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2006

Complaint, Joly v. Town of Lake Hunting and
Fishing Club Inc, Docket Nos. 2:05-cv-02223,
2:06-cv-02031 (Central District of Illinois 2006)

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John Marshall Law School Fair Housing Legal Clinic

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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

BILL JOLY and GAIL JOLY,)	
)	
Plaintiffs,)	Case No.
)	
v.)	
)	
THE TOWN OF LAKE HUNTING and)	
FISHING CLUB, INC.,)	<u>COMPLAINT</u>
)	
Defendant.)	Jury Trial Demanded
)	

Bill Joly and Gail Joly allege:

INTRODUCTION

1. This action is brought by Bill Joly and Gail Joly to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (Fair Housing Act), 42 U.S.C. §§ 3601-3619.

2. Bill Joly and Gail Joly bring this action on their own behalf, pursuant to the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 42 U.S.C. § 3613(a).

4. Venue is proper in the Urbana Division of the Central District of Illinois, since the events giving rise to this claim occurred in Kankakee County, Illinois, which is in the Urbana Division. 28 U.S.C. § 1391(b)(2).

PARTIES

5. At all times relevant to the allegations herein, Defendant, The Town of Lake Hunting and Fishing Club, Inc. (“Defendant Club”), owned a parcel of property east of the City of Momence along the Kankakee River. The mission of Defendant Club is to facilitate hunting and fishing for its members and to promote sociability among its members. Members of Defendant Club own their own homes on Club grounds as personal property. Defendant Club operates and implements its Constitution and By-Laws (“By-Laws”) through its Board of Directors.

6. Defendant Club permits only one individual membership per assigned property. Members of a household cannot share a membership, even if they are spouses, but they can all reside in the home and can own property in common. Defendant Club considers a non-member resident as a “guest” of the member of Defendant Club.

7. The homes at Defendant Club are dwellings within the meaning of Section 802(b) of the Fair Housing Act, as amended, 42 U.S.C. § 3602(b).

8. Plaintiff Gail Joly is an individual with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h). Plaintiff Bill Joly is Gail Joly’s Husband. Plaintiff Gail Joly has osteoarthritis of the hips, heart disease, severe back pain, radicular symptomatology of the knees, myotonic dystrophy and spinal stenosis. By 1998, Plaintiff Gail Joly was limited in her ability to walk with any comfort. She was therefore, at all times relevant, substantially limited in the major life activity of walking.

THE SUBJECT PROPERTY

9. In or around 1987, Plaintiffs Bill Joly and Gail Joly purchased a residence on Defendant Club’s grounds, located at 3193 North 16780 East Road, Momence, IL 60954, also referred to as Route 1 Box 430 (“Subject Property”). Plaintiff Bill Joly became a

member of Defendant Club in 1987. Plaintiffs subsequently moved into the Subject Property in or around 1988.

10. The Subject Property is a single family home with stairs leading to the front and rear entrances.

ALLEGATIONS

11. At all relevant times, Plaintiff Gail Joly was unable to ambulate without the use of a cane, walker, or wheelchair. Each time she wanted to leave or return to her dwelling, Plaintiff Gail Joly had to sit and scoot up and down the stairs at the front entrance doorway in order to gain access to or to leave her home. In or around the summer or fall of 2001, due to the lack of accessibility, the Plaintiffs Bill Joly and Gail Joly vacated the Subject Property and moved into another home that they own in Bolingbrook, Illinois.

12. From 2001 to 2003, Plaintiff Bill Joly presented, both informally and in writing, a reasonable modification request for the installation of wheelchair ramps and a sidewalk. Defendant Club “tabled” the requests based on insufficiency of documentation, namely, the lack of a detailed sketch of the ramps.

13. By letter dated October 31, 2003, Plaintiff Bill Joly again requested permission from Defendant Club to construct ramps at the front and rear entrances of the Subject Property and a sidewalk at the south side of the house to make the ramp at the rear entrance accessible. He informed Defendant Club that these projects were needed because of his wife’s medical problems, and were necessary in order for him and his wife to move back to the Subject Property. Attached to his letter was a sketch of the wheelchair ramps, a building permit issued by the Kankakee County Planning

Department, Building Division, and a letter from Plaintiff Gail Joly's doctor supporting Plaintiffs' request for a wheelchair ramp.

14. By letter dated November 14, 2003, Defendant Club denied Plaintiffs' request to install wheelchair ramps, giving as a reason that Plaintiff Bill Joly was not considered a member in good standing. This was due to a dispute about Defendant Club's legal fees arising from prior litigation over Plaintiffs' fence. The letter also threatened that a lien would be placed against the Subject Property if Plaintiffs did not pay Defendant Club's legal fees related to the litigation over Plaintiffs' fence.

15. By letter dated December 2, 2003, addressed to Defendant Club's attorney, an attorney for Plaintiffs again requested that his clients be allowed to install wheelchair ramps needed for Plaintiff Gail Joly to access her home.

16. On or about December 7, 2003, Plaintiff Bill Joly and his attorney attended the regular Club meeting to discuss the status of Plaintiff Bill Joly's membership and the installation of the wheelchair ramps. At the meeting, Defendant Club advised Plaintiff Bill Joly and his attorney that Plaintiff Bill Joly was not considered to be a member of the Defendant Club in good standing, and, for that reason, no action would be taken on his request for modifications to his property. Defendant Club informed Plaintiff Bill Joly that once he became a member in good standing, Defendant Club would reconsider his request.

