

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
ENCORE MANAGEMENT COMPANY,)	
INC., PERKINS PARKE LIMITED)	
PARTNERSHIP, ANTHONY JAMES,)	
KISHA JAMES, and CHRISTOPHER T.)	
JAMES,)	
)	
Defendants.)	

COMPLAINT AND JURY DEMAND

The United States of America (“United States”) 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. §§ 3601-3631. It is brought pursuant to 42 U.S.C. § 3612(o) on behalf Amelia Clark and her minor child, Rebecca Chapparo and her three minor children, Diana Herndon, Greta Ramey and her three minor children, and Teresa Stringer (together the “complainants”), 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. §§ 1331 and 1345, and 42 U.S.C. §§ 3612(o)(1) and 3614(a).

3. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the United States' claim occurred there.

THE PARTIES

4. Defendant Encore Management Company, Inc. ("Encore") is a West Virginia corporation whose principal place of business and mailing address is 2010 Quarrier Street, Charleston, West Virginia 25311. Douglas Pauley is the President and registered agent of Defendant Encore.

5. Defendant Perkins Parke Limited Partnership ("Perkins Parke LP") is a West Virginia limited partnership whose principal place of business and mailing address is 2010 Quarrier Street, Charleston, West Virginia 25311. Douglas Pauley is the General Partner and registered agent of Defendant Perkins Parke LP.

6. Defendant Anthony James is a resident of Charleston, West Virginia.

7. Defendant Kisha James is a resident of Charleston, West Virginia.

8. Defendant Christopher T. James is a resident of Charleston, West Virginia.

FACTUAL ALLEGATIONS

9. Perkins Parke Apartments ("Perkins Parke") is a 56-unit residential property located at 100 Drexel Place in Cross Lanes, West Virginia 25313. Perkins Parke was developed using federal Low-Income Housing Tax Credits, 26 U.S.C. § 42, and loans from the United States Department of Agriculture under the Rural Housing Service Section 538 Guaranteed Rural Rental Housing Program.

10. The units at Perkins Parke are "dwellings" within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

11. At all times relevant to this action, Defendant Perkins Parke LP owned Perkins Parke.

12. At all times relevant to this action, Defendant Encore managed Perkins Parke under a management agreement with Defendant Perkins Parke LP. Defendant Encore was Defendant Perkins Parke LP's agent for managing Perkins Parke and responsible for recruiting, hiring, supervising, directing, and terminating managers and maintenance workers with responsibilities at Perkins Parke.

13. At all times relevant to this action, Defendants Encore and Perkins Parke LP engaged Defendant Anthony James as their agent to manage Perkins Parke as site manager and/or district manager.

14. At all times relevant to this action, Defendants Encore and Perkins Parke LP engaged Defendant Kisha James as their agent to manage Perkins Parke as site manager.

15. At all times relevant to this action, Defendants Encore and Perkins Parke LP engaged Defendant Christopher T. James as their agent to provide maintenance services at Perkins Parke.

16. At all times relevant to this action, Defendants Encore and Perkins Parke LP have provided Defendants Anthony James and Kisha James, in their capacity as site managers and/or district manager, with the actual or apparent authority to recruit, hire, supervise, direct, and terminate subordinate employees, including maintenance workers; to use keys to access residents' apartments; to collect rents and fees; to make repairs in residents' apartments; to evict tenants or otherwise enforce lease provisions; and to report problems to the District Manager or Defendant Encore's home office.

17. At all times relevant to this action, Defendants Encore and Perkins Parke LP have provided Defendant Christopher T. James, in his capacity as a maintenance worker, with the actual or apparent authority to enter tenants' apartments to complete maintenance requests; to use keys to access residents' apartments; and to make repairs in residents' apartments.

18. Amelia Clark is a single woman who resided at Perkins Parke with her one minor child from May 2012 until September 2014. She participates in the Section 8 Housing Choice Voucher Program, authorized under 42 U.S.C. § 1437f (“Housing Choice Voucher Program”).

19. Rebecca Chapparo is a single woman who has resided at Perkins Parke with her three minor children since 2005. She participates in the Housing Choice Voucher Program.

20. Diana Herndon is a single woman who has resided at Perkins Parke since 2004. She participates in the Housing Choice Voucher Program.

21. Greta Ramey is a single woman who has resided at Perkins Parke with her three minor children since approximately July 2012. She participates in the Housing Choice Voucher Program.

22. Teresa Stringer is a single woman who has resided at Perkins Parke since 2010. She participates in the Housing Choice Voucher Program.

