

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 WAYNE COUNTY HOUSING)
 AUTHORITY, JILL MASTERSON,)
 and DANNA SUTTON,)
)
 Defendants.)
 _____)

Civil Action No.: 09-141-WDS

COMPLAINT

The United States of America alleges as follows:

NATURE OF THE ACTION

1. This action is brought by the United States to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (“Fair Housing Act”), 42 U.S.C. §§ 3601-3619. It is brought on behalf of Angela Scherer and Brian Scherer, pursuant to Section 812(o) of the Fair Housing Act, 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. § 1345 and 42 U.S.C. § 3612(o).

3. Venue is proper because the claims alleged herein arose in the Southern District of Illinois.

PARTIES

4. Defendant Wayne County Housing Authority (“WCHA”) is a public housing authority in Wayne County, Illinois, that receives federal funding from the United States Department of Housing and Urban Development (“HUD”), pursuant to an Annual Contributions Contract, 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.

5. At all times relevant to this Complaint, Defendant Jill Masterson, who is white, served as the Executive Director of WCHA.

6. At all times relevant to this Complaint, Defendant Danna Sutton, who is white, served as the Assistant Director of WCHA.

7. At all times relevant to this Complaint, Angela Scherer and Brian Scherer, who are white, owned the house located at 310 S.E. 3rd Street, Fairfield, Wayne County, Illinois (the “subject property”).

FACTUAL ALLEGATIONS

8. On or about March 1, 2008, the Scherers advertised the subject property for rent in the Wayne County Press.

9. On or about March 12, 2008, Valecia Evers, an African American, called the Scherers to express interest in renting the subject property for her and her five children. Ms. Evers informed Mrs. Scherer that she had been approved for a Section 8 voucher.

10. The Scherers had never participated in the Section 8 program and had not

considered doing so until Ms. Evers contacted them. The Scherers concluded that having a Section 8 tenant might be beneficial because it would guarantee that the Scherers received a fixed rental payment each month (from WCHA).

11. Shortly after March 14, 2008, Mr. Scherer called WCHA and spoke to Ms. Masterson. Mr. Scherer told Ms. Masterson about Ms. Evers' rental inquiry and asked how the Section 8 program worked. Ms. Masterson confirmed that Ms. Evers was an eligible Section 8 voucher holder. Ms. Masterson said to Mr. Scherer, "I don't know if you know this, but they [referring to Ms. Evers and her children] are black and from St. Louis. You may not want them in your home," or words to that effect. Ms. Masterson also said to Mr. Scherer, "We've [referring to WCHA] had problems with the whole family," or words to that effect. In addition, Ms. Masterson explained to Mr. Scherer that WCHA would need to conduct a mandatory housing inspection of the subject property if the Scherers wanted to rent to Ms. Evers through the Section 8 program.

12. Sometime between March 14 and March 23, 2008, Mrs. Scherer called WCHA to schedule someone to come view the subject property and identify any needed repairs. Ms. Sutton scheduled an appointment on March 24, 2008, to inspect the subject property.

13. On March 24, 2008, Ms. Sutton met Mrs. Scherer at the subject property. Before beginning to inspect the house, Ms. Sutton stated to Mrs. Scherer, "We [referring to WCHA and its staff] really can't tell you who you can or can't let in your house, but I have friends in the neighborhood, and I wouldn't want a black family living next to me," or words to that effect. Mrs. Scherer asked if Ms. Sutton was a racist, and told her that what she said was inappropriate.

Ms. Sutton then said, “Well, a bunch of her family is already here and we’ve had problems with them. I can’t promise you that we’re going to be able to do anything to get her in here,” or words to that effect.

14. During the March 24, 2008 inspection, Mrs. Scherer made a handwritten list of deficiencies that Ms. Sutton identified so that Mrs. Scherer could tell her husband, who was not present. Ms. Sutton told Mrs. Scherer that the identified repairs would need to be made and the house reinspected before Ms. Evers could move in. Ms. Sutton did not provide any paperwork to Mrs. Scherer about the inspection or about the Scherers’ participation in the Section 8 program.

