

JUDGE RICHARD

15 CV 03376

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ERASE RACISM, INC.; FAIR HOUSING
JUSTICE CENTER, INC.; LISA DARDEN;
JOHN-MARTIN GREEN; BIANCA JONES;
CLAUDE JAY JONES; ADRIENNE
WILLIAMS; L.B. WILLIAMS; and ANGELA
SCOTT,

Plaintiffs,

v.

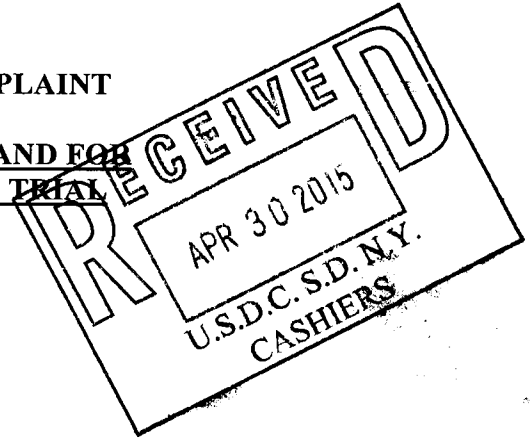
EMPIRE MANAGEMENT AMERICA
CORPORATION, SQUARE REALTY GROUP
LLC, and JOHN DOE aka Mike,

Defendants.

Civ. _____

COMPLAINT

DEMAND FOR
JURY TRIAL



Plaintiffs ERASE Racism, Inc.; Fair Housing Justice Center, Inc. ("FHJC"); Lisa Darden; John-Martin Green; Bianca Jones; Claude Jay Jones; Adrienne Williams; L.B. Williams; and Angela Scott (collectively, "Plaintiffs"), by their attorneys Emery Celli Brinckerhoff & Abady LLP, for their Complaint against Defendants Empire Management America Corporation ("Empire Management"), Square Realty Group LLC ("Square Realty"), and John Doe, also known as "Mike" (collectively, "Defendants") allege as follows:

INTRODUCTION

1. Racial discrimination continues unabated in Suffolk County at Mayfair Garden Apartments in Commack, New York, a predominantly white Long Island community. In 2014, Mayfair Garden's building superintendent repeatedly placed discriminatory barriers in the path of African Americans who inquired about apartments for rent by the building superintendent who lied about whether apartments were available to rent, what date they were

available to rent, how many apartments were available to rent, whether the apartments were vacant and could be shown, and what process was required to rent an apartment.

2. By these actions, the Defendants, who are the owner, management company, and building superintendent of Mayfair Garden Apartments, are denying African American renters the opportunity to live in a Suffolk County community with good public schools and access to employment opportunities, government services, retail stores (including the Mayfair Shopping Center), and recreational amenities.

3. In 2014, ERASE Racism and FHJC conducted an investigation by, among other things, sending white and African American testers to Mayfair Garden Apartments to inquire about apartments for rent. These two civil rights organizations, along with seven African American testers who were treated less favorably than their white counterparts, file this action to halt and reform Defendants' discriminatory practices.

JURISDICTION AND VENUE

4. 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 Suffolk County law claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendants Empire Management and Square Realty are located in and conduct business in the District.

THE PARTIES

6. ERASE Racism, Inc. is a non-profit organization dedicated to exposing and eliminating racial disparities, particularly in the areas of housing, community development, public education, and health. To address institutional and structural racism, ERASE Racism uses

research, education, policy advocacy, and civic engagement. ERASE Racism expended staff time and resources to identify, investigate and respond to Defendants' conduct. This diverted resources away from other activities. Additionally, Defendants' discriminatory rental practices frustrated ERASE Racism's mission to eradicate racial disparities and inequalities in housing by, among other things, making apartments for rent unavailable to African Americans because of race and color.

7. 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 region¹ by eliminating housing discrimination and creating open, accessible, and inclusive communities. FHJC expended staff time and other resources to identify, investigate, and respond to the discriminatory rental practices at Mayfair Garden Apartments. This investigation diverted resources away from other FHJC activities. Furthermore, Defendants' discriminatory rental practices frustrated FHJC's mission to ensure that all people have equal access to housing opportunities in the New York City region, including Suffolk County, by, among other things, making apartments for rent unavailable to African Americans because of race and color.

8. 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 FHJC. On April 9, 2014, Ms. Darden met with Defendant John Doe, who upon information and belief is an employee and/or agent of Defendants Empire Management and Square Realty using the name "Mike", to inquire about the availability of rental units at Mayfair Garden Apartments in Commack, New York.

