

25. The Blochs have suffered emotional distress and mental anguish, embarrassment, humiliation and intimidation sustained as a result of Defendant's discriminatory actions including prohibiting the Mezuzah from placement on the exterior doorpost of the Subject Property.

WHEREFORE, Plaintiffs pray the court to enter a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction enjoining the Defendant, Edward Frischholz

from prohibiting or preventing the Mezuzah from being placed on the doorpost of the Subject Property and/or from removing or defiling the Mezuzah, and/or from causing the Mezuzah to be removed or defiled. Plaintiffs also pray that the court award actual damages for Plaintiffs and against Edward Frischholz for the injury to the Plaintiffs, including damages for emotional distress, mental anguish, humiliation and embarrassment, punitive damages of actions done with malice or willful disregard for the rights of the Plaintiffs, attorney's fees and costs and such other relief as the court shall deem just and proper.

Count 2: Violation of 42 U.S.C. §3617

26. The Blochs restate and re-allege paragraph 1 through 21 of this Complaint as though the same were fully set forth and pleaded herein.

27. The actions by Defendant of intimidating, interfering with the housing rights of, and harassing the Blochs by prohibiting the Mezuzah from being placed on the exterior doorpost, removing or causing to be removed the Mezuzah and defiling the Mezuzah, spitting in the face of Ms. Lynne Bloch, publishing and circulating defamatory and scurrilous material about the Blochs is interference and intimidation discrimination on the basis of race and religion in violation of the Fair Housing Act, 42 U.S.C. §3617.

28. The Blochs have sustained and continue to sustain direct injuries including, but not limited to, being barred from the full use and enjoyment of the Subject Property, as guaranteed by the Fair Housing Act.

29. The Blochs have suffered emotional distress and mental anguish, embarrassment, humiliation and intimidation sustained as a result of Defendant's discriminatory actions including prohibiting the Mezuzah from placement on the exterior doorpost of the Subject Property.

WHEREFORE, Plaintiffs pray the court to enter a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction enjoining the Defendant, Edward Frischholz from prohibiting or preventing the Mezuzah from being placed on the doorpost of the Subject Property and/or from removing or defiling the Mezuzah, and/or from causing the Mezuzah to be removed or defiled. Plaintiffs also pray that the court award actual damages for Plaintiffs and against Edward Frischholz for the injury to the Plaintiffs, including damages for emotional distress, mental anguish, humiliation and embarrassment, punitive damages of actions done with malice or willful disregard for the rights of the Plaintiffs, attorney's fees and costs and such other relief as the court shall deem just and proper.

Count 3: Violation of 42 U.S.C. §1982

30. The Blochs restate and re-allege paragraph 1 through 21 of this Complaint as though the same were fully set forth and pleaded herein.

31. The actions by the Defendant Edward Frischholz of prohibiting the Blochs from placing a Mezuzah on the exterior doorway of the Subject Property, being because of race, is a violation of the Blochs' right of to be free from discrimination based on race in violation of 42 U.S.C. §1982.

32. The actions by the Defendant of removing or causing the removal of a Mezuzah on the exterior doorway of the Subject Property, being because of race, are violations of the Blochs' right to have the same rights as enjoyed by other citizens to hold and convey real and personal property in violation of 42 U.S.C §1982.

33. The Blochs have suffered emotional distress and mental anguish, embarrassment, humiliation and intimidation sustained as a result of Defendant's discriminatory actions including prohibiting the Mezuzah from placement on the exterior doorpost of the Subject Property.

WHEREFORE, Plaintiffs pray the court to enter a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction enjoining the Defendant, Edward Frischholz from prohibiting or preventing the Mezuzah from being placed on the doorpost of the Subject Property and/or from removing or defiling the Mezuzah, and/or from causing the Mezuzah to be removed or defiled. Plaintiffs also pray that the court award actual damages for Plaintiffs and against Edward Frischholz for the injury to the Plaintiffs, including damages for emotional distress, mental anguish, humiliation and embarrassment, punitive damages of actions done with malice or willful disregard for the rights of the Plaintiffs, attorney's fees and costs and such other relief as the court shall deem just and proper.

As Against Defendant, Shoreline Towers Condominium Association

Count 4: Religious Discrimination Under 42 U.S.C. §3604

34. The Blochs restate and re-allege paragraphs 1 through 21 of this Complaint as though the same were fully set forth and pleaded herein.