15. Ms. Masterson and Ms. Sutton decided to fail the subject property based on the March 24, 2008 housing inspection. For other properties in Wayne County that currently house Section 8 voucher holders, Defendants’ practice has been to note any deficiencies and ask the owner to correct them, but not to fail the property or require it to be reinspected before approving the Section 8 voucher.

16. Defendants’ decision to fail the subject property on its housing inspection was based on retaliation for Ms. Scherer’s inquiry as to whether Ms. Sutton was a racist and for the purpose of preventing or interfering with the Scherers’ rental of their property to an African American tenant.

17. On April 2, 2008, Mr. Scherer met Ms. Masterson and Ms. Sutton for the reinspection. Ms. Masterson and Ms. Sutton mentioned that there was a hole in a wall that needed to be covered, and Mr. Scherer covered it immediately. Ms. Masterson and Ms. Sutton told Mr. Scherer that all the repairs had been made. They did not provide Mr. Scherer with any

paperwork about the inspection or the Scherers' participation in the Section 8 program.

18. On or about April 9, 2008, Mrs. Scherer contacted Ms. Evers to confirm that Ms. Evers was still interested in renting the subject property. On or about April 23, 2008, Ms. Evers and her children traveled from St. Louis to tour the subject property with the Scherers. That day, the Scherers also accompanied Ms. Evers to the WCHA office to complete the lease and the Housing Assistance Payment Contract ("HAP Contract"). During the meeting, Ms. Masterson asked Ms. Evers if she was sure that she wanted to move to the subject property because "they're not finished painting and it smells like dog," or words to that effect. Ms. Evers signed the HAP Contract. Ms. Evers moved in to the subject property either that day or soon after.

HUD INVESTIGATION AND CHARGE

19. On March 31, 2008, Mrs. Scherer filed a verified complaint with HUD against WCHA, alleging a violation of the Fair Housing Act.

20. On June 25, 2008, the Scherers amended the HUD complaint to add Mr. Scherer as a Complainant, allege an additional violation of the Fair Housing Act, and add Ms. Masterson and Ms. Sutton as Respondents.

21. As required by the Fair Housing Act, 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted an investigation of the Scherers' complaint, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered in this investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause exists to believe that illegal discriminatory housing practices had occurred. Therefore, on January 20, 2009, HUD issued its Charge of Discrimination against Defendants, alleging

violations of 42 U.S.C. § 3604(c) and 42 U.S.C. § 3617.

22. On January 23, 2009, Defendants elected to have the claims asserted in HUD's Charge of Discrimination resolved in a federal civil action, pursuant to 42 U.S.C. § 3612(a).

23. On January 26, 2009, HUD's Office of Administrative Law Judges issued a Notice of Election and terminated the administrative proceeding on the HUD complaint filed by the Scherers.

24. 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

25. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-24, above.

26. By the actions and statements referred to in the foregoing paragraphs, Defendants have:

- (a) Discriminated in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of race or color, in violation of 42 U.S.C. § 3604(b);
- (b) Made, printed, or published one or more notices, statements, or advertisements, with respect to the sale or rental of a dwelling that indicated a preference, limitation, or discrimination based on race or color, in violation of 42 U.S.C. § 3604(c); and
- (c) Coerced, intimidated, threatened or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights

under the Fair Housing Act, in violation of 42 U.S.C. § 3617.

27. Angela Scherer and Brian Scherer have been the victims of Defendants' discriminatory practices and are "aggrieved persons" as defined in 42 U.S.C. § 3602(i). These persons suffered damages as a result of Defendants' discriminatory conduct.

28. Defendants' actions described in the preceding paragraphs were intentional, willful, and taken in disregard for the fair housing rights of Angela Scherer and Brian Scherer.

WHEREFORE, the United States prays that the court enter an ORDER that:

1. Declares that Defendants' policies and practices, as alleged herein, violate the Fair Housing Act;

2. Enjoins Defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with any of them, from discriminating on the basis of race or color in violation of the Fair Housing Act; and

3. Awards monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3), to all persons harmed by Defendants' discriminatory practices.

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

Dated: February 20, 2009

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