¹ FHJC serves the New York counties of Suffolk, Nassau, Westchester, Dutchess, Orange, Putnam, and Rockland, as well as the five boroughs of New York City.

9. John-Martin Green is an African American man who resides in New York, New York and during all relevant times was employed as a tester by FHJC. On April 22, 2014, Mr. Green met with Defendant John Doe to inquire about the availability of rental units at Mayfair Garden Apartments in Commack, New York.

10. L.B. Williams is an African American man who resides in New York, New York and during all relevant times was employed as a tester by FHJC. On May 7, 2014, Mr. Williams met with Defendant John Doe to inquire about the availability of rental units at Mayfair Garden Apartments in Commack, New York.

11. Bianca Jones is an African American woman who resides in New York, New York and during all relevant times was employed as a tester by FHJC. On June 12, 2014, Ms. Jones met with Defendant John Doe to inquire about the availability of rental units at Mayfair Garden Apartments in Commack, New York.

12. Claude Jay Jones is an African American man who resides in New York, New York and during all relevant times was employed as a tester by FHJC. On August 11, 2014, Mr. Jones met with, or spoke to, Defendant John Doe, to inquire about the availability of rental units at Mayfair Garden Apartments in Commack, New York.

13. Adrienne Williams is an African American woman who resides in New York, New York and during all relevant times was employed as a tester by FHJC. On August 11, 2014, Ms. Williams met with Defendant John Doe to inquire about the availability of rental units at Mayfair Garden Apartments in Commack, New York.

14. Angela Scott is an African American woman who resides in New York, New York and during all relevant times was employed as a tester by FHJC. On August 26,

2014, Ms. Scott met with Defendant John Doe to inquire about the availability of rental units at Mayfair Garden Apartments in Commack, New York.

15. Upon information and belief, Defendant Empire Management is a New York corporation with its principal place of business located in the District, in Manhattan, New York. Upon information and belief, Empire Management provided rental management services to Mayfair Garden Apartments at all times relevant to this complaint.

16. Upon information and belief, Defendant Square Realty is a New York corporation with its principal place of business located in the District, in Manhattan, New York. Upon information and belief, Square Realty has been the owner and lessor of Mayfair Garden Apartments during all times relevant to this complaint.

17. During all relevant times, Defendant John Doe is a white man who worked as the building superintendent for Mayfair Garden and used the name “Mike.” As part of his responsibilities, Defendant Doe provided information about units for rent to prospective applicants, showed apartments, and quoted dates of availability and other rental terms and conditions. Upon information and belief, Defendant Doe was at all times acting as the employee, agent, and/or representative of Defendants Empire Management and Square Realty.

FACTUAL BACKGROUND

18. Mayfair Garden Apartments (“Mayfair Garden”) is a 107-unit rental complex located in Commack, New York in Suffolk County. The complex is situated in Census Block 2007, Census Block Group 2, Census Tract 1351.02 in Suffolk County. An analysis at the Census block level reveals that as of the 2010 Census there were no African American renters.

19. According to 2010 Census data, less than 1% of Commack’s population is African American and only 1.1% of the population in the Town of Smithtown where Commack

is located is African American compared to 7.4% and 9.2% of the population in Suffolk County and Long Island, respectively. While there are more than 1,000 rental units in Commack, only 0.1% (13 of the units) are occupied by African Americans. Similarly, in the Town of Smithtown there are 5,064 rental units and only 0.3% are occupied by African Americans. By comparison, 2.5% of all of the rental units in Suffolk County and 2.9% of the rental units on Long Island are occupied by African Americans.

20. Commack's public school district has a high school graduation rate of 97% compared to 88% in Suffolk County. Of its 2014 graduates, 96% of the students planned on attending college. Based on fourth grade English and Math test scores, Commack's public school students score above New York statewide scores. The school district is considered by the New York State Department of Education to be a "low-needs" school district.

21. Mayfair Garden is located across the street from Mayfair Shopping Center, a large retail center that includes a supermarket, and is situated near a stretch of Jericho Turnpike with many retail and dining establishments, including Huntington Square Mall, with employment opportunities. Mayfair Garden is less than a mile from an elementary school and a short bus ride from Commack Middle School and Commack High School. Other educational centers in the immediate vicinity of Mayfair Garden include JKL Montessori School and Kiddie Care Early Learning Center. Mayfair Garden enjoys easy freeway access to other locations in Suffolk County, including Stony Brook University Hospital, a major employer in the area, and is a short drive from a Long Island Railroad Station. Mayfair Garden is located within walking distance from the Commack branch of the Smithtown Library and is a five-minute drive to the Caleb Smith State Park Preserve, one of two state nature preserves on Long Island.

