

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)
)
 Plaintiff,) CIVIL ACTION NO. _____
)
 v.)
) COMPLAINT and
 RUSLAN BACHMAGA and LARRY) JURY DEMAND
 BACHMAGA,)
)
 Defendants)
 _____)

The United States of America (“United States”) alleges as follows:

NATURE OF 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 *et seq.* (the “Fair Housing Act”). This action is brought on behalf of Jacquelyn M. Kelly and her minor child, B. K., pursuant to 42 U.S.C. § 3612(o).

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).
3. Venue is proper under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the United States’ claims occurred in this judicial district, and because Defendants Ruslan and Larry Bachmaga reside in this judicial district.

PARTIES AND SUBJECT PROPERTY

4. Defendant Ruslan Bachmaga owns an apartment building located at 4005 East Lakeside Drive in Oak Creek, Wisconsin (“Subject Property”). The Subject Property has six

apartment units as well as a video and photography business, which is located on the first floor of the building and is owned by Ruslan Bachmaga and his father, Larry Bachmaga. Ruslan Bachmaga currently resides at the Subject Property.

5. Defendant Larry Bachmaga co-owned the Subject Property with Ruslan Bachmaga until approximately August 2010. Larry Bachmaga currently resides at the Subject Property, and he acts as the onsite manager. His name and telephone number were listed in rental advertisements for the Subject Property on Craigslist in March and April 2010. He also shows the units to prospective applicants and accepts applications.
6. The Subject Property that is owned and managed by Defendants is a “dwelling” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
7. Jacquelyn M. Kelly, who is African American, sought to apply for a unit at the Subject Property for her and her minor daughter, B. K, who is also African American.

FACTUAL ALLEGATIONS

8. On March 24, 2010, Defendants posted an advertisement on Craigslist for two units at the Subject Property. The advertisement stated that there was one unit available for \$650 in rent and another for \$750. The advertisement did not state the unit numbers of the available apartments. Upon information and belief, however, the apartment advertised for \$650 in rent was Apartment No. 6 at the Subject Property, and the apartment advertised for \$750 in rent was Apartment No. 2. The advertisement included Defendant Larry Bachmaga’s name and telephone number.
9. On or about March 28, 2010, Ms. Kelly called the phone number listed in the advertisement and spoke to Larry Bachmaga. Ms. Kelly told him that she was interested in renting the unit for \$650. He confirmed that the unit was still available. She asked

him if she could set up an appointment to view the apartment, and he responded that she did not need an appointment and that he would show her the unit anytime.

10. On or about April 1, 2010, Ms. Kelly contacted Larry Bachmaga again to ask if she could view the apartment later that day, and he confirmed that she could do so. Ms. Kelly arrived at the Subject Property with her minor daughter, B. K., and met with Larry Bachmaga.
11. Larry Bachmaga led Ms. Kelly and her daughter into Apartment No. 6, which was vacant at the time, and confirmed that the apartment was available. Upon viewing the apartment, Ms. Kelly commented that the apartment looked nice and stated that she “couldn’t believe the rent was only \$650 a month,” or words to that effect. Larry Bachmaga responded that he had rented the unit advertised for \$650 and stated that this apartment was \$700 a month in rent. Larry Bachmaga’s statement was false – the apartment he had advertised for \$650 was the same apartment he showed Ms. Kelly, and it was still available.
12. While viewing the unit, Ms. Kelly asked Larry Bachmaga about the other tenants in the building. He stated that there was a middle-aged couple and a single man. Ms. Kelly asked whether any children lived in the building. Larry Bachmaga responded “no,” and then stated that the tenants in the other units “liked it to be quiet,” or words to that effect.
13. After Ms. Kelly viewed the apartment, she told Larry Bachmaga that she wanted to apply for the unit. He asked Ms. Kelly how she was going to afford the unit. She responded that she had multiple sources of income and was currently paying \$650 a month in rent, and she asked again how she could apply for the unit.

14. Larry Bachmaga then escorted Ms. Kelly into the office area in the photography studio and provided her an application. He told her that she needed to submit an application and provide documentation of her sources of income. Ms. Kelly assured him that she would collect the income information. She asked if she could fax the documents to him, and he told her that the fax machine in the office did not belong to him. She responded that she would hand-deliver the documents to him as soon as she could. She then began to complete the application while in the office.
15. While Ms. Kelly began to complete the application, Larry Bachmaga asked her for her driver's license, which she provided to him. He then used the computer in the office to enter her name into the Wisconsin Circuit Court Access database. Ms. Kelly and Larry Bachmaga discussed the cases that resulted from his search of her name. Ms. Kelly explained that many of the cases that resulted from the search did not involve her and were, in fact, other individuals with her same name. At the conclusion of their discussion about the search results, Larry Bachmaga never indicated that Ms. Kelly was disqualified from renting a unit at the Subject Property because of what he had found under her name in the database.
16. Over the course of the next two days following Ms. Kelly's visit to the Subject Property, she made several attempts to get in contact with Larry Bachmaga by phone, but he did not answer. On or about April 3, 2010, Ms. Kelly called and spoke to Larry Bachmaga. She told him that she had collected all of the income documentation that he requested and told him that she would call him back to schedule a time for her to hand-deliver the documents. Larry Bachmaga gave her a mailing address to send the documents, but she reiterated that she wanted to drop them off to him. She again asked him if she could fax

the information to him and he said no but offered her a mailing address to send the documents.

