

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF TOMPKINS

X

PEOPLE OF THE STATE OF NEW YORK  
by LETITIA JAMES, Attorney General  
of the State of New York,

Petitioner,

**VERIFIED PETITION**

against

Index No.:

RJI No.:

COMMONS WEST, LLC,  
COLLEGETOWN PLAZA, LLC, CITYVIEW, LLC,  
COLLEGETOWN CENTER, LLC, COLLEGETOWN  
COURT, LLC, FANE ENTERPRISES, INC. and  
JASON H. FANE individually and d/b/a ITHACA  
RENTING COMPANY, and as the sole member of  
COMMONS WEST, LLC, COLLEGETOWN PLAZA, LLC,  
CITYVIEW, LLC, COLLEGETOWN CENTER, LLC  
and COLLEGETOWN COURT, LLC, and  
as president, director and shareholder of FANE ENTERPRISES, INC.,

Respondents

X

People of the State of New York, by their attorney, Letitia James, Attorney General of the  
State of New York, respectfully allege, upon information and belief:

**INTRODUCTION**

1. Petitioner brings this special proceeding to permanently enjoin respondents,  
COMMONS WEST, LLC, COLLEGETOWN PLAZA, LLC, CITYVIEW, LLC,  
COLLEGETOWN CENTER, LLC, COLLEGETOWN COURT, LLC, FANE ENTERPRISES,  
INC. and JASON H. FANE individually and d/b/a ITHACA RENTING COMPANY, and as the  
sole member of COMMONS WEST, LLC, COLLEGETOWN PLAZA, LLC, CITYVIEW, LLC,  
COLLEGETOWN CENTER, LLC and COLLEGETOWN COURT, LLC, and as president,  
director and shareholder of FANE ENTERPRISES, INC. (collectively, "Fane"), from engaging

in illegal discriminatory practices against housing choice voucher holders alleged herein in the conduct of their ownership of rental properties and a rental management company and to recover penalties, restitution and costs as authorized by statute.

### **PARTIES AND JURISDICTION**

2. Petitioner is The People of the State of New York, by their attorney, Letitia James, Attorney General of the State of New York.

3. Respondent JASON H. FANE, individually and d/b/a ITHACA RENTING COMPANY (“FANE”), resides at 102 Prospect Street, Ithaca, New York and owns and operates a rental management company whose main office is located at 118 Prospect St., #200 Ithaca, New York 14850.

4 Respondent FANE owns the following properties designated as residential and/or corporate rentals in Ithaca, New York: 105 Dryden Court, 109-113 E. State Street, 202-204 Dryden Road, 210 Dryden Road, 212-216 E. State Street, 214 Dryden Road, 222 S. Aurora Street, 418-428 Eddy Street, 213 Williams Street and 705 E. Buffalo Street.

5. Respondent, COMMON WEST, LLC, is a domestic limited liability company organized and existing under the laws of the State of New York, and is the owner of two properties designated as residential and/or corporate rentals located at 101-113 S. Cayuga Street and 101-107 E. State Street in Ithaca, New York.

6. Respondent, COLLEGETOWN PLAZA, LLC, is a domestic limited liability company organized and existing under the laws of the State of New York, and is the owner of a property designated as a residential and/or corporate rental located at 111-121 Dryden Road in Ithaca, New York.

7. Respondent, CITYVIEW, LLC, is a domestic limited liability company organized and existing under the laws of the State of New York, and is the owner of a property designated as a residential and/or corporate rental located at 118 Prospect Street in Ithaca, New York.

8. Respondent, COLLEGETOWN CENTER, LLC, is a domestic limited liability company organized and existing under the laws of the State of New York, and is the owner of a property designated as a residential and/or corporate rental located at 135-159 Dryden Road in Ithaca, New York.

9. Respondent, COLLEGTOWN COURT, LLC, is a domestic limited liability company organized and existing under the laws of the State of New York, and is the owner of a property designated as a residential and/or corporate rental located at 206-208 Dryden Road in Ithaca, New York.

10. Respondent, FANE ENTERPRISES, INC., is a domestic business corporation organized and existing under the laws of the State of New York, and is the owner of a property designated as a residential and/or corporate rental located at 108-114 E. State Street, 154 E. State Street and 156 E. State Street in Ithaca, New York.

11. Respondent FANE is the sole member of Respondents, COMMON WEST, LLC, COLLEGETOWN PLAZA, LLC, CITYVIEW, LLC, COLLEGETOWN CENTER, LLC, COLLEGTOWN COURT, LLC, and is the President, and a director and shareholder of Respondent, FANE ENTERPRISES, INC. Additionally, Respondent FANE d/b/a ITHACA RENTING, operates and manages the properties owned by the Respondent LLCs and Respondent FANE ENTERPRISES, INC. He has at all time been actively involved in the day-

to-day direction and management of the businesses and has knowledge of and participated in the illegal activities alleged herein.