22. After researching housing patterns and educational opportunities in the Town of Smithtown, including in Commack, ERASE Racism asked FHJC to conduct a testing investigation at Mayfair Garden. The investigation was conducted from March to August 2014 to determine whether comparably qualified African American and white prospective renters received the same information, service, treatment, and access to available rental housing.

ERASE Racism

23. Among other things, ERASE Racism researches and documents the extent to which access to housing and racially segregated housing negatively influence access to other opportunities, including quality education.

24. Since ERASE Racism began working on housing issues in 2001, it has identified noncompliance with existing fair housing laws across Long Island as among the primary factors contributing to the continuation of residential segregation in the region. In response to high levels of segregation and noncompliance with fair housing laws, ERASE Racism began to engage in multiple activities to improve fair housing compliance, through: (1) research and education; (2) advocacy to enact new local fair housing laws; (3) participation in regional economic councils responsible for allocating funds for economic and community development; and (4) discussions with state, county, and local officials to emphasize the need for fair housing enforcement.

25. At its first conference, held in 2002, ERASE Racism released maps showing that, as a result of housing segregation, the vast majority of African American and Hispanic children living on Long Island were funneled into fourteen school districts, almost all of which were low-performing and classified by the New York State Department of Education as “high-need.” This finding led ERASE Racism to research residential housing patterns and, in

2005, to publish *Long Island Fair Housing: A State of Inequity*, which detailed the evidence of segregation and how it is maintained. This publication enabled ERASE Racism to press for adoption of local fair housing legislation in Suffolk County.

26. In 2006, Suffolk County adopted a fair housing ordinance, which was amended in 2014, effective January 21, 2015. The ordinance gave the County expanded authority to eliminate discrimination and reduce racial segregation in the County. Specifically, the ordinance provided authority to the County Human Rights Commission to initiate its own discrimination complaints and to seek injunctive relief in court. The Suffolk County Attorney was granted authority to file administrative complaints with the Commission and lawsuits in court.

27. Despite the passage of the Suffolk County fair housing ordinance, the County and its Human Rights Commission have done little to effect change in housing patterns to afford African American families access to high opportunity communities, like Commack, with quality public schools, transportation, and jobs. Upon information and belief, the County Human Rights Commission has not initiated any of its own complaints and has not sought any injunctive relief in court. Upon information and belief, the County Attorney's office also has not filed any administrative complaints with the Commission or filed any lawsuits in court alleging housing discrimination.

28. ERASE Racism continued to document the failure of fair housing enforcement with its 2009 publication of *The Racial Equity Report Card: Fair Housing on Long Island*.

29. In light of the conditions described in Paragraphs 25 through 28 of this Complaint, ERASE Racism concluded that fair housing enforcement was not a Suffolk County

priority and began to look for other means to eliminate housing discrimination and ameliorate the pattern of housing segregation that has kept African-American residents concentrated into just a few localities and out of high opportunity communities with access to high performing public schools, such as Commack.

30. Starting in 2012, ERASE Racism diverted funds and staff time from its education and public policy work to investigate rental housing discrimination in Suffolk County, including by contracting with FHJC to conduct a fair housing testing investigation at Mayfair Garden Apartments in Commack, New York in 2014.

Fair Housing Justice Center, Inc.

31. Among other activities, 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 alleging housing discrimination, (c) conducts testing and other investigations of alleged 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. FHJC provides these services free of charge and without regard to income.

32. 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 FHJC's mission, including the publication and dissemination of reports and educational materials.

33. 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.

34. During all times relevant to this Complaint, Plaintiffs Lisa Darden, John-Martin Green, Bianca Jones, Claude Jones, L.B. Williams, Adrienne Williams, and Angela Scott, as well as all the white testers sent to Mayfair Garden, were employed as testers by FHJC. Prior to conducting the tests at Mayfair Garden, all the testers sent to Mayfair Garden, received training from FHJC, which included instructions on conducting tests, preparing tester report forms, and using concealed digital audio recorders during tests.

