

FILED

2008 OCT 13 10:13

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA

United States of America,)
)
Plaintiff,)
)
v.)
)
Autumn Ridge Condominium)
Association, Inc.)
Richard Archie, Ronald Patterson, and)
James Reed,)
)
Defendants.)
_____)

Civil Action No. 2 08 CV 0208

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 David Haddox, Kourtney Valentine, Diane Webster-Rangel, Herman Hoge and Polly Koesters pursuant to Section 812(o) of the Fair Housing Act, 42 U.S.C. § 3612(o), and Sections 814(a)-(c) of the Fair Housing Act, 42 U.S.C. § 3614(a)-(c).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. § 1345, and 42 U.S.C. §§ 3612(o) and 3614(a).

3. Venue is proper because all Defendants reside in the Northern District of Indiana and because the claims alleged herein arose in the Northern District of Indiana.

DEFENDANTS

4. Defendant Autumn Ridge Condominium Association, Inc. (“the Association”) is an Indiana corporation with its principal place of business at Autumn Ridge Condominiums (“Autumn Ridge”), located at 633 South Street, Munster, Indiana in the Northern District of Indiana. Autumn Ridge consists of 20 condominium units and associated common areas. Each of the condominium units at Autumn Ridge is a dwelling within the meaning of 42 U.S.C. § 3602(b). The Association is responsible for the management and operation of Autumn Ridge.

5. At all times relevant to this Complaint, the Association has had a three-member Board of Directors, consisting of Defendants Richard Archie, Ronald Patterson, and James Reed, each of whom is a white male. Among other things, the Board is and has been responsible for approving prospective purchasers for residency at Autumn Ridge. At all times relevant to this Complaint, Archie has been the president of the Board, Patterson the vice-president, and Reed the Treasurer. Archie, Patterson and Reed each reside in the Northern District of Indiana.

THE ATTEMPT TO PURCHASE 633 SOUTH STREET, UNIT 206

6. David Haddox is an African-American male. Kourtney Valentine is an African-American female with two minor children. At all times relevant to this Complaint, Haddox and Valentine were engaged to be married.

7. In October 2006, Haddox and Valentine retained the services of Herman Hoge, the owner of a local RE/MAX franchise, to assist them in searching for a home they could

purchase. Hoge assigned Michelle Bauer and Vickie Wilson to act as real estate agents for Haddox and Valentine.

8. Diane Webster-Rangel is a white female. At all times relevant to this Complaint, Webster-Rangel was the owner of the condominium located at 633 South Street, Unit 206 (“the Autumn Ridge condominium”) in Autumn Ridge, where she had previously lived with her husband and two minor step-children. In August 2006, Webster-Rangel retained Polly Koesters, a real estate agent, to sell the Autumn Ridge condominium.

9. On November 25, 2006, Webster-Rangel and Haddox entered into a written agreement whereby Webster-Rangel would sell the Autumn Ridge condominium to Haddox for \$122,000.

10. From its inception in or around 1986 until June 25, 2007, the Declaration of Condominium for Autumn Ridge included a provision prohibiting minor children from residing at Autumn Ridge. The provision stated as follows:

1. Minor Children. No Apartment shall be sold or conveyed to a Person having a minor (as that term is defined herein) child or children, if such minor, or minors, are to live in or occupy such Apartment, and no Person thereafter becoming a parent of a minor or minors, shall continue to own such Apartment, if such minor or minors are to live in or occupy such Apartment, and such Apartment Owners shall be subject to the provisions of Article XIV [Enforcement] of this Declaration. As used in this paragraph, the term “minor” shall mean and include only those Persons between the ages of two (2) and seventeen (17) years, inclusive.

11. On November 26, 2006, in the course of preparing for the home inspection and closing, Wilson received and reviewed the Autumn Ridge Declaration of Condominium and noticed the provision prohibiting minor children from living at Autumn Ridge. Knowing that

Valentine had minor children, Wilson contacted Koesters. Koesters returned the call the next day, and spoke with another of Haddox's real estate agents, Michelle Bauer. Koesters informed Bauer that children would not be a problem, and that the seller, Webster-Rangel, also had minor children living in the Autumn Ridge condominium. Bauer also spoke with Defendants Archie and Patterson, both of whom told Bauer that Valentine's children would not prevent Haddox and Valentine from receiving Board approval, although Patterson expressed the view that Autumn Ridge was not conducive to children. Patterson also informed Bauer that the Board would need to meet the prospective purchaser in person. Bauer explained that Haddox was currently working out of state and made an appointment for Valentine to meet the Board on November 30, 2006 at 7:30 p.m.