12. Petitioner brings this proceeding pursuant to Executive Law (“Exec. L.”) §63(12), under which petitioner is empowered to obtain injunctive relief, restitution, penalties and costs against any person or business entity that is engaged in repeated and persistent illegality in the conduct of business.

### **FACTS**

13. In September 2020, Cherri Caldwell, a tenant who was already living in an apartment managed by Respondent FANE, was granted a Section 8 Housing Choice Voucher (“HCV”) through Tompkins Community Action (“TCA”). In October 2020, Ms. Caldwell went to Respondent FANE’s main office located at 118 Prospect St., #200 in Ithaca to inquire about obtaining a new apartment at the Commons West building, a building also managed by Respondents. Respondent FANE’s agent informed the tenant that it did not accept Section 8 vouchers for any apartments that Respondent FANE manages. Due to Respondent FANE’s denial of Ms. Caldwell’s tenancy application solely because of her Section 8 voucher source of income funding, Ms. Caldwell was unable to obtain an apartment that suited her needs, even though Respondent FANE managed available apartments owned by Respondents that Ms. Caldwell could afford.

14. In early December of 2020, Megan Cosgrove, a housing advocate, was assisting a homeless man, who was granted a Section 8 voucher, in finding a suitable apartment in the downtown Ithaca area. Ms. Cosgrove contacted a representative working for Respondent FANE on the phone and inquired whether Respondents had any available apartments centrally located in

Ithaca. Respondent FANE's representative informed Ms. Cosgrove that Respondents do not accept Section 8 vouchers.

15. Thereafter, Ms. Cosgrove located a different apartment for rent listed by Respondent FANE on the internet that would be suitable for the man she was assisting. She called Respondent FANE to ask about the specific apartment but did not mention that the man she was assisting was receiving a housing assistance voucher. A representative of Respondent FANE described the apartment and told the housing advocate that the apartment was still available. However, when Ms. Cosgrove told Respondent FANE's representative that the man had a Section 8 housing assistance voucher, the representative told her that the Respondents do not accept vouchers.

16. Irreparable harm has resulted from Respondents' refusal to rent to any person with a voucher based solely on their source of income. For instance, Ms. Caldwell was forced to risk her mental and physical health for months while she waited to move into an apartment building, not owned or managed by Respondents. Moreover, the male individual Ms. Cosgrove was assisting remained homeless for at least one year after Respondents' denial of tenancy before he was able to move into an apartment where he had been on a wait list to rent.

17. On or about December 8, 2020, the Office of the Attorney General ("OAG") sent a letter to Respondent FANE at the main office located at 118 Prospect St., #200 in Ithaca, outlining the law (New York Executive Law § 296) and the alleged source of income discriminatory practices. The letter asked Respondent to explain why voucher recipients were being prohibited from leasing particular housing accommodations.

18. In response to the OAG’s letter, Respondent FANE sent correspondence dated December 20, 2020, via COO Nathan Lyman, Esq., confirming that Respondents have “chosen not to participate in Section 8 program.”<sup>1</sup>

19. Upon receiving complaints and receiving Respondent FANE’s letter, the OAG commenced an investigation of Respondents business, including depositions of Respondent FANE along with several of his and/or the other Respondents’ employees.

20. During the sworn depositions of Respondent FANE along with several of his and/or the other Respondents’ employees (Diana Nier, Collen Curren-Price, Lisa Everts and Nathan Lyman, Esq.), each deponent admitted that Respondents do not accept Section 8 Choice Housing Vouchers. Throughout each deposition, Respondents and representatives of Respondents were evasively answering the questions posed surrounding the issue of the lawful source of income of Section 8 vouchers and whether Respondents accepted those vouchers. In fact, the only answer from every single person deposed regarding whether Respondents accept tenants with section 8 vouchers was that Respondents “choose not to participate in the Section 8 voucher program.” Employees of Respondents, some who have worked there for years, would not answer where or who they learned this policy from or who created it. And while Respondent FANE ultimately admitted to creating the policy, it is clear throughout the depositions of Respondent

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<sup>1</sup> The letter went on to claim that it refused to participate in the voucher program because of the alleged burdens and expense that participating in the housing assistance program would create for the company. While this defense is unsubstantiated and more importantly, irrelevant, it should be noted that a landlord’s participation in the HCV program is very simple and encompasses little additional time for a landlord. Aside from two additional forms the landlord would be required to fill out and supplying a copy of their lease agreement, a landlord’s units are subjected to a quick inspection to ensure the unit meets the minimum Department of Housing and Urban Development (“HUD”) requirements. This inspection is to ensure the unit includes the most basic humane conditions such as floors, ceilings and walls that are in good condition, safe electric wires and outlets, windows in certain rooms, working locks on windows and doors that can be reached from the outside or a common hallway, sinks and bathtubs/showers with hot and cold running water and a flushable toilet.