35. FHJC, through seven 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.

April 2014

36. FHJC sent Lisa Darden to Mayfair Garden on April 9, 2014. She met with a man who said his name was Mike and who is identified in this Complaint as Defendant John Doe. Defendant Doe told Ms. Darden that an unknown number of apartments would be available by the end of the month and showed her one vacant apartment.

37. On the next day, April 10, 2014, FHJC sent a white female tester to Mayfair Garden. The white tester met with the same man as did Ms. Darden, who is named “Mike” believed to be Defendant John Doe. Defendant Doe told the white tester that one apartment would be available to rent by the next weekend (approximately April 18) and a second apartment would be available by the end of the month. He mentioned a third apartment in Building 7 but did not specify when it would be ready. Defendant Doe showed the white tester two vacant units.

38. FHJC sent John-Martin Green to Mayfair Garden on April 15, 2014. Once there, Mr. Green succeeded in reaching Defendant Doe by phone. Over the telephone, Defendant Doe instructed Mr. Green to go look at Unit 3-2E by himself. Mr. Green attempted to do so but the apartment Defendant Doe directed him to look at was locked. When Mr. Green telephoned Defendant Doe and told him that the apartment was locked, Defendant Doe instructed Mr. Green to go look at Unit 5-2A by himself. After looking around that apartment, Mr. Green left the complex.

39. Mr. Green returned to Mayfair Garden on April 22, 2014. He met with Defendant Doe, who told Mr. Green that no apartments would be available for rent by May 1, 2014, the date Mr. Green requested. Defendant Doe told Mr. Green that other unidentified apartments would be available by May 15. Defendant Doe showed Mr. Green Unit 3-2E and told him that the monthly rent for that apartment was \$ 1,350. Defendant Doe did not give Mr. Green a rental application.

40. On the next day, April 23, 2014, FHJC sent a white male tester to Mayfair Garden. The white tester met with Defendant Doe, who told the white tester that Unit 3-2E was available for rent starting May 1. Defendant Doe showed the white tester Unit 3-2E and told him that the rent for that apartment was \$1,300, \$50 less per month than the rent Defendant Doe quoted to Mr. Green the day before for the same apartment. Defendant Doe gave the white tester a rental application to take home to fill out.

41. In summary, Defendant Doe lied to Ms. Darden when he told her that there would not be any one-bedroom apartments available to rent until the end of April and lied to Mr. Green when he said that no apartments would be available to rent until the middle of May. In contrast, Defendant Doe told a white female tester that a one-bedroom apartment would be

available to rent by mid-April, two and four weeks earlier than the dates given to Ms. Darden and Mr. Green, respectively. Also, Defendant Doe told a white male tester who visited Mayfair Garden later in April that an apartment would be available for rent by the end of the month, two weeks earlier than what Defendant Doe told Mr. Green. Defendant Doe showed the white female tester two apartments whereas he showed Ms. Darden only one apartment and he quoted a higher rent to Mr. Green than to a white male tester.

May 2014

42. FHJC sent a white male tester to Mayfair Garden on May 6, 2014. Defendant Doe told the white tester that Unit 7-1A would be available in about ten days (i.e. by mid-May) and that Unit 3-2F would be available by June 1. Defendant Doe also told the white tester that a third available apartment, Unit 3-2E, had a waiting list of four people. Defendant Doe took the white tester to see all three vacant apartments: 7-1A, 3-2F, and 3-2E. Defendant Doe specifically told the white tester that there would be no broker's fee if the white tester wanted to rent an apartment at Mayfair Garden.

43. On the next day, May 7, 2014, FHJC sent L.B. Williams to Mayfair Garden. Mr. Williams met with Defendant Doe who told Mr. Williams that he had two apartments available for rent starting June 1, saying, "June first, I have two, but I have like three or four people before you." He also told Mr. Williams that Unit 3-2E would be available on May 15, "but, I have, like I said, I have people that came here and . . ."

44. Defendant Doe told Mr. Williams to go look at Unit 3-2E by himself, saying, "You can go in this door here, go in the second floor, 2E, it's open . . . all the one bedrooms, they look like that." After Mr. Williams urged Defendant Doe to go with him, Defendant Doe finally obliged and took Mr. Williams to the apartment. Mr. Williams then asked

Defendant Doe if he could see Unit 7-1A. Defendant Doe refused to take Mr. Williams to look at the apartment, instructing him to go look at it by himself if he wanted to see it stating that he had an emergency. Finally, Defendant Doe told Mr. Williams that he could not give Mr. Williams a rental application; rather, if Mr. Williams wanted to apply he would have to speak with “the broker,” saying, “No, I cannot give you an application because of the broker.” Defendant Doe instructed Mr. Williams that he would also have to pay a broker’s fee equivalent to one month’s rent.

