

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

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HAIRO OLIVARES,

Complainant,

Verified Complaint

Case No. _____

against-

MIDBORO MANAGEMENT INC., MATTHEW ADAM
PROPERTIES, INC., 315 HOMES CORP., and CESAR
PICHARDO,

Respondents.
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Complainant Hairo Olivares, by and through his attorneys Emery Celli
Brinckerhoff & Abady LLP, as and for his Complaint against Respondents Midboro
Management Inc., Matthew Adam Properties, Inc., 315 Homes Corporation (together, “the
Building”) and Cesar Pichardo, alleges as follows:

PRELIMINARY STATEMENT

1. Complainant Hairo Olivares is a full-time employee at 315 Riverside Drive, a
building owned by Respondent 315 Homes Corp., who suffered years of brazen sexual
harassment by his then-supervisor Cesar Pichardo, who had been the live-in super and manager
of the Building for approximately four decades.

2. Pichardo’s behavior was disgusting. He grabbed Mr. Olivares’ crotch and
buttocks without his consent, made repeated sexually harassing comments about Mr. Olivares’s
“ass,” body, and purported sexual orientation, and humiliated him in front of his colleagues.

3. Although Mr. Olivares reported Pichardo’s harassment to his supervisors and
filed a formal complaint with his union representative, the Building did nothing to stop it, even

after Pichardo retaliated against Mr. Olivares for his complaints and Mr. Olivares reported *this* behavior, too.

4. Mr. Olivares has suffered from persistent emotional distress as a result of the harassment and hostile work environment that he experienced at the Building, and the Building is liable to him for its illegal conduct.

PARTIES

5. Complainant Hairo Olivares is a New Jersey resident who has been employed by 315 Homes Corp. at 315 Riverside Drive since April 1, 2005 as both a doorman and a porter.

6. Respondent 315 Homes Corporation is a corporation headquartered at 315 Riverside Drive, New York, New York 10025. 315 Homes Corp. owns 315 Riverside Drive, a twenty-story cooperative building constructed in 1931 and located on the Upper West Side in Manhattan, New York.

7. Respondent Midboro Management, Inc. is a residential property management firm founded in 1963 and presently located at 337 7th Avenue, 5th Floor, New York, New York, 10001. Midboro specializes in managing cooperatives and condominiums throughout the Greater New York area. Midboro has been the property management firm for 315 Riverside Drive from 2017 to the present.

8. Respondent Matthew Adam Properties, Inc. is a residential property management firm presently located at 127 East 59th Street, New York, New York, 10022. Matthew Adam was the property management firm for 215 Riverside Drive prior to 2017.

9. In this Complaint, Respondent 315 Homes Corp., Respondent Midboro Management, Inc., and Respondent Matthew Adam Properties, Inc. are referred to collectively as “the Building.”

10. Respondent Cesar Pichardo is a New York resident who was employed as a live-in super and building manager by 315 Homes Corp. at 315 Riverside Drive until approximately March 9, 2018.

FACTS

Overview of Employment

11. Mr. Olivares began employment with the Building on April 1, 2005, working as a doorman. He excels at his job and is a trusted employee of the building.

12. In 2015, Mr. Olivares began serving as a Porter for the Building, and performed equally well in this capacity.

13. Pichardo, who is approximately seventy years old, was a super and the manager of the Building until approximately March 9, 2018, and had always been Mr. Olivares's direct supervisor.

Cesar Pichardo Sexually Harassed Mr. Olivares

14. Shortly after he began working at the Building as a doorman, Mr. Olivares began to experience regular sexual harassment, humiliation, and teasing by Pichardo.

15. For example, Pichardo instructed Mr. Olivares to sit in his lap in the entrance of the employee's basement locker room, in full view of Mr. Olivares's colleagues.

16. Mr. Olivares repeatedly attempted to transfer to a porter position so he could grow as an employee and eventually become a handyman, but Pichardo would not allow the transfer, even though Mr. Olivares was senior to other employees. Pichardo told Mr. Olivares he was "shit" and that he was not good enough to work as a porter, even though porter positions became available many times over the decade Mr. Olivares spent as a doorman.

17. Mr. Olivares eventually managed to become a porter after requesting that the Building's management intervene on his behalf. At that point, Pichardo's conduct grew even more unbearable.

