

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
HOUSING MANAGEMENT)	
SERVICES, INC.,)	
HOUSING MANAGEMENT SERVICES, a)	
WISCONSIN LIMITED PARTNERSHIP,)	
and RICHARD SIMMA)	
)	
Defendants.)	

COMPLAINT

The United States of America, by Erik C. Peterson, United States Attorney for the Western District of Wisconsin, by Richard D. Humphrey, Assistant United States Attorney, alleges as follows:

NATURE OF ACTION

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

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 defendants are located in this judicial district and the events

or omissions giving rise to the claim occurred in this judicial district.

PARTIES

3. At all relevant times, defendant Housing Management Services, a Wisconsin Limited Partnership, owned Plaza Village Townhouses, consisting of four separate buildings located at 1702, 1704, 1706 and 1708 Fairway Drive, Hudson, Wisconsin. Three of the buildings each contained four townhouse rental units, and the fourth building contained three such units, for a total of fifteen townhouse rental units altogether.
4. At all relevant times, defendant Housing Management Services, Inc. was an entity authorized by Housing Management Services, a Wisconsin Limited Partnership, to act on its behalf in the overall operation, management and maintenance of Plaza Village Townhouses. (Hereinafter, these entities will be collectively identified as "HMS.")
5. At all relevant times, defendant Richard Simma had an ownership interest in Housing Management Services, Inc., and he also had an ownership interest in Housing Management Services, a Wisconsin Limited Partnership, in which he was a General Partner. Mr. Simma was responsible for the management of Plaza Village Townhouses.

FACTUAL ALLEGATIONS

6. From October 1, 2000, until November 30, 2004, Coren Briggs was the leaseholder of townhouse unit #11, located at 1706 Fairway Drive, Hudson, Wisconsin ("the subject property"), and she lived there with her three sons.
7. During the relevant time period, low-income tenants at Plaza Village Townhouses, including Ms. Briggs, received rental assistance through a program of the United States Department of Housing and Urban Development ("HUD") known as the Section 8 Project-Based Assistance Program, administered by the Wisconsin Housing and

Economic Development Authority ("WHEDA").

8. At all relevant times, Ms. Briggs was a person with disabilities or "handicaps" as defined by the Fair Housing Act, as amended. She had attention deficit disorder and major depression.
9. On or about January 26, 2004, Ms. Briggs submitted to the defendants (1) a written verification from her mental health therapist stating that Ms. Briggs was disabled by reason of mental illness, and (2) a note signed by her psychiatrist stating that Ms. Briggs had been diagnosed with major depression and attention deficit disorder.
10. In January 2004, Ms. Briggs orally advised the defendants that she was employed in a part-time position. Defendants set a deadline of March 24, 2004 for the submission of a completed employment verification form. In part due to a delay caused by Ms. Briggs' employer, and in part due to a delay caused by Ms. Briggs' disabilities, defendants did not receive the completed form until March 31, 2004.
11. In April 2004, Ms. Briggs orally advised the defendants that she was paying childcare expenses. Defendants set a deadline of May 17, 2004 for the submission of cancelled checks and invoices documenting her childcare expenses. Due to Ms. Briggs' disabilities, she did not submit the requested documents until May 26 and May 27, 2004.
12. By letters dated June 1, 2004 and June 9, 2004, the defendants advised Ms. Briggs that her lease would be terminated as of September 30, 2004, in part because of the missed deadlines referred to in paragraphs 10 and 11, above.
13. Ms. Briggs asked the defendants to excuse her delays in submitting the documents because they were attributable to her disabilities. In addition, to assist her in the timely submission of documents in the future, Ms. Briggs proposed several reasonable

accommodation alternatives.

14. Rather than accommodating Ms. Briggs by excusing her past delays and by agreeing to at least one of her proposed alternatives for avoiding future delays, defendants advised her that their decision to terminate her tenancy would remain unchanged.
15. On the occasions when Ms. Briggs asked defendant Simma to provide her with accommodations, he responded with comments indicating that she was incapable of taking responsibility for her actions; that he planned to take a more administratively rigid approach with her file; and that she was responsible for the bad choices she had made.
16. On October 5, 2004, defendants filed an eviction action against Ms. Briggs in the circuit court for St. Croix County, Wisconsin, claiming, among other things, that Ms. Briggs had not timely submitted income verification or child expense documentation.
17. On November 8, 2004, the court ordered Ms. Briggs evicted, primarily due to her failure to timely submit income verification and child expense documentation. The court declined to rule on Ms. Briggs' defense that HMS had discriminated against her by failing to provide reasonable accommodations for her disability. The court held that she was not precluded from bringing her discrimination claim in another forum.
18. During the relevant time period, the defendants renewed leases with non-disabled tenants who had multiple lease violations, including items such as failed unit inspections, failure to submit employment/income verification and other documents, permitting unauthorized persons to reside in the unit and failure to pay rent.

HUD ADMINISTRATIVE PROCESS

19. On or about March 17, 2005, Ms. Briggs timely filed a verified complaint with HUD

alleging discrimination on the basis of disability.

20. 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. As a result, on May 25, 2007, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. 3610(g)(2)(A), charging that the defendants had engaged in discriminatory practices, in violation of 42 U.S.C. §§ 3604(f)(1)(A), (f)(2)(A), (f)(3)(B) and 3617.
21. On June 18, 2007, the defendants 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).
22. On June 19, 2007, the Chief Administrative Law Judge issued a Notice of Election of Judicial Determination and terminated the administrative proceedings on the complaint filed with HUD by Ms. Briggs.
23. 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

24. Defendants, through the above-referenced actions, have:
 - a. Discriminated in the rental, or otherwise made unavailable or denied, a dwelling to Ms. Briggs because of disability, in violation of 42 U.S.C. § 3604(f)(1)(A);
 - b. Discriminated against Ms. Briggs 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 disability, in violation of 42 U.S.C. § 3604(f)(2)(A); and

- c. Refused to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford Ms. Briggs equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

25. Ms. Briggs and her children are "aggrieved persons" within the meaning of 42 U.S.C. § 3602(i).
26. As a result of defendants' discriminatory conduct, Ms. Briggs and her children have suffered and continue to suffer damages.
27. The discriminatory actions of the defendants were intentional, willful, and taken in disregard of the federally-protected rights of Ms. Briggs and her children.

PRAYER FOR RELIEF

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

- a. A declaration that the discriminatory conduct of defendants as set forth above violates the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*;
- b. An injunction against defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from discriminating because of disability in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*;
- c. An award of monetary damages to Ms. Briggs and her children, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

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

Dated this 28th day of September, 2007

Respectfully submitted,

ERIK C. PETERSON
United States Attorney

By:

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