45. In summary, Defendant Doe lied to Mr. Williams when he told him that all three apartments coming available for rent at Mayfair Garden already had people under consideration ahead of Mr. Williams. Defendant Doe showed the white tester three apartments but only begrudgingly showed Mr. Williams one apartment before telling Mr. Williams to go look at a second apartment by himself. Defendant Doe told the white tester that he would not have to pay a broker’s fee to rent an apartment and, just two weeks earlier in April, Defendant Doe gave a different white male tester a rental application. However, Defendant Doe refused to give Mr. Williams an application when asked and told Mr. Williams that he had to go through a broker to obtain an application and that he had to pay a broker’s fee.

June 2014

46. On June 3, 2014, Bianca Jones went to Mayfair Garden Apartments to inquire about an apartment to rent. Ms. Jones met with a man who said his name was “William” and who appeared to work at the complex. William told Ms. Jones that he thought Unit 2-F3 would be available for rent by July 1 and showed her the apartment. Before showing her the apartment, William telephoned Defendant Doe and gave the phone to Ms. Jones to speak with Defendant Doe. When Ms. Jones asked Defendant Doe by phone if he had any one-bedroom

apartments available for rent, he told her he currently had nothing available, but might have something in the next month. Ms. Jones asked Defendant Doe if he meant by July 1 and he replied “something like that.” Defendant Doe did not give Ms. Jones his telephone number or tell her to call him or come back to the complex to find out about future availabilities.

47. On June 3, 2014, Defendant Doe told Ms. Jones by telephone that he would not be at the complex that day even though less than two hours later on the same day, he spoke on the phone to a white female tester sent by FHJC without an appointment to Mayfair Garden and offered to meet her within one hour to show her an apartment. When the white tester returned to the complex and met with Defendant Doe, he took her to Unit 6-1D and told her it would be available to rent in less than two weeks, by June 15. Defendant Doe explained that he had someone for the apartment but that the person had not yet paid a deposit so he would check with that person first and if not taken, the apartment would be available for rent. Defendant Doe told the white tester that if Unit 6-1D turned out not to be available, he expected that other apartments would be vacated by the end of the month and that he would have something for her. He encouraged her to call him back the next week to find out what was available.

48. A week later, the same white female tester telephoned Defendant Doe to inquire about Unit 6-1D. Defendant Doe told her that if she would agree to rent the apartment before the end of the month, he would give it to her. The tester told Defendant Doe that first her husband wanted to see the apartment. Defendant Doe said that he could not promise the apartment would still be available, but her husband could call him directly on his way to the apartment and he would show it. Two days later, on June 12, 2014, the same white female tester returned to Mayfair Garden and met with Defendant Doe to follow-up about Unit 6-1D. Defendant Doe told the white tester that Unit 6-1D had been rented to someone else, but that

three one-bedroom apartments would be available as of July 10, 2014, including in Buildings 2 and 6, which he pointed out to her. Defendant Doe encouraged the white tester to call him back on June 25 about the apartments.

49. On the same afternoon of June 12, 2014, Ms. Jones went to Mayfair Garden and met with Defendant Doe who told her that he would not have any one-bedroom apartments available for rent by July 1. When Ms. Jones asked when was the soonest Defendant Doe would have a one-bedroom apartment available to rent, he told her that it would be at least July 20-25 before he would have an apartment ready. Defendant Doe told Ms. Jones that he would have one apartment, not three, that could be available in July, but not until the end of the month, even though he had just told a white tester two hours earlier that he would have three one-bedroom apartments available by July 10. Defendant Doe also told Ms. Jones that she would need to make an appointment with him or a broker to see an apartment.

50. In summary, Defendant Doe lied to Ms. Jones on two different occasions. First, he lied on June 3, 2014 when he told her that no apartments were available to rent in June. Second, he lied to Ms. Jones on June 12, 2014 when he told her that only one one-bedroom apartment was coming available in July instead of three apartments, and that the apartment would not be available until the end of July, two to three weeks later than the date he told the white tester several apartments would be ready to rent. Also, Defendant Doe did not offer to show Unit 6-1D to Ms. Jones and told her that she would have to make an appointment to see an apartment. In contrast, Defendant Doe showed Unit 6-1D to a white tester and told her that she could just call him on her way to the complex to see an apartment and did not have to make an appointment in advance.

