

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
STONECLEAVE VILLAGE)	
ASSOCIATION, INC.; PROPERTY)	
MANAGEMENT OF ANDOVER, INC.;)	
and ELAINE ROMANO,)	
)	
Defendants.)	
)	

COMPLAINT AND DEMAND FOR JURY TRIAL

INTRODUCTION

The United States of America, by and through its attorney, Carmen M. Ortiz, United States Attorney for the District of Massachusetts, brings this suit against Stonecleave Village Association, Inc., Property Management of Andover, Inc., and Elaine Romano (collectively, "Defendants") for violation of the Fair Housing Act based on familial status. Defendants discriminated against residents with children and coerced, intimidated, threatened, or interfered with their rights under the Fair Housing Act by, among other things, fining them when their children played wiffle ball or tag in the common areas but not fining adult residents for similar alleged rules violations and charging attorney's fees of nearly \$500.00 per family to residents with children, despite the fact that Stonecleave had not previously charged attorney's fees to other residents when they were fined. Defendants also retaliated against one resident with a child by charging her \$1,000.00 for the cost of attorney's fees

Stonecleave incurred in responding to a complaint of discrimination she filed with the Massachusetts Commission Against Discrimination.

NATURE OF ACTION

1. This is a civil action brought by the United States to enforce the Fair Housing Act, 42 U.S.C. § 3601, *et seq.* (the “Act”). It is brought on behalf of Lauren Kibildis and her child; Tracey Hamilton and her three children; Brenda Soucy and her two children; Troy and Melanie Medeiros and their three children; and Julie Stewart and her two children (collectively, “Complainants”).

JURISDICTION AND VENUE

2. This court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3612(o) and 3614(a).
3. Venue is proper under 28 U.S.C. § 1391(b), in that the events giving rise to this action occurred in this judicial district.

PARTIES

4. Plaintiff is the United States of America. The United States brings this action on behalf of the complainants as follows:
 - a. Complainant Lauren Kibildis owns the unit in which she and her son live at Stonecleave Village. Ms. Kibildis and her son are “aggrieved persons” as defined by the Fair Housing Act, 42 U.S.C. § 3602(i).
 - b. Complainant Tracey Hamilton rents the unit in which she and her three children live at Stonecleave Village. Ms. Hamilton and her children are

- “aggrieved persons” as defined by the Fair Housing Act, 42 U.S.C. § 3602(i).
- c. Complainant Brenda Soucy owns the unit in which she and her two children live at Stonecleave Village. Ms. Soucy and her children are “aggrieved persons” as defined by the Fair Housing Act, 42 U.S.C. § 3602(i).
 - d. Complainants Troy and Melanie Medeiros rent the unit in which they live with their three children at Stonecleave Village. The Medeiroses and their children are “aggrieved persons” as defined by the Fair Housing Act, 42 U.S.C. § 3602(i).
 - e. Julie Stewart rents the unit in which she and her two children live at Stonecleave Village. Ms. Stewart and her children are “aggrieved persons” as defined by the Fair Housing Act, 42 U.S.C. § 3602(i).
5. Defendant Stonecleave Village Association, Inc. (“Stonecleave”) is the governing body of Stonecleave Village Condominium (“Stonecleave Village”), a complex of seventy-eight independently owned townhouses located at 20 Washington Street in Methuen, Massachusetts. As of 2009, approximately ten of the seventy-eight townhouses housed families with children.
 6. Stonecleave Village’s townhouses are dwellings within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
 7. At all times relevant to the complaint, Defendant Property Management of Andover, Inc. (“PMA”) has been Stonecleave’s management agent. PMA is a Massachusetts corporation with a principal place of business at 439 South Union Street, Lawrence,

Massachusetts.

8. At all times relevant to the complaint, Defendant Elaine Romano was an employee of PMA and served as Stonecleave's property manager.

FACTUAL ALLEGATIONS

9. Stonecleave Village's bylaws prohibit, among other things, damaging the common areas or causing unreasonable embarrassment, disturbance, or annoyance to other owners. The bylaws also prohibit "organized sports activities, picknicking or fires, except in areas approved by the Board."
10. Stonecleave's Board of Directors consists of five members, each of whom is a unit owner and resident of Stonecleave Village. Based upon information and belief, none of the five board members has children under the age of eighteen living in his or her unit.
11. In July 2008, Stonecleave informed residents that it would be "forced to actively engage in enforcement" of Stonecleave Village's rules because of children running from yard to yard and the unacceptable noise created when children played organized sports in the common areas at Stonecleave Village.
12. During an August 2008 meeting, Stonecleave advised residents that organized sports could not be played on the common area and designated a field in the back of the complex as an appropriate place for recreational activity. The field is surrounded by woods on two sides and is removed from most of the units, making it difficult for parents to supervise their children.
13. After the meeting, Complainant Lauren Kibildis filed a complaint of discrimination

against Stonecleave with the Massachusetts Commission Against Discrimination (“MCAD”). The MCAD investigated Ms. Kibildis’s complaint and dismissed it on March 13, 2009 for lack of probable cause.