18. In his capacity as a porter, Mr. Olivares was forced to see Pichardo even more frequently.

19. Pichardo regularly stationed himself at the doorway of the locker room so that he could grope Mr. Olivares and other employees as they walked by. On multiple occasions, Pichardo grabbed Mr. Olivares's rear end without warning, in full view of other employees.

20. On one occasion, Pichardo grabbed and pinched Mr. Olivares's crotch while the two men were alone in the locker room as Mr. Olivares was on his way to the restroom.

21. Mr. Olivares repeatedly told Pichardo to stop his inappropriate behavior and made clear that he did not want to be touched. Pichardo either laughed at or ignored Mr. Olivares's protests.

22. In addition to his physical harassment, Pichardo repeatedly made inappropriate sexual comments to Mr. Olivares—both while the two men were alone and in front of Mr. Olivares's colleagues.

23. For example, Pichardo would watch Mr. Olivares walk away from him and comment on his "nice, big, round, ass." Pichardo also said: "Look at that ass. I need a young, hard ass like that so that I can retire." Mr. Olivares asked Pichardo to stop ogling him, but again, Pichardo ignored or laughed at him.

24. Pichardo also regularly commented that he wanted a "young boy" so he could retire, countless times accused Mr. Olivares in pejorative Spanish of being gay, asked Mr.

Olivares whether he was gay, and mocked Mr. Olivares's "lazy face"—which, Pichardo told Mr. Olivares, made him look gay.

25. All of these comments were made overtly, often in full view of other employees. They made Mr. Olivares feel humiliated, disrespected, and afraid.

26. Pichardo also mocked Mr. Olivares for work he completed for an older male resident of 315 Riverside. Pichardo said that Mr. Olivares "must be having sex with [that resident] since you're driving his car."

27. Mr. Olivares felt extremely anxious and distressed as a result of Pichardo's harassing conduct and touching.

28. Mr. Olivares's allegations against Pichardo have been independently corroborated by other employees of 315 Riverside and by tenants of 315 Riverside.

Mr. Olivares Formally Complains About Pichardo's Harassment

29. On November 7, 2017, Mr. Olivares filed a written complaint about Pichardo with his union and provided Respondent Midboro Management with a substantial but non-exhaustive written list of Pichardo's prior inappropriate comments and harassment.

30. Shortly thereafter, Mr. Olivares attended a meeting with members of Respondent Midboro Management and two union representatives, John Grier and Kevin Thornton. Mr. Olivares detailed Pichardo's harassing conduct to management and asked that they take steps to remedy the pervasive, daily harassment he was experiencing.

31. Following that meeting, neither 315 Homes Corp., Midboro Management, nor the union took *any* steps to discipline or remove Pichardo or otherwise address Mr. Olivares's serious allegations of misconduct and harassment.

Mr. Pichardo Retaliates Against Mr. Olivares While the Building Stands By

32. Since that meeting until approximately March 9, 2018, Pichardo has unleashed a torrent of retaliatory efforts against Mr. Olivares.

33. On multiple occasions, Pichardo confronted Mr. Olivares and asked him to withdraw his union complaint. When Mr. Olivares refused, Pichardo changed tactics, complaining that he was “sick” and “old” and pleading with Mr. Olivares to drop the complaint.

34. Pichardo had also spoken to numerous other employees at 315 Riverside with the intent to intimidate them and persuade them not to disclose conduct they witnessed.

35. Finally, Pichardo made it known to Mr. Olivares that he had hired an attorney and threatened to take legal action against Mr. Olivares. Pichardo even announced this to many employees at 315 Riverside in an effort to further coerce their silence.

36. Mr. Olivares sent a demand letter to the Building on December 11, 2017.

37. Several months later, Pichardo’s employment by the Building ceased on or about March 9, 2018. On information and belief, Pichardo was not terminated, and received a substantial sum of money from the Building upon his departure. The Building notified Mr. Olivares and other employees of the change in Pichardo’s employment status by email.

Mr. Olivares Has Suffered Persistent Emotional Distress

38. Mr. Olivares has suffered severe emotional distress as a result of Pichardo’s sexual harassment and retaliation against him, the hostile work environment that he experienced, and the Building’s failure to protect him from Pichardo’s conduct.