August 2014

51. On August 1, 2014, FHJC sent a white male tester who had previously visited Mayfair Garden in July 2014 to inquire about one-bedroom apartments available for rent. The tester met with Defendant Doe and asked him if he had a one-bedroom apartment available by August 15. Defendant Doe told the white tester that there would be one one-bedroom apartment in Building 2 available by August 20 or 25, but it had not yet been vacated by the current tenant, so he could not show it. When the white tester asked Defendant Doe for the broker's contact information, Defendant Doe instructed the tester to write down the tester's name and telephone number and offered to contact the broker for the tester. Defendant Doe encouraged the white tester to call Defendant Doe directly in three days to confirm that the one-bedroom apartment in Building 2 had been vacated or to come back to see the apartment. Defendant Doe told the tester to call 15-20 minutes before coming to Mayfair Garden the next week, and Defendant Doe would show the tester the apartment without an appointment and without the broker being present. During this meeting, Defendant Doe took the white tester to a two-bedroom apartment in Building 3 that was vacant and would be available to rent later in August.

52. The following week, on Wednesday, August 6, 2014, the same white male tester telephoned Defendant Doe and told him that he was no longer interested in renting an apartment at Mayfair Garden.

53. The next day, on August 7, 2014, Claude Jay Jones went to Mayfair Garden and met with a man who said his name was "Willie" and that he worked at Mayfair Garden. Upon information and belief, the man Mr. Jones met with is the same man that Ms.

Jones met with on June 3, 2014 who said his name was William. Willie told Mr. Jones that Unit 6-1H would be available to rent by the end of August and showed Mr. Jones the vacant one-bedroom apartment. While in the apartment with Mr. Jones, Willie telephoned Defendant Doe who acknowledged that the apartment would be available by the end of August, but told Mr. Jones to contact a broker named Garrett to obtain more information about the apartment. When Mr. Jones asked whom he was speaking with on the telephone, Defendant Doe said “Why do you need to know my name?” In addition to not providing his name, Defendant Doe also did not provide his telephone number to Mr. Jones as he had to the white male tester.

54. Four days later on August 11, 2014, Claude Jones and Adrienne Williams, posing as Mr. Jones’ wife, went to Mayfair Garden and met with Defendant Doe. Mr. Jones and Ms. Williams asked Defendant Doe if there were any one-bedroom apartments available to rent by August 15. Defendant Doe told Mr. Jones and Ms. Williams that there were none. Mr. Jones and Ms. Williams then asked Defendant Doe if there would be any one-bedroom apartments available by September 1. Defendant Doe said that Unit 2-2E would be available by then but that it was currently occupied and could not be shown. Defendant Doe did not tell Mr. Jones and Ms. Williams about Unit 6-1H, the one-bedroom apartment shown to a white male tester on August 7, 2014 and again to a white female tester on August 26, 2014 as described below.

55. During their visit to Mayfair Garden on August 11, 2014, Defendant Doe told Mr. Jones and Ms. Williams that in order to obtain more information about apartments for rent at Mayfair Garden they had to contact a broker named Garrett. He provided a telephone number to Mr. Jones and Ms. Williams for the broker.

56. On August 26, 2014, FHJC sent a white female tester and Angela Scott to Mayfair Garden within less than fifteen minutes of each other. The white tester arrived at

approximately 3:00 PM and met with Defendant Doe, who told her that Unit 6-1H would be available to rent as of September 7 or September 15. Defendant Doe said other apartments on the second floors of Buildings 2 and 4 would be available sometime around October 1. Defendant Doe then took the white tester to Unit 6-1H and showed her the apartment. Before leaving, the white tester told Defendant Doe that she was not interested in renting Unit 6-1H.

57. Ms. Scott arrived approximately eleven minutes after the white tester and met with Defendant Doe. After Ms. Scott inquired about the availability of one- or two-bedroom apartments, Defendant Doe told Ms. Scott that he had a one-bedroom apartment that was coming up for rent, “yeah but there is like a couple people . . .,” saying again later that he had a one-bedroom “but I have like two or three people.” He later said that he had one apartment ready to rent, “but the only one I have is rented.” When Ms. Scott asked, “so you will not have anything available until . . .” Defendant Doe finished her sentence, saying “until the end of September because like I said, I have two more, three people actually, but two of them are 100% that they want it . . . they paid a deposit.” When repeatedly asked by Ms. Scott if she could see any apartments, Defendant Doe consistently responded that he would not show her any apartments. He told Ms. Scott that if she wanted to see an apartment she could “see it from outside if you want. . . . The window is open, you can see it from the window.” Instead of telling Ms. Scott about other apartments that would be coming available in September or October, he told her that he had nothing available because “it takes months to make them ready because we have to change kitchen and floor and stuff like that.”