35. The actions by Defendant in violation of the Blochs' housing rights in the provision of services or facilities in connection with the sale or rental of a dwelling based upon the Blochs' Jewish religion and race constitutes discrimination on the basis of race and religion in violation of the Fair Housing Act 42 U.S.C. §3604 (a) and (b).

36. The Blochs have sustained direct injuries including, but not limited to, being barred from the full use and enjoyment of the Subject Property, as guaranteed by the Fair Housing Act.

37. The Blochs have suffered emotional distress and mental anguish, embarrassment, humiliation and intimidation sustained as a result of Defendant's discriminatory actions including prohibiting the Mezuzah from placement on the exterior doorpost of the Subject Property.

WHEREFORE, Plaintiffs pray the court to enter a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction enjoining the Defendant, Shoreline Towers Condominium Association, from prohibiting or preventing the Mezuzah from being placed on the doorpost of the Subject Property and/or from removing or defiling the Mezuzah, and/or from causing the Mezuzah to be removed or defiled. Plaintiffs also pray that the court award actual damages for Plaintiffs and against Edward Frischholz for the injury to the Plaintiffs, including damages for emotional distress, mental anguish, humiliation and embarrassment, punitive damages of actions done with malice or willful disregard for the rights of the Plaintiffs, attorney's fees and costs and such other relief as the court shall deem just and proper.

Count 5: Violation of 42 U.S.C. §3617

38. The Blochs restate and re-allege paragraph 1 through 21 of this Complaint as though the same were fully set forth and pleaded herein.

39. The actions by Defendant of intimidating, interfering with the housing rights of, and harassing the Blochs by prohibiting the Mezuzah from being placed on the exterior doorpost, is discrimination on the basis of race and religion in violation of the Fair Housing Act, 42 U.S.C. §3617.

40. The Blochs have sustained and continue to sustain direct injuries including, but not limited to, being barred from the full use and enjoyment of the Subject Property as guaranteed by the Fair Housing Act.

41. The Blochs have suffered emotional distress and mental anguish, embarrassment, humiliation and intimidation sustained as a result of Defendant's discriminatory actions including prohibiting the Mezuzah from placement on the exterior doorpost of the Subject Property.

WHEREFORE, Plaintiffs pray the court to enter a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction enjoining the Defendant, Shoreline Towers Condominium Association, from prohibiting or preventing the Mezuzah from being placed on the doorpost of the Subject Property and/or from removing or defiling the Mezuzah, and/or from causing the Mezuzah to be removed or defiled. Plaintiffs also pray that the court award actual damages for Plaintiffs and against Edward Frischholz for the injury to the Plaintiffs, including damages for emotional distress, mental anguish, humiliation and embarrassment, punitive damages of actions done with malice or willful disregard for the rights of the Plaintiffs, attorney's fees and costs and such other relief as the court shall deem just and proper.

Count 6: Violation of 42 U.S.C. §1982

42. The Blochs restate and re-allege paragraph 1 through 21 of this Complaint as though the same were fully set forth and pleaded herein.

43. The actions by the Defendant of prohibiting the Blochs from placing a Mezuzah on the exterior doorway of the Subject Property, being because of race, are a violation of the Bloch's right to be protected against impairment of their rights as enjoyed by others in violation of 42 U.S.C. §1982.

44. The actions by the Defendant of removing or causing the removal of a Mezuzah from the exterior doorway of the Subject Property, being because of race, are a violation of the Blochs' right to have the same rights as enjoyed by white citizens to hold and convey real and personal property in violation of 42 U.S.C §1982.

45. The Blochs have suffered emotional distress and mental anguish, embarrassment, humiliation and intimidation sustained as a result of Defendant's discriminatory actions including prohibiting the Mezuzah from placement on the exterior doorpost of the Subject

Property.

WHEREFORE, Plaintiffs pray the court to enter a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction enjoining the Defendant, Shoreline Towers Condominium Association, from prohibiting or preventing the Mezuzah from being placed on the doorpost of the Subject Property and/or from removing or defiling the Mezuzah, and/or from causing the Mezuzah to be removed or defiled. Plaintiffs also pray that the court award actual damages for Plaintiffs and against Edward Frischholz for the injury to the Plaintiffs, including damages for emotional distress, mental anguish, humiliation and embarrassment, punitive damages of actions done with malice or willful disregard for the rights of the Plaintiffs, attorney's fees and costs and such other relief as the court shall deem just and proper.