14. In April 2009, Stonecleave issued a memorandum to residents reminding them of the complaints about organized sports on the common area from the previous summer and reminding residents that, with summer approaching, they must abide by all applicable rules. The April 2009 memorandum also noted the MCAD’s lack of probable cause finding regarding Ms. Kibildis’s complaint of discrimination.
15. Between June 3 and June 6, 2009, a resident and member of Stonecleave’s board of directors took approximately forty-five photographs of children playing wiffle ball on the common area.
16. On June 8, 2009, a resident complained to Defendant Romano that children were playing and screaming on the common area on Saturday, June 6, 2009. In the email, the resident suggested “trick[ing]” children into using a different area to play and complained that, “I feel like we are living in the projects.”
17. Upon information and belief, Defendants Stonecleave, PMA, and Romano retained an attorney to issue fines to certain Stonecleave Village residents whose children were playing wiffle ball in the common area.
18. At the behest of Defendants Stonecleave, PMA, and/or Romano, Stonecleave’s attorney issued letters to each Complainant on June 9, 2009 informing them that they were each being fined the following amounts:

\$10 per day for two days for children playing on the common;

\$10 per day for two days for actions allegedly causing damage to the common;
\$25 for damage to the common area lawn; and
\$427.50 for attorneys fees “incurred in this matter.”

19. Complainants had not received any previous fines or written warnings regarding their children violating Stonecleave Village’s rules.
20. Based upon information and belief, Stonecleave and PMA never involved attorneys – or charged attorney’s fees for drafting fine letters – when fines were issued for any other violation of Stonecleave Village’s rules. Indeed, from 2005, when Stonecleave hired PMA, to June 9, 2009, when Complainants received their fine letters, PMA had sent out all notices of fines or warnings of violations without the involvement of attorneys.
21. After receiving the June 9, 2009 fine letter, Complainant Kibildis wrote a letter, dated June 17, 2009, challenging the fines and attorney's fees she was assessed. On June 29, 2009, the attorney replied to Complainant Kibildis's letter, explaining that the \$437.50 he charged to her was a "flat fee" and that "further involvement, including the drafting of this letter, will occur at my hourly rate of \$175.00 per hour."
22. When the families who received the June 9, 2009 fine letters requested evidence of the violations, they were refused despite the existence of approximately forty-five photographs on which the fines were based.
23. When Complainant Stewart was fined on July 10, 2009 for having multiple items in her patio area, she was provided with photographic evidence of the rule violation.
24. On July 28, 2009, Defendant Romano, acting on PMA’s behalf, charged Ms. Kibildis

\$1,000.00, “which is the cost [Stonecleave] bore to hire the attorney” to respond to Ms. Kibildis’s MCAD complaint.

25. During Memorial Day weekend of 2008, when an adult resident held a barbeque on the common area in violation of Stonecleave’s policy prohibiting gatherings of over ten people without prior approval, the resident was not fined for violating Stonecleave Village’s rules.
26. In an effort to thwart children from playing, Stonecleave had trees planted in the common areas in the summer of 2009 under the guise of “a tree project” approved by Stonecleave’s board of directors almost fifteen years ago.
27. Defendants treated Complainants differently in singling them out for the imposition of fines and attorney’s fees and in refusing to provide them with photographic evidence of their alleged rules violations.
28. On July 28, 2009, Complainants Kibildis, Soucy, Hamilton, and Medeiros and their respective children filed timely complaints with the United States Department of Housing and Urban Development (“HUD”), pursuant to the Fair Housing Act, alleging discrimination on the basis of familial status.
29. On December 8, 2009, Complainant Stewart and her children filed a timely complaint with HUD pursuant to the Fair Housing Act, alleging discrimination on the basis of familial status.
30. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaints, attempted conciliation without success, and prepared final investigative reports. Based on the information gathered in the

investigation, the Secretary determined, pursuant to 42 U.S.C. § 3610(g)(1), that reasonable cause existed to believe that illegal discriminatory housing practices had occurred. Therefore, on December 1, 2009 and on January 11, 2010, the Secretary issued Charges of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the Defendants with engaging in discriminatory practices on the basis of familial status in violation of the Fair Housing Act.