58. In summary, Defendant Doe lied to Mr. Jones and Ms. Williams when he told them on August 11, 2014 that Unit 6-1H was no longer available to rent and he lied to Ms. Scott on August 26, 2014 when he told her that no apartments were available to rent at Mayfair

Garden. Also, Defendant Doe lied to Ms. Scott when he gave her later dates of availability for one-bedroom apartments than the dates he gave to a white female tester whom he met with fifteen minutes before he met with Ms. Scott.

INJURY TO PLAINTIFFS

59. As a result of the illegal and discriminatory actions described above, Defendants have directly and substantially injured Plaintiffs ERASE Racism and FHJC by frustrating their missions of creating communities free of segregation and unequal housing opportunities for African Americans.

60. ERASE Racism and FHJC have also been injured by diverting scarce resources to identify and counteract Defendants' unlawful housing practices. Those resources could have been used to provide services, and conduct educational activities, research, and policy advocacy instead of countering Defendants' discriminatory conduct.

61. Defendants' discriminatory conduct perpetuates residential segregation in Commack and frustrates ERASE Racism's and FHJC's missions by preventing African Americans from living at Mayfair Garden.

62. Until these violations are remedied, Defendants' illegal and discriminatory actions will continue to injure ERASE Racism and FHJC by, *inter alia*,

- a. interfering with efforts and programs intended to bring about equality of opportunity in housing;
- b. requiring the commitment of scarce resources, including significant staff time and funding to investigate and counter the Defendants' illegal conduct, thus diverting those resources from

other activities, such as education, outreach, counseling, and policy advocacy; and

- c. frustrating organizational missions and goals of promoting the equal availability of housing to all persons without regard to race or color.

63. By reason of the foregoing, Plaintiffs Lisa Darden, John-Martin Green, Bianca Jones, Claude Jones, L.B. Williams, Adrienne Williams, and Angela Scott have suffered a loss of civil rights and other damages, including emotional distress, humiliation, and embarrassment.

FIRST CAUSE OF ACTION
Fair Housing Act – § 3604(d)

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

65. Mayfair Garden and the residential apartments contained within the complex are “dwellings” as defined by 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.” 42 U.S.C. § 3602(b).

66. As described above, Defendants’ conduct, individually or through their agent/employee John Doe, also known as “Mike,” 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 the Fair Housing Act, 42 U.S.C. § 3604(d). This provision includes “limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental” because of race or color. 28 C.F.R. Part 100.80(b)(4).

67. Defendants' conduct, as described above, was intentional, willful, and made in disregard for the rights of others.

68. Plaintiffs are "aggrieved persons" as defined by the Fair Housing Act because they have been injured by Defendants' discriminatory housing practices. 42 U.S.C. § 3602(i).

69. Pursuant to 42 U.S.C. § 3613(c), Plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

SECOND CAUSE OF ACTION
Fair Housing Act – § 3604(b)

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

71. Mayfair Garden and the residential apartments contained within the complex are "dwellings" as defined by 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." 42 U.S.C. § 3602(b).

72. As described above, Defendants' conduct, individually or through their agent/employee John Doe, also known as "Mike," constitutes discrimination against any person in the terms, conditions, or privileges of rental of a dwelling because of race or color, in violation of the Fair Housing Act, 42 U.S.C. § 3604(b).

73. Defendants' conduct as described above was intentional, willful, and made in disregard for the rights of others.

74. Plaintiffs are "aggrieved persons" as defined by the Fair Housing Act because they have been injured by Defendants' discriminatory housing practices. 42 U.S.C. § 3602(i).

75. Pursuant to 42 U.S.C. § 3613(c), Plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

THIRD CAUSE OF ACTION
Fair Housing Act – § 3604(a)

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

77. Mayfair Garden and the residential apartments contained within the complex are “dwellings” as defined by 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.” 42 U.S.C. § 3602(b).