FANE and COO Nathan Lyman that Respondents have no intention of complying with the law and will continue to engage in discriminatory practice.

**FIRST CAUSE OF ACTION PURSUANT TO EXECUTIVE LAW § 63(12):  
REPEATED ILLEGALITY VIOLATIONS OF UNLAWFUL DISCRIMINATION IN  
VIOLATION OF THE NEW YORK EXECUTIVE LAW § 296**

21. Executive Law §63(12) prohibits repeated or persistent illegality in the conduct of any business.

22. New York Executive Law § 296(5)(a)(1), states that “it shall be unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of... a housing accommodation...(1) to refuse to sell, rent, lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of the ... lawful source of income or familial status of such person or persons, or to represent that any housing accommodation or land is not available for inspection, sale, rental or lease when in fact it is so available.”

23. As set forth above, Respondents have repeatedly and persistently violated New York Executive Law § 296.

24. Respondents’ violations of New York Executive Law § 296 constitutes repeated and persistent illegality in violation of Executive Law § 63(12).

WHEREFORE, Petitioner requests that the Court grant relief against Respondents pursuant to Executive Law §§ 63(12) and 296 by an Order and Judgment as follows:

- 1) Permanently enjoining Respondents from engaging in the illegal act of refusing to rent or lease or otherwise to deny to or withhold from any person or group of persons such housing

accommodations because of lawful source of income in violation of Executive Law § 296(5)(a)(1) as alleged herein;

- 2) Requiring Respondents take all affirmative steps to change and implement non-discriminatory housing accommodation policies and conduct trainings on such policies with every owner, member, officer, agent, counsel and/or employee of Respondents' businesses within 90 days of issuance of an Order and Judgment by this Court by a qualified trainer or training entity not connected to Respondents, its employees, agents, or counsel;
- 3) Directing Respondents to distribute, or cause to be distributed, a non-discrimination policy regarding source of income to all current residents and housing applicants, to advise the Local Housing Authority when apartments become available, to post an "Equal Housing Opportunity" sign in each of its rental properties and in any rental office in prominent, well-lit locations in which the sign is easily readable and to include in all advertisements that all lawful sources of income, including but not limited to Section 8, is accepted by Respondents;
- 4) Directing Respondents to set aside 5% of residential housing units owned or managed by Respondents exclusively for Section 8 voucher holders ("set asides") for a period of three (3) years, while making all other residential housing units equally available to both



Section 8 voucher holders and tenants with any other lawful source of income;

- i.) Respondents shall not use the required set asides to place more than two (2) tenants in any one building unless that building has more than twenty (20) units, and shall not otherwise segregate or cluster the set aside tenants together.
- 5) Requiring Respondents to undergo monitoring by this Court to ensure that Respondents achieve compliance with Executive Law § 296(5)(a)(1), eliminate ongoing discrimination and its effects, and prevent discriminatory conduct in the future;
- 6) Directing Respondents to make full monetary restitution to aggrieved consumers known and unknown;
- 7) Directing Respondents to pay a civil penalty not to exceed \$100,000 per violation, for a total of \$300,000, to the State of New York for the commission of a willful unlawful discriminatory act pursuant to Executive Law §§ 63(12), 297(9) and 297(4)(c)(vi).
- 8) For such other and further relief as the Court deems just and proper.

DATED: Binghamton, New York  
October 18, 2022

LETITIA JAMES  
Attorney General of the State of New York  
Attorney for Petitioner

BY: Stephanie Milks  
Stephanie M. Milks  
Assistant Attorney General  
New York State Office of the  
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Binghamton, New York 13901

VERIFICATION

STATE OF NEW YORK    )  
                                          )SS:  
COUNTY OF BROOME    )

STEPHANIE M. MILKS, being duly sworn, says:

I am an Assistant Attorney General in the Office of Letitia James, Attorney General of the State of New York and am duly authorized to make this verification.

I have read the foregoing petition and know the contents thereof; which on information and belief, I believe to be true.

The grounds for my belief are investigative materials contained in the files of the Attorney General's Office.

This verification is not made by the petitioner as the petitioner is a body politic and the Attorney General is its duly authorized representative.

DATED:        Binghamton, New York  
                  October 18, 2022

*Stephanie Milks*  
STEPHANIE M. MILKS