12. On November 30, 2006, Valentine inspected the Autumn Ridge condominium with her property inspector during the day, and met Defendants Archie and Patterson for the first time during the inspection.

13. Later that evening, around 7:30 p.m. on November 30, 2006, Valentine and Wilson met with Defendants Archie, Patterson and Reed. Defendants stated that they had had problems with Webster-Rangel's children and that Autumn Ridge was not conducive to children and had no place for children to play. Defendants also stated, however, that Valentine's children would not be a barrier to Board approval. Defendants said that they would need to meet with Haddox, and the Defendants, Valentine, and Wilson set up an appointment for the Defendants to meet with Haddox on December 9, 2006. Prior to the two meetings on November 30, 2006, Defendants had not known that Valentine was African-American. No African-American has

ever resided at Autumn Ridge.

14. Valentine communicated to Haddox her understanding that the children would not be a problem with regard to Board approval. On December 1, 2006, Haddox paid \$600 to lock in the interest rate on the loan he had secured to purchase the Autumn Ridge condominium.

15. On the morning of December 2, 2006, Bauer received a call from Defendant Archie. Archie informed Bauer that the Board was rejecting Haddox because of Valentine's children. He asserted that there had been problems in the past with children living at Autumn Ridge, and again stated that there was no playground on the property.

16. Upon learning that they had been rejected, Haddox and Valentine telephoned Defendant Archie. Archie again mentioned the problems Autumn Ridge had experienced with Webster-Rangel's children, and stated, "We just don't want to deal with having any more children in the building," or words to that effect. Archie affirmed that the Board was rejecting Haddox and Valentine for occupancy.

17. Defendants rejected Haddox and Valentine for occupancy because of Valentine's children and because Valentine was African-American.

18. On December 4, 2006, Bauer left Archie a message requesting that Haddox be reimbursed for the expenses he had incurred in connection with the purchase. Archie returned her call the next day, stating that Haddox needed to put his request in writing. Haddox complied, sending a certified letter to the Condominium Association, which stated in relevant part as follows:

Prior to December 2, 2006 I incurred the following fees in the purchase of 633 South Street, #206 in Munster: \$239 for a home inspection and \$600 to lock

in my rate with my lender. Both are non-refundable. On December 2, 2006, I was told I could not purchase this property because the association is no longer accepting children. Prior to December 2, 2006 I was told children would be allowed. This is why I'm asking the association to reimburse me a total of \$839 for fees incurred.

19. Archie received and signed for the letter identified in paragraph 18 on December 15, 2006. Haddox did not receive a response to the letter. Nor did Haddox receive reimbursement for any part of the fees he had paid for the home inspection or to lock in the interest rate.

20. At some point in early 2007, Webster-Rangel accepted an offer from a white couple to purchase the Autumn Ridge condominium for their adult son, who is also white. The purchase price was less than the amount agreed to by Haddox. The Board approved the son as a resident.

21. As a result of the Defendants' conduct, Hoge, Bauer and Wilson did not receive any commission from the sale of Autumn Ridge condominium.

22. As a result of the Defendants' conduct, Koester received a commission from the sale at a later time than she would have if the Board had approved Haddox and Valentine as residents. In addition, because the eventual purchase price was for a lower amount than the amount to which Webster-Rangel and Haddox had agreed, Koester received a smaller commission than she would have received if the Board had approved Haddox and Valentine.

HUD INVESTIGATION AND CHARGE

23. On March 26, 2007, Complainants David Haddox, Kourtney Valentine, Diane Webster-Rangel, Herman Hoge and Polly Koesters ("Complainants") filed a complaint with the

United States Department of Housing and Urban Development (HUD) alleging that Defendants Autumn Ridge Condominium Association, Richard Archie, Ronald Patterson and James Reed discriminated against them in violation of the Fair Housing Act by refusing to approve the proposed purchase of the Autumn Ridge condominium by David Haddox because of the race and familial status of Haddox and his fiancée, Kourtney Valentine, and by making discriminatory statements based on familial status.

24. As required by the Fair Housing Act, 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD conducted an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered in the course of this investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred. Therefore, on or about May 29, 2008, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination pursuant to 42 U.S.C. § 3610(g), charging the Defendants with discrimination on the basis of race and familial status in violation of the Fair Housing Act.