78. As described above, Defendants' conduct, individually or through their agent/employee John Doe, also known as “Mike,” constitutes otherwise making unavailable a dwelling to any person because of race or color, in violation of the Fair Housing Act, 42 U.S.C. § 3604(a).

79. Defendants' conduct as described above was intentional, willful, and made in disregard for the rights of others.

80. Plaintiffs are “aggrieved persons” as defined by the Fair Housing Act because they have been injured by Defendants' discriminatory housing practices. 42 U.S.C. § 3602(i).

81. Pursuant to 42 U.S.C. § 3613(c), Plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

FOURTH CAUSE OF ACTION
Suffolk County Human Rights Law - § 528-9(A)(1)

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

83. Defendant Square Realty Group LLC, is the owner and lessor of Mayfair Garden, a “housing accommodation” as defined by § 528 of the Suffolk County Administrative Code.

84. Defendant Empire Management America Corporation and Defendant Doe is each an “agent” as defined by § 528 of the Suffolk County Administrative Code. Defendants’ conduct as described above constitutes an unlawful discriminatory practice “to represent that any housing accommodation ... is not available for inspection, sale, rental or lease when, in fact, it is so available” because of race or color in violation of § 5289(A)(1) of the Suffolk County Administrative Code.

85. Defendants’ conduct as described above was intentional, willful, and made in disregard for the rights of others.

86. Plaintiffs have suffered damages as a result of Defendants’ conduct described above.

87. Pursuant to § 528 of the Suffolk County Administrative Code, Plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys’ fees and costs.

FIFTH CAUSE OF ACTION
Suffolk County Human Rights Law - § 528-9(A)(1)

88. Plaintiffs repeat and reallege the foregoing paragraphs of their Complaint as though fully set forth herein. Defendant Square Realty Group LLC, is the owner and lessor of

Mayfair Garden, a “housing accommodation” as defined by § 528- of the Suffolk County Administrative Code.

89. Defendants Empire Management America Corporation and Defendant Mike Doe are each an “agent” as defined by § 528- of the Suffolk County Administrative Code.

90. Defendants’ conduct as described above constitutes an unlawful discriminatory practice to otherwise “deny or withhold any housing accommodation” because of race or color in violation of § 528-9(A)(1) of the Suffolk County Administrative Code.

91. Defendants’ conduct as described above was intentional, willful, and made in disregard for the rights of others.

92. Plaintiffs have suffered damages as a result of Defendants’ conduct described above.

93. Pursuant to § 528 of the Suffolk County Administrative Code, Plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys’ fees and costs.

SIXTH CAUSE OF ACTION
Suffolk County Human Rights Law - § 528-9(A)(2)

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

95. Defendant Square Realty Group LLC, is the owner and lessor of Mayfair Garden, a “housing accommodation” as defined by § 528 of the Suffolk County Administrative Code to include “any building . . . designed to be used or occupied as the home, residence, or sleeping place of one or more human beings”

96. Defendants Empire Management America Corporation and Defendant Mike Doe are each an “agent” as defined by § 528- of the Suffolk County Administrative Code.

97. Defendants' conduct as described above constitutes an unlawful discriminatory practice to discriminate against any individual because of race or color in the "terms, conditions or privileges of the sale, rental, or lease of any housing accommodation" on the basis of race or color in violation of § 528-9(A)(2) of the Suffolk County Administrative Code.

98. Defendants' conduct as described above was intentional, willful, and made in disregard for the rights of others.

99. Plaintiffs have suffered damages as a result of Defendants' conduct described above.

100. Pursuant to § 528 of the Suffolk County Administrative Code, Plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

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 Suffolk County Human Rights Law, Suffolk County Administrative Code § 528 *et seq.*;
- (b) Enjoining Defendants, Defendants' agents, employees, and successors, and all other persons in active concert or participation from:
 - (i) 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, or will become available in the future, because of race or color;
 - (iii) discriminating in the terms, conditions, or privileges of rental housing 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 Suffolk County 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 Plaintiffs ERASE Racism and 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 Lisa Darden, John-Martin Green, Bianca Jones, Claude Jones, L.B. Williams, Adrienne Williams, and Angela Scott 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: April 30, 2015
New York, New York

EMERY CELLI BRINCKERHOFF & ABADY LLP

By: Diane L. Houk

Diane L. Houk
Theodor O. Oxholm
600 Fifth Avenue, 10th Floor
New York, New York 10020
Telephone: (212) 763-5000
Facsimile: (212) 763-5001

Attorneys for Plaintiffs