31. On December 8, 2009 and January 12, 2010, Defendants elected to have the claims asserted in HUD's two Charges of Discrimination resolved in a civil action, pursuant to 42 U.S.C. § 3612(a).
32. On December 9, 2009 and January 13, 2010, the Administrative Law Judge presiding over each administrative proceeding issued a Notice of Election to Proceed in United States District Court and terminated the administrative proceeding.
33. 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).

COUNT I

(Disparate Treatment of Families with Children in Violation of 42 U.S.C. § 3604(b))

34. Defendants, through the above-referenced actions, discriminated against Lauren Kibildis and her child; Tracey Hamilton and her three children; Brenda Soucy and her two children; Troy and Melanie Medeiros and their three children; and Julie Stewart and her two children in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of familial status, in violation of 42 U.S.C. § 3604(b).
35. Defendants treated Complainants differently from other Stonecleave residents in singling them out for the imposition of fines, including attorney's fees, for alleged violations of Stonecleave Village's rules.
36. Defendants' actions and statements described in the preceding paragraphs were intentional, willful, and taken in disregard for the rights of Complainants and their children.

COUNT II

(Interference, Coercion, or Intimidation in Violation of 42 U.S.C. § 3617)

37. Defendants, through the above-referenced actions, coerced, intimidated, threatened, or interfered with Complainants' exercise or enjoyment of their right to be treated in the same manner as families without children, in violation of 42 U.S.C. § 3617.
38. The June 9, 2009 fine letters charging complainants nearly \$500.00 per family for violating Stonecleave Village's rules and for attorney's fees constitutes coercion, intimidation, and interference with Complainants' exercise of their rights under the Fair Housing Act.

39. Defendants' requirement that Complainant Kibildis pay an additional \$1,000.00 for Stonecleave's costs relating to the MCAD complaint Kibildis filed constitutes coercion, intimidation, and interference with Complainant's exercise of her rights under the Fair Housing Act.
40. Defendants PMA and Romano were agents acting on Stonecleave's instructions in levying the \$1,000.00 fee against Complainant Kibildis and are therefore liable for violating 42 U.S.C. § 3617.
41. Defendants' actions described in the preceding paragraphs were intentional, willful, and taken in disregard for the rights of Complainants and their children.

COUNT III
(Retaliation in Violation of 42 U.S.C. § 3617)

42. Defendants, through the above-referenced actions, retaliated against Complainant Kibildis for engaging in protected activity, namely filing a complaint with the MCAD.
43. Defendants' requirement that Complainant Kibildis pay an additional \$1,000.00 for Stonecleave's costs relating to the MCAD complaint Kibildis filed constitutes retaliation under the Fair Housing Act.
44. Defendants PMA and Romano were agents acting on Stonecleave's instructions in levying the \$1,000.00 fee against Complainant Kibildis and are therefore liable for violating 42 U.S.C. § 3617.
45. Defendants' actions described in the preceding paragraphs were intentional, willful, and taken in disregard for the rights of Complainants and their children.

COUNT IV
(Pattern or Practice of Discrimination)

46. The Defendants' discrimination on the basis of familial status, as described above, constitutes:
- a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, in violation of 42 U.S.C. § 3614(a); and/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, in violation of 42 U.S.C. § 3614(a).
47. In addition to Complainants and their children, there may be other victims of Defendants' discriminatory actions and practices who are "aggrieved persons" as defined in 42 U.S.C. § 3602(i). These persons may have suffered damages as a result of Defendants' discriminatory conduct.
48. Defendants' actions and statements described in the preceding paragraphs 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:

- A. Declares that Defendants' discriminatory policies and practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*;
- B. Enjoins Defendants, their agents, employees, 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;
- C. Awards monetary damages to Lauren Kibildis and her child; Tracey Hamilton and her

three children; Brenda Soucy and her two children; Troy and Melanie Medeiros and their three children; and Julie Stewart and her two children, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3614(d)(1)(B), and each other person injured by Defendants' conduct, pursuant to 42 U.S.C. § 3614(d)(1)(B);

- D. Assesses civil penalties against Defendants in the amounts 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.

The United States demands trial by jury.

Respectfully submitted,

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