17. By letter dated April 15, 2004, Plaintiffs' new attorney demanded that Defendant Club immediately consent to the installation of wheelchair ramps in order to accommodate Plaintiff Gail Joly's disability and correct its records to delete the

unwarranted claim for legal fees. Further, he informed Defendant Club that if the Club failed to grant Plaintiffs' requests, Plaintiffs would seek legal remedies.

18. On or about May 2, 2004, Defendant Club held a meeting where the above-mentioned letter was discussed, and the type of action to be taken in response to the letter was decided. On or about June 6, 2004, Defendant Club voted to expel Plaintiff Bill Joly from the Club.

19. By letter dated June 9, 2004, Defendant Club notified Plaintiff Bill Joly that he was expelled from the Club and informed him that he had six months to dispose of the Subject Property.

THE ADMINISTRATIVE COMPLAINTS

20. On or about September 9, 2004, Plaintiffs Bill Joly and Gail Joly filed a complaint of discrimination (HUD Form 903) with the Department of Housing and Urban Development ("HUD") alleging that Defendant Club had discriminated against Plaintiffs on the basis of disability and sex, and had retaliated against Plaintiffs, in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*

21. Pursuant to the requirements of 42 U.S.C. § 3610(a) and (b), the Secretary of HUD ("Secretary") conducted and completed an investigation of the complaint and engaged in conciliation efforts, which were unsuccessful.

22. Thereafter, the Secretary prepared a final investigative report based upon the information gathered during the investigation, and the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that there was reasonable cause to believe that discriminatory housing practices on the basis of disability and retaliation had occurred. HUD issued its Determination of Reasonable Cause on or about August 12, 2005.

23. HUD issued its Charge of Discrimination against the Defendant Club on or about August 12, 2005, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendant Club with engaging in discriminatory housing practices on the basis of disability and retaliation, in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*

24. On or about September 6, 2005, Defendant Club made a timely election to have the claims resolved in federal court, pursuant to 42 U.S.C. § 3612(a).

25. Subsequently, on or about September 9, 2005, the Secretary, through the Regional Counsel of HUD Region V, authorized the Attorney General to file an action on behalf of Plaintiffs, pursuant to 42 U.S.C. § 3612(o)(1).

VIOLATIONS OF LAW

26. Defendant Club's conduct, described in paragraphs 10 through 20 above, constitutes:

- a. discrimination in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of disability, in violation of 42 U.S.C. § 3604(f)(1).
- b. a refusal to permit, at the expense of the disabled person, reasonable modifications or existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, in violation of 42 U.S.C. § 3604(f)(3)(A); and
- c. coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person

in the exercise or enjoyment of, any right granted or protected by §§3603 - 3606, in violation of 42 U.S.C. § 3617.

27. As a result of Defendant Club's conduct, Plaintiffs have suffered damages and are aggrieved persons within the meaning of 42 U.S.C. § 3602(i).

28. The discriminatory actions of Defendant Club were intentional, willful, or taken in disregard for the rights of Plaintiffs.

29. The Defendant Club's actions, policies, procedures, and practices have a significantly disparate impact on the Plaintiffs and have the adverse effect of denying the Plaintiffs their rights and the use and enjoyment of their home.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Bill Joly and Gail Joly pray that this Court enter an ORDER that:

1. Declares that the discriminatory housing practices of Defendant Club as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*;

2. Enjoins Defendant Club, its agents, employees, and successors, and all other persons in active concert or participation with Defendant Club from discriminating on the basis of disability against any person in any aspect of the purchase or rental or a dwelling or from retaliating against anyone for violating fair housing rights, pursuant to 42 U.S.C. § 3613(c)(1);

3. Awards monetary damages to Plaintiffs Bill Joly and Gail Joly, pursuant to 42 U.S.C. § 3613(c)(1); and

4. Awards punitive damages to Plaintiffs Bill Joly and Gail Joly pursuant to 42 U.S.C. § 3613(c)(1)

The Plaintiffs further pray for such additional relief as the interests of justice may require.

Respectfully Submitted,
BILL JOLY and GAIL JOLY
Plaintiffs

By: s/ Joseph R. Butler

Joseph R. Butler Bar Number: 6226654
Attorney for Plaintiffs
The John Marshall Law School
Fair Housing Legal Clinic
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Chicago, Illinois 60604
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Email: 6butler@jmls.edu

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS</p> <p>(b) County of Residence of First Listed Plaintiff <u>Kankakee County</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Joseph Butler; The John Marshall Law School Fair Housing Legal Clinic; 28 E. Jackson Blvd., Suite 500, Chicago, IL 60604; (312) 786-2267</p>	<p>DEFENDANTS</p> <p>The Town of Lake Hunting and Fishing Club, Inc.</p> <p>County of Residence of First Listed Defendant <u>Kankakee County</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) Tina M. Olton; 114 N. Dixie Highway, Momence, IL 60954; (815) 472-2477</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)							
<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 362 Personal Injury - Med Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>	<p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input checked="" type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 444 Welfare</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 440 Other Civil Rights</p>	<p>PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p>

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C §3601 et. seq.

Brief description of cause:
A violation of the Fair Housing Act for refusal to grant a reasonable accommodation

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE Harold A. Baker DOCKET NUMBER 05-2223

DATE: 02/08/2006 SIGNATURE OF ATTORNEY OF RECORD: s/ Joseph R. Butler

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____