Sexual Harassment and Retaliation

23. From at least January 2012 through June 2013, Defendant Anthony James subjected female tenants at Perkins Parke, including but not limited to the complainants, to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment and retaliation, on multiple occasions. Such conduct has included, but is not limited to:

- a. Entering the residences of female tenants without permission or notice;
- b. Conditioning or offering tangible housing benefits in exchange for sexual acts;
- c. Coercing female tenants to engage in unwelcome sexual acts;
- d. Exposing his body in a sexual manner to female tenants;

- e. Making unwelcome sexual comments and unwelcome sexual advances to female tenants, including subjecting female tenants to unwanted sexual touching and other unwanted sexual acts;
- f. Sending unwelcome sexual text messages to female tenants, including asking female tenants to engage in sexual acts;
- g. Taking adverse housing actions, or threatening to take such actions, against female tenants who have objected to and/or would not continue to grant sexual favors; and
- h. Sending the police to the home of a tenant who objected to and/or would not continue to grant sexual favors.

24. Some of Defendant Anthony James' discriminatory conduct described herein occurred in the presence of tenants' minor children.

25. Additional current and former tenants at Perkins Parke and other properties managed by Defendant Encore have been subjected to severe and pervasive sexual harassment by Defendant Anthony James.

26. Defendant Anthony James' discriminatory conduct described herein occurred while he was exercising his authority as site manager and/or district manager at Perkins Parke, including but not limited to discussing rent owed with tenants, using the keys provided to him by Defendants Encore and Perkins Parke LP to enter apartments, making repairs to units, and/or enforcing lease provisions.

27. Defendants Encore and Perkins Parke LP are liable for the acts of their agent, Defendant Anthony James. Defendants Encore and Perkins Parke LP hired Defendant Anthony James to serve as site manager and/or district manager for Perkins Parke, and Defendants Encore and

Perkins Parke LP, by and through the knowledge of their officers, knew or should have known of Defendant Anthony James' discriminatory conduct, had the authority to take preventive and corrective action, yet failed to take reasonable preventive or corrective measures.

28. Between at least January 2012 and May 2013, Defendant Christopher T. James subjected female tenants at Perkins Parke, including but not limited to the complainants, to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment, on multiple occasions. Such conduct has included, but is not limited to:

- a. Exposing his body in a sexual manner to female tenants while responding to maintenance requests in their apartments;
- b. Making unwelcome sexual comments, unwelcome sexual gestures, and unwelcome sexual advances to female tenants; and
- c. Sending unwelcome sexual text messages to female tenants, including asking female tenants to engage in sexual acts.

29. Additional current and former tenants at Perkins Parke and other properties managed by Defendant Encore may have been subjected to severe and pervasive sexual harassment by Defendant Christopher T. James.

30. Defendant Christopher T. James' discriminatory conduct described herein occurred while he was exercising his authority as a maintenance worker at Perkins Parke, including but not limited to discussing repairs with tenants, using the keys provided to him by Defendants Encore and Perkins Parke LP to enter apartments, and/or making repairs to units.

31. Defendants Encore and Perkins Parke LP are liable for the acts of their agent, Defendant Christopher T. James. Defendants Encore and Perkins Parke LP hired Defendant Christopher T. James to serve as a maintenance worker for Perkins Parke, and Defendants Encore and Perkins

Parke LP, by and through the knowledge of their officers, knew or should have known of Defendant Christopher T. James' discriminatory conduct, had the authority to take preventive and corrective action, yet failed to take reasonable preventive or corrective measures.

32. Between at least August 2012 and June 2013, Defendant Kisha James subjected female tenants at Perkins Parke, including but not limited to the complainants, to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment and retaliation.

Such conduct has included, but is not limited to:

- a. Receiving tenant complaints about sexual harassment and failing to take appropriate steps to remedy it or stop it;
- b. Taking adverse housing actions, or threatening to take such actions, including issuing notices of lease violations for tenants' files;
- c. Failing to maintain or repair apartment units; and
- d. Demanding duplicate rent payments.

33. Defendant Kisha James' discriminatory conduct described herein occurred while she was exercising her authority as site manager at Perkins Parke, including but not limited to discussing rent owed with tenants, making repairs to units, and/or enforcing lease provisions.

34. Defendants Encore and Perkins Parke LP are liable for the acts of their agent, Defendant Kisha James. Defendants Encore and Perkins Parke LP hired Defendant Kisha James to serve as site manager for Perkins Parke, and Defendants Encore and Perkins Parke LP, by and through the knowledge of their officers, knew or should have known of Defendant Kisha James' discriminatory conduct, had the authority to take preventive and corrective action, yet failed to take reasonable preventive or corrective measures.

