

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,)

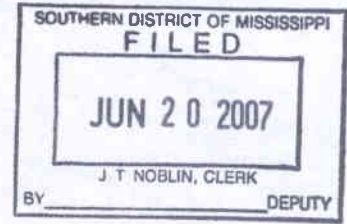
5 Plaintiff,)

6 v.)

7 DEBORAH STRACENER and MIDTOWN)
8 DEVELOPMENT, LLC,)

9 Defendants.)

COMPLAINT 1:07cv707LG-Jml



10 The United States of America alleges as follows:

11 NATURE OF ACTION

12 1. This action is brought by the United States on behalf of Donald Akers to enforce the
13 provisions of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing
14 Amendments Act of 1988, 42 U.S.C. §§ 3601, *et seq.*, (the "Fair Housing Act").

15 JURISDICTION & VENUE

16 2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and
17 42 U.S.C. § 3612(o). Venue is proper in this judicial district pursuant to 42 U.S.C. § 1391(b) and
18 42 U.S.C. § 3612(o) as the events or omissions giving rise to the claim occurred in this judicial
19 district.

20 PARTIES

21 3. At all times relevant to this Complaint, Defendant Midtown Development, LLC owned
22 and operated Gulf Towers Apartments ("Gulf Towers"), which consisted of approximately 110 units
23 in Biloxi, Mississippi. At all times relevant to this Complaint, Defendant Deborah Stracener was
24 employed by Midtown Development, LLC as the site manager at the subject property.

25 4. The units at Gulf Towers are "dwellings" within the meaning of 42 U.S.C. § 3602(b).

26 5. Mr. Akers is handicapped or disabled within the meaning of the Fair Housing Act, 42
27 U.S.C. § 3602(h). Mr. Akers is a sixty-eight year old man who has lung disease, a heart condition,
28 and mobility impairments. These physical impairments substantially limit one or more of Mr. Akers'

1 major life activities, including his ability to stand and walk. He uses a motorized scooter and a
2 wheelchair for mobility. He also uses portable oxygen to aid with his lung condition.

3 FACTUAL ALLEGATIONS

4 6. Mr. Akers was a resident of Gulf Towers from about March 1, 2005 until the property
5 was rendered uninhabitable by Hurricane Katrina, which decimated the Gulf Towers property on
6 August 29, 2005.

7 7. On or about March 1, 2005, Mr. Akers executed an apartment lease for the rental of
8 apartment #510 at Gulf Towers. During his lease, Mr. Akers moved to a two-bedroom unit,
9 apartment #609.

10 8. About ten disabled residents lived at Gulf Towers in March-August 2005.

11 9. During this period, Defendants designated between two and seven of the parking spaces
12 at Gulf Towers for use by disabled individuals.

13 10. On occasion, Mr. Akers drove home and was unable to find a vacant accessible parking
14 space. An assigned accessible parking space was necessary to afford Mr. Akers equal opportunity to
15 use and enjoy his dwelling.

16 11. On several occasions in June 2005 through August 2005, Mr. Akers requested that
17 Defendant Stracener provide him with an accessible parking space designated specifically for his use.

18 12. Defendant Stracener knew that Mr. Akers was disabled when he made his request.

19 13. Defendants repeatedly refused to provide Mr. Akers with an accessible parking space
20 designated specifically for his use.

21 14. On one occasion, Defendant Stracener tore up Mr. Akers' written request for a
22 designated accessible parking space in front of Mr. Akers and threw it in the trash.

23 15. On another occasion, Defendant Stracener responded to Mr. Akers' oral request for a
24 designated accessible parking space by stating, "I don't have to give you a handicap parking space.
25 I'll just evict you."

26 16. On August 3, 2005 and again on August 11, 2005, in retaliation for Mr. Akers'
27 requests for a reasonable accommodation and complaints made to the Defendants about the lack of
28 adequate accessible parking, Mr. Akers received a three-day eviction notice signed by Defendant

1 Stracener.

2 17. Before the eviction could be effectuated, Hurricane Katrina decimated the Gulf Towers
3 property on August 29, 2005, and the property was rendered uninhabitable. Mr. Akers has since
4 relocated.

5 18. On or about October 31, 2005, Mr. Akers filed a timely housing discrimination
6 complaint with the United States Department of Housing and Urban Development ("HUD"), alleging
7 that the Defendants had violated the Fair Housing Act by failing to make a reasonable accommodation
8 and by intimidating him through the eviction notices.

9 19. Pursuant to the requirements of 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD
10 conducted and completed an investigation of the complaint, attempted conciliation without success,
11 and prepared a final investigative report. Based on the information gathered in the investigation, the
12 Secretary, pursuant to 42 U.S.C. § 3610(g)(1) determined that reasonable cause existed to believe that
13 discriminatory practices had occurred. Accordingly, on or about May 17, 2007, the Secretary issued
14 a Charge of Discrimination ("the Charge") pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the
15 Defendants with engaging in discriminatory housing practices in violation of the Fair Housing Act.

16 20. On May 21, 2007, Mr. Akers made a timely election to have the claims asserted in the
17 Charge decided in a civil action pursuant to 42 U.S.C. § 3612(a).

18 21. On May 23, 2007, the Chief Administrative Law Judge issued a Notice of Election of
19 Judicial Determination and terminated the administrative proceedings on Mr. Akers' Complaint.

20 22. Following this Notice of Election, the Secretary of Housing and Urban Development
21 authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

22 FAIR HOUSING ACT VIOLATIONS

23 23. The Defendants, through the actions referred to above, have:

- 24 a. Discriminated against Mr. Akers in the terms, conditions, or privileges of rental
25 of a dwelling, or in the provision of services or facilities in connection with
26 such dwelling, because of handicap, in violation of
27 42 U.S.C. § 3604(f)(2)(A);
28 b. Refused to make reasonable accommodations in rules, policies, practices, or

1 services, which were necessary to afford Mr. Akers an equal opportunity to use
2 and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B); and

3 c. Coerced, intimidated, threatened or interfered with Mr. Akers in the exercise or
4 enjoyment of, or on account of his having exercised or enjoyed any right
5 granted or protected by the Fair Housing Act, in violation of 42 U.S.C. § 3617.

6 24. Mr. Akers is an aggrieved person, as defined in 42 U.S.C. § 3602(i), and has suffered
7 damages as a result of the Defendants' discriminatory conduct as described above.

8 25. The discriminatory actions of the Defendants were intentional, willful, and taken in
9 disregard of Mr. Akers' federally protected rights.

10 WHEREFORE, the United States of America prays for relief as follows:

11 1. A declaration that the conduct of Defendants as set forth above violates the Fair
12 Housing Act, as amended, 42 U.S.C. §§ 3601, et seq.;

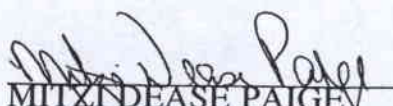
13 2. An injunction against the Defendants, their agents, employees, and successors, and all
14 other persons in active concert or participation with any of them, from discriminating on the basis of
15 disability in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*;

16 3. An award of monetary damages to Mr. Akers, pursuant to 42 U.S.C. §§ 3612(o)(3)
17 and 3613(c)(1); and

18 4. Such additional relief as the interests of justice may require.
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1 Dated: June 20, 2007

2 DUNN LAMPTON
3 United States Attorney

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