

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Civil Action No. 12-2462 JNE/gjk

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MINNEAPOLIS, MN

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
MARY ANN JENSEN, and )  
TIMOTHY JOHNSTON and )  
LAURI JOHNSTON RICHERT )  
d/b/a WINDSTONE PROPERTIES, )  
)  
Defendants. )

**COMPLAINT**

The United States of America, for its Complaint against Defendants Mary Ann Jensen and Timothy Johnston and Lauri Johnston Richert, d/b/a Windstone Properties (collectively Defendants), states and alleges as follows:

**NATURE OF ACTION**

1. This is an action under Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 to 3631 (the Fair Housing Act or Act).

2. The United States alleges that Defendants made discriminatory statements based on national origin while renting a mobile home lot in Albert Lea, Minnesota in violation of the Fair Housing Act, 42 U.S.C. § 3604(c).

3. The aggrieved person, Gloria Cerda, filed a charge of discrimination with the United States Department of Housing and Urban Development (HUD). After an

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investigation, HUD charged Defendants with making discriminatory statements based on national origin with respect to renting a dwelling in violation of the Fair Housing Act, 42 U.S.C. § 3604(c). Under the Fair Housing Act, Cerda elected to pursue the claim asserted in the charge in this civil action under 42 U.S.C. § 3612(a).

4. The United States, therefore, brings this action for injunctive relief and damages on Cerda's behalf pursuant to the Fair Housing Act, 42 U.S.C. § 3612(o).

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the subject matter of this action under 42 U.S.C. § 3612(o) of the Fair Housing Act and 28 U.S.C. §§ 1331 and 1345.

6. Venue is proper in this judicial district under 28 U.S.C. § 1391 because the alleged discriminatory statements were made in this district, the rental property at issue is located in this district, and Defendants and the aggrieved party reside in this district.

#### **PARTIES**

7. Aggrieved person, Gloria Cerda, is a Mexican-American resident of Albert Lea, Minnesota. The United States brings this suit on her behalf.

8. Defendant Mary Ann Jensen was the on-site property manager at Rainbow Terrace mobile home park in Albert Lea, Minnesota. At all times relevant to this Complaint, Jensen was the employee and agent of Defendants Timothy Johnston and Lauri Johnston Richert, the co-owners of Rainbow Terrace mobile home park. Jensen currently resides in Clarks Grove, Minnesota.

9. Defendant Timothy Johnston, doing business as Windstone Properties, co-owns Rainbow Terrace mobile home park in Albert Lea, Minnesota, with Defendant Lauri Johnston Richert. Timothy Johnston resides in St. Charles, Minnesota.

10. Defendant Lauri Johnston Richert, doing business as Windstone Properties, co-owns Rainbow Terrace mobile home park in Albert Lea, Minnesota, with Defendant Timothy Johnston. Lauri Johnston Richert resides in St. Charles, Minnesota.

11. Windstone Properties is registered as an assumed name with the Minnesota Secretary of State. Upon information and belief, the Johnston Defendants personally own and operate Rainbow Terrace mobile home park using the assumed name Windstone Properties.

### **STATUTORY BACKGROUND**

12. Section 804(c) of the Fair Housing Act, 42 U.S.C. § 3604(c), states, *inter alia*, that it “shall be unlawful ... to make ... any ... statement ... with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.”

### **FACTUAL ALLEGATIONS**

13. On or about March 6, 2009, Cerda and her partner of fifteen years, Hector Perez, moved from Irving, Texas, to Albert Lea, Minnesota to establish a home closer to Cerda’s extended family.

14. Shortly thereafter, Cerda and Perez purchased a mobile home in Rainbow Terrace mobile home park in Albert Lea, Minnesota.

15. Cerda and Perez purchased the mobile home directly from the prior owners of the home.

16. A few days later, on approximately March 9, 2009, Cerda met with Defendant Jensen, the on-site property manager, regarding renting the Rainbow Terrace lot upon which her recently-purchased mobile home was situated. Jensen gave Cerda a rental application and asked her to complete it.

17. Jensen was employed by and acting as an agent for Defendants Timothy Johnston and Lauri Johnston Richert, the owners of Rainbow Terrace, at the time of the allegations contained in this Complaint. At all relevant times, Jensen was acting within the scope of her employment with the Johnston Defendants.

18. Cerda and Perez completed the rental application for the mobile home lot at Rainbow Terrace.

19. Cerda and Perez, along with Cerda's sister, Blanca Guardado, then went to Rainbow Terrace to give the completed rental application to on-site manager Jensen. Perez remained in a pickup truck parked outside Jensen's mobile home, while Cerda and Guardado met with Jensen in Jensen's mobile home.

