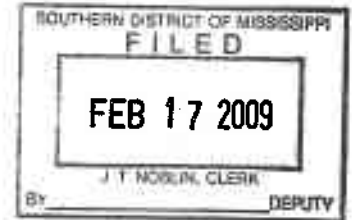


IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION



UNITED STATES OF AMERICA

PLAINTIFF

vs.

CIVIL ACTION NO. 1:09CV174LG-RHW

MISSISSIPPI REGIONAL HOUSING  
AUTHORITY VIII, SBMC, INC. (d/b/a  
Sun Belt Management), OAKRIDGE  
PARK APARTMENTS, LTD. and BOBBY  
G. MARCELLUS, GENERAL PARTNER

DEFENDANTS

JURY TRIAL DEMANDED

COMPLAINT

The United States of America alleges as follows:

NATURE OF ACTION

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

JURISDICTION AND VENUE

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

PARTIES

3. Defendant Mississippi Regional Housing Authority VIII ("MRHA") is an agency that receives federal funds to administer the Housing Choice Voucher program (also known as "Section 8"), which provides rental assistance to low-income families, the elderly, and persons with disabilities.

4. At all times relevant to this Complaint, Defendants Oakridge Park Apartments, Ltd., and Bobby G. Marcellus, General Partner, owned Oakridge Park Apartments, which consists of approximately 48 apartment units in Biloxi, Mississippi.

5. At all relevant times, Defendant SBMC, Inc., d/b/a Sun Belt Management, managed Oakridge Park Apartments.

6. The units at Oakridge Park Apartments are “dwellings” within the meaning of 42 U.S.C. § 3602(b).

7. Ms. Waltman is a person with disabilities within the meaning of 42 U.S.C. § 3602(h). She has been diagnosed with lumbago radiculitis and respiratory problems. She has physical impairments that substantially limit her ability to walk and climb stairs.

#### **FACTUAL ALLEGATIONS**

8. On or about April 19, 2005, Ms. Waltman and a representative of MRHA signed the MRHA Housing Choice Voucher Program Application form. Ms. Waltman indicated on the form that she received Social Security disability income and that her live-in aide and his son would live with her. In response to a question on the form regarding the need for special accommodations, Ms. Waltman wrote: “Handicapped – wheelchair, heart problems, back surgery” and “No steps, ramp or flat to ground.”

9. MRHA issued a voucher for a two-bedroom unit to Ms. Waltman on or about May 25, 2005.

10. Prior to moving into Oakridge, Ms. Waltman told Sheffney Sides, manager at Oakridge, that she wanted a first-floor apartment as she had back problems and had recently undergone back surgery. Sides advised Ms. Waltman that there were no available first-floor units but that she could move her to one once a first-floor apartment became available.

11. On or about August 15, 2005, Ms. Waltman signed a lease for Apartment C-212, a second-floor two-bedroom apartment at the Oakridge Park Apartments. Manager Sides signed the lease documents on behalf of SBMC. The Lease and Addendum indicated that Ms. Waltman and her care-giver would be the occupants of the apartment. Ms. Waltman moved in shortly thereafter.

12. In addition to the lease agreement, Sides received from Ms. Waltman a completed Sun Belt Standard Rental Application form dated September 29, 2005. Ms. Waltman indicated on the form that she was disabled and received Social Security income and had a caretaker living with her.

13. On or about October 2, 2005, Ms. Waltman and Sides signed a U.S. Department of Agriculture ("USDA") Rural Housing Service Tenant Certification form that indicated that Ms. Waltman was disabled.

14. Because of her disability, Ms. Waltman often refrained from leaving her apartment due to severe back pain and her difficulty with the steps leading to and from her apartment. Ms. Waltman routinely wore a back brace, which went from her chin to her lower spine, and sometimes used a cane.

15. During the course of Ms. Waltman's tenancy, she fell at least three times on the stairs near her second-floor apartment.

16. In early October 2005, Unit C-109, a first-floor two-bedroom apartment at Oakridge, became available. Sides advised Ms. Waltman that she could move in to the unit once the carpet was cleaned and that she (Sides) would advise MRHA of the transfer.

17. Sometime in early October 2005, Sides spoke with Roosevelt Dixon, a MRHA Housing Quality Standards Inspector, regarding the proposed transfer of Ms. Waltman to the first-floor apartment. Dixon told Sides that Ms. Waltman could not transfer to the first-floor apartment

because a Section 8 tenant must remain in a unit for one year before transferring to another unit.

18. On or about October 7, 2005, Sun Belt received a Letter of Priority Entitlement (“LOPE”) from the United States Department of Agriculture regarding the priority placement of displaced Katrina victims in Section 8 housing. The LOPE directed Sun Belt to give displaced Katrina victims priority placement on its waiting list over all other tenants on the waiting list, except for persons who already had entered the waiting list with a similar letter or disabled tenants who needed the particular design features of a vacant apartment.

19. On or about October 20, 2005, Sun Belt reneged on its commitment to transfer Ms. Waltman to a first-floor apartment and instead rented the unit to a person displaced by Katrina. Upon information and belief, the person displaced by Katrina had no mobility impairment.

20. On or about February 28, 2006, Ms. Waltman moved out of her unit at Oakridge and returned the keys to Oakridge management.

21. The requested accommodation, transfer to a first-floor unit, was necessary in order to afford Ms. Waltman an equal opportunity to use and enjoy her dwelling.

22. On or about June 28, 2006, Ms. Waltman filed a complaint with the United States Department of Housing and Urban Development (“HUD”) alleging that Defendants had denied her request for a reasonable accommodation when they refused to transfer her to an available first-floor unit.

23. On November 3, 2008, Ms. Waltman amended her complaint to alter the list of respondents.

24. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based upon the information gathered in the investigation, the Secretary,

pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred because of disability.

25. On or about December 29, 2008, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging that defendants had engaged in discriminatory practices, in violation of 42 U.S.C. §§ 3604(f)(1), (f)(2) and (f)(3)(B) of the Fair Housing Act, as amended.

26. On or about January 16, 2009, defendant MRHA elected to have the claims asserted in HUD's Charge of Discrimination decided in a civil action, pursuant to 42 U.S.C. § 3612(a).

27. On or about January 21, 2009, the Administrative Law Judge issued a Notice of Election and Judicial Determination and terminated the administrative proceedings on Ms. Waltman's complaint.

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

#### **FAIR HOUSING ACT VIOLATIONS**

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

- a. Discriminated in the rental, or otherwise made unavailable or denied, a dwelling to Ms. Waltman because of her disability, in violation of 42 U.S.C. § 3604(f)(1);
- b. Discriminated against Ms. Waltman in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of her disability, in violation of 42 U.S.C. § 3604(f)(2); and
- c. Refused to make reasonable accommodations in rules, policies, practices, or

services when such accommodations may have been necessary to afford Ms. Waltman equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

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

31. The discriminatory actions of the Defendants were intentional, willful, and taken in disregard of Ms. Waltman's federally protected rights.

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

32. A declaration that the Defendants' discriminatory housing practices, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*;

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

34. An award of monetary damages to Ms. Waltman, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

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

Respectfully submitted,

Dated: February 13, 2009

STAN HARRIS

Acting United States Attorney

*Felicia Adams, AUSA, for*  
MITZI DEASE PAIGE (MSB 6014)

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