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19 United States of America

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 UNITED STATES OF AMERICA
23 Plaintiff,

24 v.

25 GARY LUKE, MARY NGO
26 and HOA NGO,
Defendants.

) SACV-1109 JVS(MLGX)

) AMENDED COMPLAINT
(And Demand for Jury Trial)

1 Plaintiff United States of America, alleges:

- 2 1. This action is brought by the United States to enforce Title VIII of the Civil
3 Rights Act of 1968, as amended by the Fair Housing Act Amendments of
4 1988, 42 U.S.C. §§ 3601 et seq. (“Fair Housing Act”). It is brought on
5 behalf of Rafaela Alonso, Norberto Barranco, Graciela Barrera, Laura
6 Castañeda , Maria Castañeda, Maria del Carmen Maldonado and The Fair
7 Housing Council of Orange County (“Complainants”), pursuant to Section
8 812(o) of The Fair Housing Act, 42 U.S.C. § 3612(o). It is also brought
9 pursuant to Section 814(a) of The Fair Housing Act, 42 U.S.C. § 3614(a).
- 10 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331
11 and 1345 and 42 U.S.C. §§ 3612(o) and 3614(a).
- 12 3. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b), in that the
13 events or omissions giving rise to these claims occurred in the Central
14 District of California, the property that is the subject of the action is situated
15 in the Central District of California, and the Defendants conduct business in
16 this judicial district.
- 17 4. The multi-family residential rental properties located at 13172 Adland
18 Street and 13192 Adland Street (the “Subject Property”) in Orange County
19 each contain one building with four units.
- 20 5. The Subject Property is a “dwelling” within the meaning of the Fair
21 Housing Act, 42 U.S.C. § 3602(b).
- 22 6. Defendant Gary Luke is a resident of Orange County, California.
- 23 7. Since 2005, Defendant Gary Luke has been the co-owner of 13172 Adland
24 Street, the owner of 13192 Adland Street and the manager of the Subject
25 Property.
- 26 8. Defendant Mary Ngo is a resident of Orange County, California.
- 27 9. Since 2005, Defendant Mary Ngo has been the co-owner of 13172 Adland

1 Street, which is operated jointly with 13192 Adland Street.

2 10. Defendant Hoa Ngo, Mary Ngo's mother, is a resident of Orange County,
3 California.

4 11. Since 2005, Defendant Hoa Ngo has been the co-manager of 13172 and
5 13192 Adland Street.

6 12. Complainant Rafaela Alonso is a Hispanic female. She resided at 13172
7 Adland Street, Unit D, from February 20, 1993, to November 25, 2005.

8 13. Complainant Norberto Barranco is a Hispanic male. He resided at 13192
9 Adland Street, Unit D, from 1995 to 2005.

10 14. Complainant Graciela Barrera is a Hispanic female. She resided at 13172
11 Adland Street, Unit B, from April 15, 2004, to December 1, 2005.

12 15. Complainant Laura Castañeda is a Hispanic female. She resided at 13192
13 Adland Street, Unit A, from January 1 of either 1989 or 1991, until October
14 31, 2005.

15 16. Complainant Maria Castañeda is a Hispanic female. She resided at 13172
16 Adland Street, Unit C, from February 1, 1996, to December 1, 2005.

17 17. Complainant Maria del Carmen Maldonado is a Hispanic female. She
18 applied to live at the Subject Property in December 2005.

19 18. Complainant Fair Housing Council of Orange County ("FHCOOC") is a
20 private, non-profit organization that works to ensure and maintain fair
21 housing by providing a variety of services directed toward education and
22 enforcement.

23 19. There were two Vietnamese tenants and six Hispanic tenants living at the
24 Subject Property prior to the time Defendants Gary Luke and Mary Ngo
25 purchased the Subject Property in 2005.

26 20. On or about October 15, 2005, Defendant Gary Luke delivered a Notice of
27 Termination of Tenancy to all Hispanic tenants of the Subject Property,
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1 demanding that the tenants vacate their apartments within sixty days, so that
2 the apartments could be remodeled.

3 21. Prior to issuance of the Notices of Termination of Tenancy, one
4 Complainant heard Luke say, “it was his first time working with Mexicans
5 and he did not know how it was going to go.”

6 22. Defendant Gary Luke rejected requests to transfer the Hispanic tenants to a
7 vacant apartment or to allow them to reapply for a vacant apartment, despite
8 some tenants’ offers to pay increased rent once Defendant Gary Luke
9 remodeled the apartments.