25. On June 12, 2008, 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).

26. On June 17, 2008, the Chief Administrative Law Judge issued a Notice of Election and terminated the administrative proceeding on the HUD complaint.

27. 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).

FIRST CLAIM FOR RELIEF

28. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-27, above.

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

- (a) Refused to sell after the making of a bona fide offer, refused to negotiate for the sale, or otherwise made unavailable, a dwelling because of race and/or familial status, in violation of 42 U.S.C. § 3604(a);
- (b) Discriminated in the terms, conditions or privileges of the sale of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of race and/or familial status, in violation of 42 U.S.C. § 3604(b);
- (c) Made, printed, or published one or more notices, statements, or advertisements, with respect to the sale of a dwelling that indicated a preference, limitation, or discrimination based on familial status, in violation of 42 U.S.C. § 3604(c);

30. Complainants David Haddox, Kourtney Valentine, Diane Webster-Rangel, Herman Hoge and Polly Koesters have all suffered damages as a result of Defendants' conduct.

31. Defendants' actions described in the preceding paragraphs were intentional, willful, and taken in disregard for the rights of the Complainants.

SECOND CLAIM FOR RELIEF

32. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-31, above.

33. Defendants' conduct based on familial status, which is described above, constitutes:

- (a) A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3604(a), 3604(b) and 3604(c), in violation of 42 U.S.C. § 3614(a); or
- (b) A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3604(a), 3604(b) and 3604(c), which raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).

34. In addition to the Complainants, there are other victims of Defendants' discriminatory actions and practices who are "aggrieved persons" as defined in 42 U.S.C. § 3602(i), including Vickie Wilson and Michelle Bauer. These persons may have suffered actual injury and damages as a result of Defendants' discriminatory conduct.

35. Defendants' actions were intentional, willful, and taken in disregard for the rights of others, including Vickie Wilson and Michelle Bauer.

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. Declares that Defendants have engaged in a pattern or practice of discrimination in violation of the Fair Housing Act, or have denied rights guaranteed under the Fair Housing Act to a group of persons raising an issue of public importance;
- 3. Enjoins Defendants, their officers, employees, agents, successors and all other persons

in active concert or participation with any of them, from

- (a) discriminating on the basis of race or familial status, in violation of the Fair Housing Act §§ 3601 et seq; and
- (b) failing or refusing to take such steps that may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of the Defendants' unlawful housing practices;

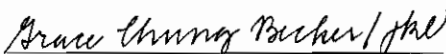
4. Awards monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and 3614(d)(1)(B) to all persons harmed by the Defendants' discriminatory practices; and

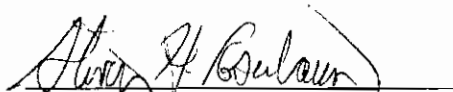
5. Assesses a civil penalty against Defendants in an amount authorized by 42 U.S.C. § 3614(d)(1)(C) and 28 C.F.R. § 85.3(b)(3) to vindicate the public interest.

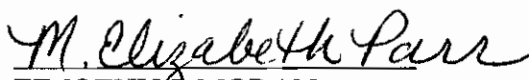
The United States further prays for such additional relief as the interests of justice may require.

Dated: July 14, 2008

MICHAEL B. MUKASEY
Attorney General

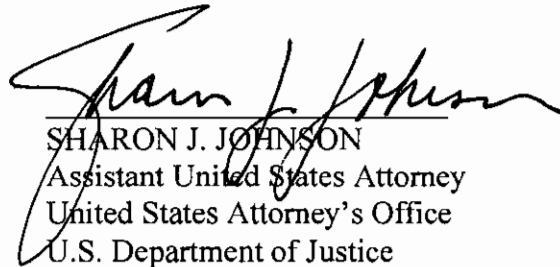

GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division


STEVEN H. ROSENBAUM
Chief, Housing and Civil
Enforcement Section
Civil Rights Division


TIMOTHY J. MORAN
Deputy Chief
M. ELIZABETH PARR
Trial Attorney
United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement
Section - G Street
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Tel.: (202) 305-2957
Fax: (202) 514-1116
elizabeth.parr@usdoj.gov

DAVID A. CAPP
United States Attorney

By:



SHARON J. JOHNSON
Assistant United States Attorney
United States Attorney's Office
U.S. Department of Justice
5400 Federal Plaza
Suite 1500
Hammond, IN 46320
Phone: (219) 937-5500
Fax: (219) 852-2770
sharon.johnson2@usdoj.gov