

SEP 08 2009

JAMES MATTEN, Clerk
By *[Signature]* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 GEORGIAN MANOR CONDOMINIUM)
 ASSOCIATION, INC.; JENNIFER)
 SHERROUSE; HN REAL ESTATE)
 GROUP, LLC, d/b/a HARRY NORMAN)
 REALTORS; JOHN BRANCH, JR.;)
 and the ESTATE OF JEAN BRANCH,)
)
 Defendants.)
 _____)

Civil Action No.

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, 42 U.S.C. §§ 3601-3619 (the Fair Housing Act). It is brought on behalf of Metro Fair Housing Services pursuant to 42 U.S.C. § 3612(o), and pursuant to 42 U.S.C. § 3614(a).

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 under 28 U.S.C. § 1391(b), because the claims alleged herein arose in the Northern District of Georgia.

PARTIES

4. Defendant Georgian Manor Condominium Association, Inc. (“GMCA”) is a non-profit corporation organized under the laws of the State of Georgia. The GMCA was organized in 1985 and is the governing body for all unit owners in Georgian Manor, a 28-unit condominium complex located at 3648 Peachtree Road, Atlanta, Georgia.

5. The units at Georgian Manor are dwellings within the meaning of 42 U.S.C. § 3602(b).

6. At all times relevant to this complaint, Defendant HN Real Estate Group, LLC, was a corporation doing business as “Harry Norman Realtors,” with an office located at 532 East Paces Ferry Road, Suite 200, Atlanta, Georgia.

7. At all times relevant to this action, Defendant Jennifer Sherrouse was a realtor affiliated with Harry Norman Realtors. The Harry Norman Realtors’ website described Ms. Sherrouse as a “Harry Norman Realtors Associate.” Harry Norman Realtors provided Ms. Branch with office space inside their office at 532 East Paces Ferry Road, Suite 200, Atlanta, Georgia. Harry Norman Realtors provided Ms. Sherrouse with a telephone line, a fax line, and the use of a telephone operator and/or receptionist. Harry Norman Realtors provided Ms. Sherrouse the e-mail address “Jennifer.Sherrouse@harrynorman.com,” and the website “<http://jennifersherrouse.harrynorman.com>.” Ms. Sherrouse acted as the agent of Harry Norman Realtors.

8. Defendants Harry Norman Realtors and Jennifer Sherrouse were engaged in the business of brokering residential real property.

9. Jean Branch owned Unit 1G of Georgian Manor, 3648 Peachtree Road, Atlanta, Georgia, from 1988 until on or about December 26, 2006.

10. Defendant the Estate of Jean Branch is the successor in interest to Jean Branch.

11. At all times relevant to this action, Jean Branch granted Defendant John Branch, Jr. ("Mr. Branch") the authority to act as her attorney-in-fact. Mr. Branch exercised that authority in managing Ms. Branch's affairs.

FACTUAL ALLEGATIONS

12. At all times relevant to this Complaint, the GMCA was responsible for setting the rules regarding the use, restrictions on use, sale, and rental of units at Georgian Manor, pursuant to the Declaration of Condominium for Georgian Manor.

13. The GMCA published or caused to be published the Rules and Regulations for Georgian Manor.

14. At all times relevant to this Complaint, Unit 1G was subject to the Declaration of Condominium for Georgian Manor and the Rules and Regulations of the GMCA.

15. At all times relevant to this Complaint, the Rules and Regulations for Georgian Manor, Section XV(F), stated that, "The Board is directed not to approve leases where the proposed tenants or Residents have either pets or children under the age of 14 who would become Residents of the building."

16. At all times relevant to this Complaint, the Rules and Regulations for Georgian Manor, Section XV(G), stated that, "The limitation on the age of children who are to be Residents is based on the intention of the Owners to live in a mature adult condominium in

which no provision has been made for the recreation of children.”

17. At all times relevant to this Complaint, the Rules and Regulations for Georgian Manor, Section XXI, stated that, “Inasmuch as the Association is a mature adult community, with no facilities for the recreation of children, no owner may sell his unit to anyone having a child under the age of 14 who would reside in the building. *(XXI was added on 6/11/85. Subsequently, a U.S. Supreme Court decision would seem to have rendered XXI unconstitutional under present (June 1992) conditions.)*” (emphasis in original).

18. The GMCA has not stated formally, in writing, that Georgian Manor qualified as “housing for older persons,” as defined by 42 U.S.C. § 3607(b)(2). Georgian Manor does not qualify as “housing for older persons,” as defined by 42 U.S.C. § 3607(b)(2).

19. In May 2006, Mr. Branch contracted with Ms. Sherrouse to sell Unit 1G, giving Ms. Sherrouse authority to act as his agent. Mr. Branch told Ms. Sherrouse that “Georgian Manor does not allow pets or children,” or words to that effect.

20. Ms. Sherrouse told Mr. Branch that she would “disclose the restrictions” on children as residents at Georgian Manor, or words to that effect.

21. Ms. Sherrouse included the phrases “Georgian Manor does not allow pets, rentals or residents under age 14,” “No pets or children,” or words to that effect, on her personal website, the website of Harry Norman Realtors, flyers, a newspaper, and postings with a multiple listing service regarding Unit 1G. Ms. Sherrouse sent a copy of the flyer with restrictive language to Mr. Branch.