10 23. Complainant Rafaela Alonso requested to move to another apartment on or
11 about October 22, 2005, indicating her willingness to pay increased rent
12 after the remodeling. Defendant Gary Luke refused explaining that he
13 would be replacing the windows and it would be “too noisy and
14 inconvenient.”

15 24. Complainant Rafaela Alonso’s children each individually requested that the
16 family be transferred, but Defendant Gary Luke refused.

17 25. Complainant Norberto Barranco requested on several occasions that he be
18 transferred or allowed to reapply. Defendant Gary Luke refused these
19 requests.

20 26. Complainant Graciela Barrera’s daughter requested that the family be
21 allowed to reapply, but Defendant Gary Luke never provided the
22 Complainant Graciela Barrera or her daughter a rental application.

23 27. Complainant Laura Castañeda and her family asked repeatedly to either
24 reapply or be transferred to a vacant apartment and offered to pay increased
25 rent after Defendant Gary Luke completed renovations, but Defendant Gary
26 Luke twice reiterated that they must vacate by December 15, 2005.

27 28. Complainant Maria Castañeda’s son, Javier Castañeda, Jr., requested that
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1 the Castañeda family be transferred to one of the vacant units at the Subject
2 Property, but Defendant Gary Luke said this option was “too inconvenient”
3 for him and for the tenants.

4 29. Complainant Maria Castañeda’s son, Javier Castañeda, Jr., requested a
5 rental application on two occasions, but Defendant Gary Luke avoided
6 providing the Castañedas an application.

7 30. Defendants or someone acting at their behest rejected Complainant Laura
8 Castañeda’s daughter’s request for a rental application after the family
9 vacated the unit at the Subject Property claiming all units were rented when
10 multiple rental units were not under contract.

11 31. Defendant Gary Luke rejected Complainant Maldonado’s rental application,
12 stating, “my partner has in mind to rent to Vietnamese families” and
13 “Mexicans” have a tendency to “destroy the property.”

14 32. On or about October 2005, Defendants or someone acting at their behest
15 began showing the apartments to new prospective Asian tenants.

16 33. Defendants or someone acting at their behest subsequently rented all units at
17 the Subject Property to Vietnamese tenants, completing numerous repairs
18 from installing windows and doors to laying floor tile in the units of some
19 Vietnamese tenants while they occupied the apartments.

20 34. Prior to delivering the Notices of Termination of Tenancy, Defendants or
21 someone acting at their behest visited at least one of the two original
22 Vietnamese tenants, Mai Tran, at the Subject Property and entreated Tran to
23 remain at the Subject Property despite the increased rent. Defendants or
24 someone acting at their behest promised that repairs would be made to the
25 unit if Tran would remain.

26 35. On or about May 15, 2006, Complainant Rafaela Alonso timely filed a
27 complaint with HUD against Defendants Gary Luke and Mary Ngo, alleging
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1 that the Defendants committed discriminatory housing practices against her,
2 on the basis of national origin (Hispanic), in violation of the Fair Housing
3 Act.

4 36. On or about May 9, 2006, Complainant Norberto Barranco timely filed a
5 complaint with HUD against Defendants Gary Luke and Mary Ngo, alleging
6 that the Defendants committed discriminatory housing practices against
7 him, on the basis of national origin (Hispanic), in violation of the Fair
8 Housing Act.

9 37. On or about May 15, 2006, Complainant Graciela Barrera timely filed a
10 complaint with HUD against Defendants Gary Luke and Mary Ngo, alleging
11 that the Defendants committed discriminatory housing practices against her,
12 on the basis of national origin (Hispanic), in violation of the Fair Housing
13 Act.

14 38. On or about May 9, 2006, Complainant Laura Castañeda timely filed a
15 complaint with HUD against Defendants Gary Luke and Mary Ngo, alleging
16 that the Defendants committed discriminatory housing practices against her,
17 on the basis of national origin (Hispanic), in violation of the Fair Housing
18 Act.

19 39. On or about May 9, 2006, Complainant Maria Castañeda timely filed a
20 complaint with HUD against Defendants Gary Luke and Mary Ngo, alleging
21 that the Defendants committed discriminatory housing practices against her,
22 on the basis of national origin (Hispanic), in violation of the Fair Housing
23 Act.

24 40. On or about June 6, 2006, Maria del Carmen Maldonado timely filed a
25 complaint with HUD against Defendants Gary Luke and Mary Ngo, alleging
26 that the Defendants committed discriminatory housing practices against her,
27 on the basis of national origin (Hispanic), in violation of the Fair Housing
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1 Act.

