

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 09-CV-1859 (CEJ)
v.)	
)	
ROGER HARRIS, HEDIGER)	
ENTERPRISES, INC., FORUM MANOR)	
ASSOCIATES, L.P., and FORUM MANOR)	
LLC, CARROLL PROPERTY)	
MANAGEMENT LLC, and CARROLL)	
MANAGEMENT GROUP LLC,)	
)	
Defendants.)	

SECOND AMENDED COMPLAINT

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 on behalf of Crystal Hall and her minor children, H.H, J.H., B.H. and K.H.; Lindsey Smith; and Daniel Howard and his minor children, Br.H. and Be.H., pursuant to 42 U.S.C. § 3612(o), as well as the Attorney General’s authority under 42 U.S.C. § 3614(a).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345, 42 U.S.C. § 3612(o) and 42 U.S.C. § 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' claims occurred there.

DEFENDANTS AND THE SUBJECT PROPERTY

4. Forum Manor Apartments ("Forum Manor") is a 44-unit residential property located at 1900 Farrar Drive in Rolla, Missouri that is subsidized under the project-based Section 8 housing assistance program. See 42 U.S.C. § 1437f(a)-(k). Forum Manor's units are "dwellings" within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

5. Defendant Roger Harris is a 53-year-old white resident of Rolla, Missouri. Since June 2005, Mr. Harris has been Forum Manor's property manager. Mr. Harris is responsible for all aspects of management at Forum Manor, including interviewing and approving prospective tenants, processing rental applications, determining tenant rent payments and overseeing maintenance staff.

6. Defendant Hediger Enterprises, Inc., is a South Carolina corporation. Until its acquisition by Carroll Property Management LLC and consolidation and merger with Carroll Management Group LLC, Hediger Enterprises operated approximately 100 residential properties in multiple states, including Forum Manor. Hediger Enterprises hired Roger Harris as the property manager of Forum Manor, both on its own behalf and on behalf of Forum Manor Associates, L.P. and Forum Manor LLC, and supervises him as its employee. Gary Hediger is the President of Hediger Enterprises. Hediger Enterprises now operates as Carroll Management Group LLC.

7. Defendant Forum Manor Associates, L.P., is a Missouri limited partnership that owns Forum Manor. It is located at the same address as Hediger Enterprises. Forum Manor Associates' only general partner is Forum Manor LLC.

8. Defendant Forum Manor LLC is a South Carolina corporation that is located at the same address as Hediger Enterprises. Forum Manor LLC's sole member is Gary Hediger.

9. Defendant Carroll Property Management LLC is a Georgia corporation that owns Carroll Management Group. On April 23, 2010, Carroll Property Management LLC acquired all shares and virtually all assets of Hediger Enterprises, including the contract to manage Forum Manor Apartments. Carroll Property Management LLC is a successor to Hediger Enterprises.

10. Defendant Carroll Management Group LLC is a Georgia corporation engaged in the management of residential properties. Between May and July 2011, following the acquisition of Hediger Enterprises by Carroll Property Management LLC, Carroll Management Group LLC consolidated and merged its property management portfolio with that of Hediger Enterprises. Carroll Management Group LLC now oversees and operates Hediger Enterprises' business activities, including management of Forum Manor Apartments and oversight of Defendant Roger Harris. Carroll Management Group LLC is a successor to Hediger Enterprises.

11. In its acquisition of and merger with Hediger Enterprises, Carroll Property Management LLC and Carroll Management Group LLC substantially continued Hediger Enterprises' business operations, including, inter alia, its management of Forum Manor Apartments, continued to use Hediger Enterprises' offices and substantially all of its equipment, and continued to use Hediger Enterprises' employees, including Roger Harris, under substantially the same working conditions.

12. Prior to its acquisition of and merger with Hediger Enterprises, Carroll Property Management LLC and Carroll Management Group LLC had notice of this suit.

FACTUAL ALLEGATIONS

13. On or about June 18, 2008, Crystal Hall, who is African-American and has four children, visited Forum Manor's rental office to apply for an apartment. Before she could enter the office, Defendant Harris told Ms. Hall, "I don't rent to people who look like you," or words to that effect. When Ms. Hall attempted to tell Mr. Harris that she had a job, Mr. Harris said, "I'm the owner and I don't rent to people who look like you," or words to that effect, and shut the door. Mr. Harris refused to provide Ms. Hall with a rental application or otherwise allow her to apply for an apartment.

14. Mr. Harris has told tenants not to have African-American visitors or guests because "people around here don't like black people" and because he "had had enough of them going in and out of [Forum Manor]," or words to that effect. Mr. Harris also told the young children of a white tenant that they could not have African-American friends visit them at Forum Manor.

15. In conversations with Forum Manor tenants, Mr. Harris frequently referred to African-Americans as "niggers" and disparaged them, claiming, for example, that they never paid child support and are "dirty," or words to that effect. Mr. Harris has called biracial children "nigglets" and referred to other biracial children at the property as "brown babies."

16. On or about October 13-14, 2008, Daniel Howard, a white single male with two children, called Forum Manor's rental office and left messages stating that he wanted to apply for a unit. Mr. Howard informed Mr. Harris that he was a single father and was self-employed. Mr. Harris responded that he "had something for single mothers but not for single fathers," or words to that effect.