39. While Pichardo remained his supervisor, Mr. Olivares felt fearful and anxious about the prospect of interacting with him on a daily basis. He dreaded and attempted to avoid the employee locker room where Pichardo habitually lurked, waiting for employees to pass by so he could grab their rear ends and comment on their bodies.

40. Mr. Olivares further fears for his reputation given Pichardo's threat to sue him.

41. The Building's failure to take any remedial action against Pichardo or otherwise address the hostile work environment compounded Mr. Olivares's emotional distress.

42. Mr. Olivares's emotional distress arising from the Building's illegal conduct has continued to this day.

43. Mr. Olivares has not filed any other civil or administrative action alleging the discriminatory acts alleged herein.

FIRST CLAIM FOR RELIEF

N.Y.C. Admin. Code §§ 8-107(1) – Gender Discrimination, Sexual Harassment, and Hostile Work Environment in Violation of the New York City Human Rights Law

44. Complainant repeats and realleges the allegations set forth in the preceding paragraphs as if fully set forth herein.

45. Respondents discriminated against Complainant on the basis of his gender and caused Complainant to experience a hostile work environment in violation of the New York City Human Rights Law because Respondents knew of the discrimination and sexual harassment perpetrated against Complainant by Pichardo, or at a minimum, should have known about the harassment.

46. The sexual harassment perpetrated against Claimant by Respondents affected a term, condition, and the privileges of Claimant's employment.

47. As a result of Respondents' gender discrimination and the hostile work environment experienced by Complainant in violation of the New York City Human Rights Law, Complainant has been denied employment opportunities providing substantial compensation and benefits, entitling him to injunctive and equitable monetary relief, and he has suffered anguish,

humiliation, distress, inconvenience, and loss of enjoyment of life due to Respondents' actions, entitling him to compensatory damages.

48. In their gender-based discriminatory actions alleged in violation of the New York City Human Rights Law, Respondents have acted with malice or deliberate indifference to the rights of Plaintiff, thereby entitling him to an award of punitive damages.

49. Under the New York City Human Rights Law, N.Y.C. Admin. Code § 8-120, Complainant is entitled to recover reasonable attorneys' fees and costs of this action.

SECOND CLAIM FOR RELIEF
N.Y.C. Admin. Code §§ 8-107(1) – Retaliation in Violation of the
New York City Human Rights Law

50. Complainant repeats and realleges the allegations set forth in the preceding paragraphs as if fully set forth herein.

51. Complainant engaged in protected activity by making written and oral complaints about the sexual harassment and gender discrimination that he experienced during his employment with the Building and by seeking to be protected against those same discriminatory acts.

52. Respondents knew that Complainant had engaged in protected activity.

53. Respondents subjected Complainant to adverse employment actions. Pichardo, a supervisor, directed that Mr. Olivares drop his union complaint and attempted to intimidate other employees so they would not corroborate Mr. Olivares's allegations, and the manager of the Building has not spoken to Complainant since he sent his demand letter to the Building.

54. These adverse employment actions were a direct and proximate result of Complainant's protected complaints and reports to Respondents regarding their discriminatory conduct.

55. As a result of the illegal conduct perpetrated by Respondents, Complainant has suffered anguish, humiliation, distress, inconvenience, and loss of enjoyment of life, as well as lost wages and work opportunities, entitling him to compensatory damages.

56. In their retaliatory acts in violation of the New York City Human Rights Law, Respondents have acted with malice or deliberate indifference to the rights of Plaintiff, thereby entitling him to an award of punitive damages.

57. Under the New York City Human Rights Law, N.Y.C. Admin. Code § 8-120, Complainant is entitled to recover reasonable attorneys' fees and costs of this action.

Dated: May 22, 2018
New York, New York

Respectfully submitted,

EMERY CELLI BRINCKERHOFF
& ABADY LLP

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Attorneys for Hairo Olivares

VERIFICATION


I, Hairo Olivares, swear and attest to the following: (1) I have read the foregoing complaint; and (2) the allegations in the complaint are true to the best of my knowledge.

May 15, 2018
Date

Hairo Olivares
Hairo Olivares

Sworn to and subscribed before me

this 15 day of May, 2018.



EMMA LERNER FREEMAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 02FR6354903
Qualified In Kings County
My Commission Expires 02-21-2021