20. At that meeting regarding Cerda's rental application, on-site manager Jensen made numerous discriminatory statements regarding people of Mexican national origin, including but not limited to those described in the following paragraph.

21. Jensen asked Cerda if Hector Perez, who was waiting in the nearby pickup truck, was "a Mexican from Mexico." Cerda stated that he was. Jensen responded with words to the effect that she had enough of them at Rainbow Terrace and did not want any

more. Jensen asked Cerda, who is Mexican-American, if she was born in the United States. Cerda said yes. Jensen further stated that she did not want any Mexicans or “wetbacks” living in Rainbow Terrace because they were too much trouble. Jensen further stated that they were all drunks and caused trouble.

22. Defendants subsequently ran a tenant screening check on Cerda and Perez. At the end of March 2009, after receiving the results of the screening check, Jensen confronted Cerda. During that meeting, Jensen told Cerda that “all wetbacks are no good,” and that “all Perez are no good.” She used profanity and called Perez a “wetback.”

23. Cerda subsequently heard Jensen state words to the effect that, “I can’t stand those fucking wetbacks,” during a conversation Jensen had with Cerda’s Rainbow Terrace neighbors.

24. Further, with regard to Cerda’s security deposit for the Rainbow Terrace mobile home lot, Jensen shouted across the mobile home park lot at Cerda words to the effect that “no fucking Mexicans pay their bills,” and “all wetbacks need to pay more.”

25. Jensen had a frequent practice of being on the phone with Defendant Lauri Johnston Richert while talking in person to prospective Rainbow Terrace tenants. During these times, Johnston Richert instructed Jensen regarding what questions to ask the prospective tenants.

26. Defendants ultimately rented the Rainbow Park mobile home lot to Cerda and Hector Perez, and they remain living there.

27. As a result of Defendants' discriminatory statements, Cerda has been damaged, including suffering humiliation and emotional distress.

**PROCEDURAL BACKGROUND**

28. As required by the Fair Housing Act, 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted an investigation of Cerda's complaint, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered in his 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 or about August 8, 2012, 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 national origin.

29. On August 27, 2012, Cerda timely 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).

30. On or about August 29, 2012, a HUD Administrative Law Judge issued a Notice of Election and terminated the administrative proceedings on the HUD complaint filed by Cerda. Following the Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).

31. The United States now timely files this Complaint pursuant to the Fair Housing Act, 42 U.S.C. § 3612(o).

**FAIR HOUSING ACT VIOLATION**  
**Violation of the Fair Housing Act – 42 U.S.C. § 3604(c)**  
**Discriminatory Statements**

32. The United States incorporates by reference the preceding paragraphs of this Complaint.

33. The Rainbow Terrace mobile home park lot Cerda sought to rent from Defendants is a “dwelling” under the Fair Housing Act, 42 U.S.C. § 3602(b).

34. Defendant Jensen repeatedly made statements indicating a preference, limitation, or discrimination based on national origin with respect to Cerda’s application to rent a mobile home lot in Rainbow Terrace, or an intention to make such preference, limitation, or discrimination.

35. Defendant Jensen’s statements were intentional, willful, and made in reckless disregard for Cerda’s civil rights.

36. Defendant Jensen’s statements violated the Fair Housing Act, 42 U.S.C. § 3604(c).

37. Defendant Timothy Johnston and Lauri Johnston Richert, the owners of Rainbow Terrace and Jensen’s employers, are vicariously liable for Jensen’s statements.

38. As a result of Jensen’s statements, Cerda has been damaged in an amount to be determined at trial.

**REOUEST FOR RELIEF**

WHEREFORE, the United States requests that this Court:

1. Declare that Defendants' discriminatory housing practices as set forth above violate Section 804(c) of the Fair Housing Act, 42 U.S.C. § 3604(c);
2. Enjoin and restrain Defendants, their agents, employees, successors, and all others in concert with them, from making, printing, or publishing, or causing to be made, printed, or published, any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make such preference, limitation, or discrimination;
3. Order Defendants to take such affirmative steps as may be necessary to restore, as nearly as practicable, Gloria Cerda to the position she would have been in but for the discriminatory conduct;
4. Order Defendants to take appropriate affirmative action to prevent the recurrence of the discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of their unlawful practices;
5. Award monetary damages to Ms. Cerda pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and
6. Order such other and further relief as the interests of justice require.

Dated: September 25, 2012

Respectfully submitted,

B. TODD JONES  
United States Attorney



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