Count 7: Violation of Illinois Condominium Act §18.4: Powers and Duties of Managers

46. The Blochs restate and re-allege paragraph 1 through 21 of this Complaint as though the same were fully set forth and pleaded herein.

47. Defendant violated The Illinois Condominium Act §§18.4: Powers and Duties of Managers by enforcing rules and regulations that impair Plaintiffs' rights by preventing Plaintiffs from freely exercising their religion and free speech.

48. The Blochs have suffered emotional distress and mental anguish, embarrassment, humiliation and intimidation sustained as a result of Defendant's discriminatory actions including prohibiting the Mezuzah from placement on the exterior doorpost of the Subject Property.

WHEREFORE, Plaintiffs pray the court to enter a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction enjoining the Defendant, Shoreline Towers Condominium Association, from prohibiting or preventing the Mezuzah from being placed on

the doorpost of the Subject Property and/or from removing or defiling the Mezuzah, and/or from causing the Mezuzah to be removed or defiled. Plaintiffs also pray that the court award actual damages for Plaintiffs and against Edward Frischholz for the injury to the Plaintiffs, including damages for emotional distress, mental anguish, humiliation and embarrassment, punitive damages of actions done with malice or willful disregard for the rights of the Plaintiffs, attorney's fees and costs and such other relief as the court shall deem just and proper.

Count 8: Breach of Fiduciary Duty Pursuant to 765 ILCS 605/18.4

49. The Blochs restate and re-allege paragraphs 1 through 21 of this Complaint as though the same were fully set forth and pleaded herein.

50. At all times relevant, Defendant, was in a fiduciary relationship with the Blochs.

51. Defendant Shoreline Towers Condominium Association is responsible, as principal, for the acts of its agents, employees and servant members.

52. Under Condominium Property Act, Defendant had a duty to:

- a. Perform its duties as an association in a reasonable manner and with due care for the welfare of Shoreline Towers Condominium's members (including the Blochs) and their property.
- b. Perform its duties as an association with due regard for the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws, conduct any investigations of complaints against the Blochs in a reasonable manner;
- c. Perform its duties as an Association with due regard for the provisions and duties set forth in the Fair Housing Act and its regulations.
- d. Otherwise act in its fiduciary relationship with the Blochs.

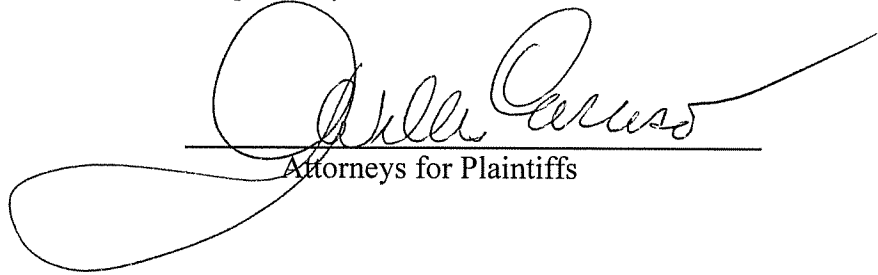
53. Defendant, Shoreline Towers Condominium Association breached its fiduciary duty to the Blochs by failing in its duties owed to the Blochs, by acting in a willful and wanton manner, and by engaging in bad faith and unfair dealing.

54. In addition, Defendant Shoreline Towers Condominium Association breached its fiduciary duty to the Blochs when it used its particular and superior position to intimidate, and interfere with the Blochs' housing rights.

55. As a direct and proximate cause of Defendant's breach of the fiduciary duty, the Blochs were injured and sustained emotional distress, embarrassment and other injury and continue to suffer emotional distress, embarrassment and other injury.

WHEREFORE, Plaintiffs pray the court to enter a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction enjoining the Defendant, Shoreline Towers Condominium Association, from prohibiting or preventing the Mezuzah from being placed on the doorpost of the Subject Property and/or from removing or defiling the Mezuzah, and/or from causing the Mezuzah to be removed or defiled. Plaintiffs also pray that the court award actual damages for Plaintiffs and against Edward Frischholz for the injury to the Plaintiffs, including damages for emotional distress, mental anguish, humiliation and embarrassment, punitive damages of actions done with malice or willful disregard for the rights of the Plaintiffs, attorney's fees and costs and such other relief as the court shall deem just and proper.

Respectfully submitted,



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