2 41. On or about May 9, 2006, the FHCOC timely filed a complaint with HUD
3 against Defendants Gary Luke and Mary Ngo, alleging that the Defendants
4 committed discriminatory housing practices on the basis of national origin
5 (Hispanic), in violation of the Fair Housing Act.

6 42. As required by the Fair Housing Act, 42 U.S.C. §§ 3610(a) and (b), the
7 Secretary of HUD conducted an investigation of the complaints, attempted
8 conciliation without success, and prepared a final investigative report.
9 Based on the information gathered in its investigation, the Secretary,
10 pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause exists to
11 believe that illegal discriminatory housing practices have occurred.
12 Therefore, on or about September 29, 2006, the Secretary issued a
13 Determination of Reasonable Cause and a Charge of Discrimination on or
14 about October 3, 2006, pursuant to 42 U.S.C. § 3610(g), charging
15 Defendants Gary Luke and Mary Ngo with discrimination on the basis of
16 national origin (Hispanic) in violation of the Fair Housing Act.

17 43. On or about October 17, 2006, Complainants Rafaela Alonso, Norberto
18 Barranco, Graciela Barrera, Laura Castañeda, Maria Castañeda, Maria del
19 Carmen Maldonado and the FHCOC elected to have their claims asserted in
20 HUD's Charge of Discrimination resolved in a federal civil action pursuant
21 to 42 U.S.C. § 3612(a).

22 44. On or about October 17, 2006, the Chief Administrative Law Judge issued a
23 Notice of Election and terminated the administrative proceedings on the
24 HUD complaints filed by Complainants Rafaela Alonso, Norberto Barranco,
25 Graciela Barrera, Laura Castañeda, Maria Castañeda, Maria del Carmen
26 Maldonado and the FHCOC.

27 45. Following this Notice of Election, the Secretary of HUD authorized the
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1 Attorney General to commence a civil action, pursuant to 42 U.S.C.
2 § 3612(o).

3 46. By their actions and statements referred to in the foregoing paragraphs, the
4 Defendants have:

5 (a) Made unavailable or denied a dwelling because of national origin,
6 in violation of 42 U.S.C. § 3604(a);

7 (b) Made statements with respect to the rental of a dwelling that
8 indicate a preference, limitation, or discrimination based on national
9 origin, in violation of 42 U.S.C. § 3604(c); and

10 (c) Misrepresented the availability of units on the basis of national
11 origin, in violation of 42 U.S.C. § 3604(d).

12 47. Complainants are “aggrieved persons” as defined in 42 U.S.C. § 3602(i),
13 and suffered injuries as a result of Defendants’ discriminatory conduct.

14 48. The actions and statements of Defendants, as described in the preceding
15 paragraphs, were intentional, willful, and taken in disregard for the
16 Complainants’ rights.

17 49. The conduct of the Defendants described above constitutes:

18 (a) A pattern or practice of resistance to the full enjoyment of
19 rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619; or

20 (b) A denial to a group of persons of rights granted by the Fair
21 Housing Act, 42 U.S.C. §§ 3601-3619, which raises an issue of general
22 public importance.

23 50. In addition to the Complainants, there may be other victims of Defendants’
24 discriminatory actions and practices who are “aggrieved persons” as defined
25 by the Fair Housing Act, 42 U.S.C. § 3602(i). These persons may have
26 suffered damages as a result of Defendants’ discriminatory conduct as
27 described herein.

1 51. Defendants' actions and statements were intentional, willful, and taken in
2 disregard for the rights of others.

3
4 WHEREFORE, the United States prays that the Court enter an order that:

5 A. Declares that Defendants' conduct, as set forth above, violates the
6 Fair Housing Act;

7 B. Enjoins the Defendants and their agents, employees, and successors,
8 and all other persons in active concert or participation with them from:

9 (1) Discriminating on account of national origin, in violation of the
10 Fair Housing Act; and

11 (2) Failing or refusing to notify the public that dwellings owned or
12 operated by Defendants are available to all persons on a
13 nondiscriminatory basis;

14 C. Awards monetary damages to the Complainants and all other persons
15 harmed by Defendants' discriminatory housing practices, pursuant to 42 U.S.C.
16 § 3612(o)(3) and 42 U.S.C. § 3614(d)(1)(B); and

17 D. Assesses a civil penalty against each Defendant in order to vindicate
18 the public interest, in an amount authorized by Section 814(d)(1)(C) of the Fair
19 Housing Act, 42 U.S.C. § 3614(d)(1)(C).

20 The United States further prays for such additional relief as the interests of
21 justice may require.

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2 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the United
3 States of America hereby demands a trial by jury of this action of all issues triable
4 of right to a jury.
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