17. Mr. Harris sexually harassed female tenants and created a hostile environment at Forum Manor by, inter alia, commenting on tenants' body parts and making other inappropriate sexual remarks; making unwelcome sexual advances such as rubbing his hands on the backs of female tenants; suggesting that he would waive fees and other charges for sexual favors; peering into female tenants' windows late at night; and asking female tenants on dates or to come to his house. When tenants refused Mr. Harris' sexual advances, he became angry and, at times, threatened female tenants' eligibility for federal housing assistance.

18. Mr. Harris told Lindsey Smith, a 24-year-old Forum Manor tenant, that she was "hot" and "looked good for a woman with two children," or words to that effect. Mr. Harris tried to convince her not to have a boyfriend. He invited her to dinner and asked her to help clean his house, both of which she declined. Mr. Harris also touched Ms. Smith by rubbing her shoulders and back. These advances were unwelcome and made Ms. Smith feel uncomfortable. She feared she would lose her housing if she upset Mr. Harris by spurning his advances.

19. In or about December 2007, Mr. Harris came to Ms. Smith's apartment uninvited late one evening while her boyfriend was away. Later that evening, Mr. Harris made unwelcome sexual advances on Ms. Smith by touching her and inviting her to go to bed, which she spurned.

20. In February 2008, Ms. Smith married her boyfriend, Jess Smith, and attempted to add him to her lease. Mr. Harris, however, refused to process Mr. Smith's application and refused to allow Mr. Smith to live with his wife at Forum Manor. Mr. Harris also threatened to terminate Ms. Smith's lease because Mr. Smith was living with her.

21. On August 22, 2008, a HUD investigator interviewed Ms. Smith at her apartment and was seen leaving by a Forum Manor employee.

22. On August 25, 2008, Mr. and Ms. Smith and their children were getting into their van at Forum Manor when Mr. Harris pulled up in his truck, blocking one side of the Smiths' van. Another Forum Manor employee blocked the other side of the Smiths' van with his vehicle. Mr. Harris got out of his truck and began yelling at Ms. Smith in front of her children, stating that he would not allow Mr. Smith to move in with her. Mr. and Ms. Smith were intimidated and feared that Mr. Harris might physically harm them.

23. As a result of Mr. Harris' discriminatory conduct and actions, Mr. and Ms. Smith moved out of Forum Manor in November 2008.

24. Lindsey Smith, Crystal Hall and Daniel Howard timely filed complaints of discrimination with the U.S. Department of Housing and Urban Development ("HUD"), pursuant to 42 U.S.C. § 3610(a).

25. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD investigated these complaints, attempted conciliation without success, and prepared final investigative reports. Based on the information gathered in the course of this investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause existed to believe that Defendants violated the Fair Housing Act. Accordingly, on September 24, 2009, pursuant to 42 U.S.C. § 3610(g)(2)(A), the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination against Defendants Harris, Hediger and Forum Manor Associates.

26. On October 14, 2009, Crystal Hall timely elected to have these charges resolved in a federal civil action, pursuant to 42 U.S.C. § 3612(a).

27. The Secretary of HUD subsequently authorized the Attorney General to file this action on behalf of these HUD complainants, pursuant to 42 U.S.C. § 3612(o).

FIRST CLAIM FOR RELIEF

28. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-27, supra.

29. By the actions and statements referred to in the foregoing paragraphs, Defendants have:

- (a) Refused to rent, refused to negotiate for the rental for, or otherwise made unavailable or denied, a dwelling because of race and sex, in violation of 42 U.S.C. § 3604(a);
- (b) Discriminated in the terms, conditions or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of race, 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 race and sex, in violation of 42 U.S.C. § 3604(c);
- (d) Represented, because of sex, that a dwelling is not available for inspection or rental when such dwelling is in fact so available, in violation of 42 U.S.C. § 3604(d);
- (e) Coerced, intimidated, threatened or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights under the Fair Housing Act, in violation of 42 U.S.C. § 3617.

30. Crystal Hall and her children have suffered damages as a result of Defendants' violations of 42 U.S.C. §§ 3604(a) and (c). Lindsey Smith has suffered damages as a result of

Defendants' violations of 42 U.S.C. §§ 3604(b) and 3617. Daniel Howard and his children have suffered damages as a result of Defendants' violations of 42 U.S.C. §§ 3604(a), (c) and (d). Each is an "aggrieved person" pursuant to 42 U.S.C. § 3602(i).

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

SECOND CLAIM FOR RELIEF

32. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-31, supra.

33. 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, in violation of 42 U.S.C. § 3614(a); or
- (b) A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3631, which raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).

34. In addition to Lindsey Smith, Jess Smith, Crystal Hall and Daniel Howard and their children, other persons may have been injured by Defendants' discriminatory actions and practices as described above. Such individuals are also "aggrieved persons" under the Fair Housing Act, 42 U.S.C. § 3602(i).

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

1. Declares that Defendants' actions, policies and practices, as alleged herein, violate the Fair Housing Act;

2. 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;

3. Enjoins Defendants, their agents, employees and successors, and all other persons in active concert or participation with them, from:

- (a) discriminating on the basis race, color, or sex in any aspect of the rental or lease of a dwelling;
- (b) discriminating in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of race;
- (c) stating any preference, limitation or discrimination on the basis of race, color, or sex;
- (d) representing, on the basis of race or sex, that a dwelling is not available for inspection or rental when such dwelling is in fact so available;
- (e) 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; and
- (e) failing or refusing to take such steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of Defendants' unlawful housing practices;

4. Award monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1)

and 3614(d)(1)(B), to all persons harmed by Defendants' discriminatory practices; and

5. Assess a civil penalty against Defendants, pursuant to 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 20, 2011.

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