22. Metro Fair Housing Services (“Complainant” or “MFHS”), is a non-profit

corporation organized under the laws of the State of Georgia. Its mission is to promote fair housing in the state of Georgia by ensuring that all people have equal access to housing opportunities. Its offices are located at 1514 East Cleveland, Suite 118, East Point, Georgia.

23. In June 2006, MFHS conducted an investigation of the sales practices for Unit 1G. As part of this investigation, MFHS conducted a test to determine the treatment afforded by Defendants to prospective home purchases who purported to have children. Testers are persons who, without the intent to purchase a home, seek information about the availability of housing to determine whether discriminatory practices are occurring.

24. On June 12, 2006, a female tester from MFHS called Harry Norman Realtors and talked with Jennifer Sherrouse. The tester stated that she had found Unit 1G for sale on the internet. When the tester stated that she had two children under the age of 14, Ms. Sherrouse replied, "I can't even show it to you," and that it would be a "waste of time," or words to that effect. Ms. Sherrouse then recommended that the tester consider a different property, which did not restrict children.

25. Between May 2006 and July 2006, Ms. Sherrouse told at least two other potential buyers of Unit 1G that Georgian Manor did not allow children under the age of 14.

26. At least two of the potential buyers of Unit 1G were, or told Ms. Sherrouse that they were, families with one or more individuals under the age of eighteen domiciled with a parent within the meaning of 42 U.S.C. § 3602(k).

27. Unit 1G was ultimately sold in December 2006 to an individual with no children.

HUD INVESTIGATION AND CHARGE

28. On or about November 17, 2006, the Complainant filed a complaint with the United States Department of Housing and Urban Development (“HUD”) alleging that Defendants violated the Fair Housing Act by discriminating in the sale of a condominium because of the familial status of the potential buyers.

29. In accordance with 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 on the information gathered in 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 July 21, 2009, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g), charging the Defendants with engaging in discriminatory practices on the basis of familial status in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and 3604(c).

30. On August 7, 2009, the Defendants elected to have the claims asserted in HUD’s Charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a).

31. On August 10, 2009, the Administrative Law Judge issued a Notice of Election and terminated the administrative proceeding on the HUD complaint.

32. 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

33. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in

paragraphs 1-32, above.

34. By the actions set forth above, Defendants have:

(a) Refused to negotiate for the sale of housing, denied housing, or otherwise made housing unavailable because of familial status, in violation of 42 U.S.C.

§ 3604(a); and

(b) Made, printed, or published, or caused to be 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 familial status, in violation of 42 U.S.C. § 3604(c).

35. By the actions set forth above, Defendants Jennifer Sherrouse and Harry Norman Realtors have discriminated in making available a residential real estate-related transaction or in the terms or conditions of such a transaction because of familial status, in violation of 42 U.S.C. § 3605.

36. The Complainant is an “aggrieved person” under the meaning of 42 U.S.C. § 3602(I), and has suffered damages as a result of Defendants’ discriminatory conduct.

37. Defendants’ actions as described above were intentional, willful, and taken in disregard for the rights of the Complainant.

SECOND CLAIM FOR RELIEF

38. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-37, above.

39. Defendants’ conduct described above constitutes:

- (a) A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act; or
- (b) A denial to a group of persons of rights granted by the Fair Housing Act, which raises an issue of general public importance.

40. In addition to the Complainant, there may be other victims of Defendants' discriminatory conduct who are "aggrieved persons" as defined in 42 U.S.C. § 3602(i), and suffered damages as a result of Defendants' discriminatory conduct.

41. Defendants' actions, as set forth above, were intentional, willful, and taken in disregard for the rights of others.

PRAYER FOR RELIEF

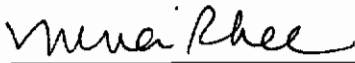
WHEREFORE, the United States prays that the court enter an order that:

1. Declares that Defendants' policies and practices, as alleged herein, violated 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 familial status in violation of the Fair Housing Act;
3. Awards monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3614(d)(1)(B) to all persons harmed by the Defendants; and
4. Assesses a civil penalty against Defendants in an amount authorized by 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest.

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

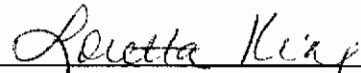
Dated: September 8, 2009

SALLY Q. YATES
Acting United States Attorney
Northern District of Georgia

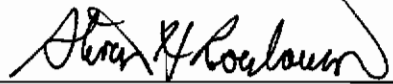


MINA RHEE
Assistant United States Attorney
75 Spring Street, SW
Suite 600
Atlanta, GA 30303
Tel: (404) 581-6302
Fax: (404) 581-6163
Mina.Rhee@usdoj.gov
GA BAR No. 602047

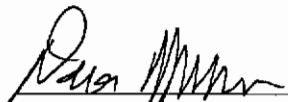
ERIC H. HOLDER, JR.
Attorney General



LORETTA KING
Acting Assistant Attorney General
Civil Rights Division



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



MICHAEL S. MAURER
Deputy Chief
DANA MULHAUSER
Trial Attorney
United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Avenue, N.W.
Northwestern Building, 7th Floor
Washington, DC 20530
Tel: (202) 305-0007
Fax: (202) 514-1116
Dana.Mulhauser@usdoj.gov