35. Between 2012 and 2014, Defendant Encore subjected tenants at Perkins Parke, including but not limited to the complainants, to discrimination on the basis of sex. Defendant Encore also retaliated against tenants and employees who complained to the United States Department of Housing and Urban Development (“HUD”) about sexual harassment at Perkins Parke or cooperated in HUD’s investigation of sexual harassment at Perkins Parke. Such conduct has included, but is not limited to:

- a. Failing to maintain or repair apartment units;
- b. Providing a negative tenant reference for a tenant because she had filed a complaint with HUD; and
- c. Taking actions designed to result in adverse housing and employment actions.

36. Defendant Encore’s discriminatory conduct described herein occurred while it was exercising its authority as manager of Perkins Parke, including but not limited to operating Perkins Parke, supervising managers and maintenance workers with responsibilities at Perkins Parke, conducting tenant references, making repairs to units, and/or enforcing lease provisions.

37. Defendant Perkins Parke LP is liable for the acts of its agent, Defendant Encore. Defendant Perkins Parke LP engaged Defendant Encore to manage Perkins Parke, and Defendant Perkins Parke LP, by and through the knowledge of its officers, knew or should have known of Defendant Encore’s discriminatory conduct, had the authority to take preventive and corrective action, yet failed to take reasonable preventive or corrective measures.

HUD Complaints and Charge of Discrimination

38. Pursuant to 42 U.S.C. § 3610(a), the Assistant Secretary for Fair Housing and Equal Opportunity and the complainants Ms. Herndon and Ms. Stringer filed timely complaints of discrimination on the basis of sex against the Defendants with HUD. On behalf of themselves

and their minor children, complainants Ms. Clark, Ms. Chapparo, and Ms. Ramey filed timely complaints of discrimination on the basis of sex against the Defendants with HUD and/or the West Virginia Human Rights Commission.

39. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of the United States Department of Housing and Urban Development conducted and completed an investigation of the complaints, 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. Therefore, on September 30, 2014, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), against Defendants Encore, Perkins Parke LP, Anthony James, Christopher T. James, and Kisha James.

40. On October 15, 2014, Defendants Encore and Perkins Parke LP elected to have the claims asserted in the Charge of Discrimination resolved in a civil action pursuant to 42 U.S.C. § 3612(a).

41. On October 15, 2014, an Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on the complaints of the Assistant Secretary and the complainants.

42. On October 16, 2014, complainants Ms. Clark and her minor child, Ms. Chapparo and her three minor children, Ms. Herndon, and Ms. Ramey and her three minor children elected to have the claims asserted in the Charge of Discrimination resolved in a civil action pursuant to 42 U.S.C. § 3612(a).

43. On October 28, 2014, the Secretary of the United States Department of Housing and Urban Development authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

CAUSE OF ACTION

44. By the actions and statements referred to in the foregoing paragraphs, defendants have:
- a. Made housing unavailable or denied housing because of sex, in violation of 42 U.S.C. § 3604(a);
 - b. Discriminated in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sex, in violation of 42 U.S.C. § 3604(b);
 - c. Made statements with respect to the rental of a dwelling that indicated a preference, limitation, or discrimination based on sex, in violation of 42 U.S.C. § 3604(c); and
 - d. Coerced, intimidated, threatened, or interfered with a person in the exercise or enjoyment of, or on account of her having exercised or enjoyed, the rights granted or protected by section 804 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.
45. Defendants' actions, conduct, and statements, as described above, constitute:
- a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3631; or
 - b. A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3631, which denial raises an issue of general public importance.

46. Female tenants, including but not limited to the complainants, and persons associated with them, have been injured by Defendants' discriminatory conduct. Such persons are "aggrieved persons" as defined in 42 U.S.C. § 3602(i), and have suffered damages as a result of Defendants' discriminatory conduct.

47. Defendants' discriminatory conduct was intentional, willful, and/or taken in reckless disregard of the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court enter an order that:

- a. Declares that Defendants' actions, policies, and practices, as alleged herein, violate the Fair Housing Act;
- b. 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, which denial raises an issue of general public importance;
- c. Enjoins Defendants, their agents, employees, and successors, and all other persons in active concert or participation with them, from:
 - i. Discriminating on the basis of sex, including engaging in sexual harassment, in any aspect of the rental or lease of a dwelling;
 - ii. Discriminating in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of sex;
 - iii. Stating any preference, limitation, or discrimination on the basis of sex;
 - iv. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights under the Fair Housing Act;

- v. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Defendants' past unlawful practices to the position they would have been in but for the discriminatory conduct; and
 - vi. Failing or refusing to take such affirmative steps as may be necessary to prevent recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of Defendants' unlawful housing practices;
- d. Awards monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and 3614(d)(1)(B), to each identifiable victim harmed by Defendants' discriminatory practices;
- e. Assesses a civil penalty against Defendants, based on the claim for relief and to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C); and
- f. Awards such additional relief as the interests of justice may require.

JURY DEMAND

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Respectfully submitted,

Dated: November 14, 2014.

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