17. Ms. Kelly called Larry Bachmaga again a few days later so that she could arrange a time to drop off the documents to him. He did not answer, and she left him a voicemail with her name and telephone number. He never returned her call.
18. Defendants, in or about October 2010, rented Apartment No. 6 to a single, white woman for \$640 per month in rent.
19. Between April 21 and April 30, 2010, Metropolitan Milwaukee Fair Housing Council (“MMFHC”) conducted testing at the Subject Property by telephone and onsite visits. The testers were posing as prospective tenants, who were responding to an advertisement Defendants posted on April 7, 2010, on Craigslist for the Subject Property. The advertisement was for a unit for \$750 in rent. Although the unit number was not listed in the advertisement, the apartment advertised was Apartment No. 2. Larry Bachmaga’s name and phone number were listed in the advertisement.
20. Between April 21 and April 28, 2010, three testers, on separate occasions, contacted the phone number listed in the advertisement, spoke to Larry Bachmaga, and confirmed that the apartment was still available for \$750 in rent.
21. On April 29, 2010, MMFHC sent an African-American tester to the Subject Property, posing as a married woman with no children interested in renting the unit advertised on Craigslist. Larry Bachmaga showed the African-American tester Apartment No. 2.
22. During the course of the onsite visit, Larry Bachmaga asked the African-American tester whether she would have “hundreds of relatives around.” He further told her that he did not want “big traffic” or tenants with “hundreds of relatives around.”

23. When the African-American tester asked him about the application requirements for the unit, he told her that she needed to fill out an application, provide a pay stub demonstrating her husband's income, and provide copies of her and her husband's driver's licenses. He also stated that he wanted to meet the tester's husband before renting to them.
24. On April 30, 2010, MMFHC sent a white tester to the Subject Property, also posing as a married woman with no children interested in renting the unit advertised on Craigslist. Larry Bachmaga showed the white tester Apartment No. 2.
25. In contrast to his treatment of African-American tester, he encouraged the white tester to rent the unit and told her she would be the perfect tenant. He also did not ask to meet the white tester's husband and did not state that it was a requirement for her to rent the unit.
26. Larry Bachmaga also told the white tester that the other tenants in the building had "no kids" and were "very nice, quiet people." He further stated that he was "looking for this same because you take some bad family and it would just throw everybody."
27. On April 30, 2010, shortly after the white tester visited the unit, the African-American tester contacted Larry Bachmaga to inquire whether the unit was still available. He confirmed that it was available but stated that there were "a couple applications" for the unit.
28. Approximately one hour later, the white tester called Larry Bachmaga also to inquire about the unit. He confirmed that it was still available and stated that he would hold the unit for her for a couple days.

HUD ADMINISTRATIVE PROCESS

29. On or around October 5, 2010, Ms. Kelly filed a timely Fair Housing Complaint with the United States Department of Housing and Urban Development (“HUD”), alleging, among other things, that Defendant Larry Bachmaga had engaged in housing discrimination on the basis of race and familial status. Ms. Kelly’s complaint was amended in April 2013 to add Defendant Ruslan Bachmaga as a respondent.
30. Pursuant to 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 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 20, 2013, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the above-named defendants with engaging in discriminatory practices, based on race and familial status, in violation of the Fair Housing Act.
31. On October 3, 2013, Ms. Kelly elected to have the claims asserted in the HUD Charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a). On October 17, 2013, the Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on Ms. Kelly’s complaint.
32. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence civil action, pursuant to 42 U.S.C. § 3612(o).

FAIR HOUSING ACT VIOLATIONS

33. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-28, above.
34. By the actions set forth above, Defendants Ruslan and Larry Bachmaga have:
 - a. Discriminated in the terms, conditions, or privileges of rental of a dwelling because of race and familial status, in violation of 42 U.S.C. § 3604(b); and
 - b. Represented because of race and familial status that a dwelling is not available for rental when such dwelling is in fact so available, in violation of 42 U.S.C. § 3604(d).
35. Ms. Kelly and her daughter, B. K., are “aggrieved persons” within the meaning of 42 U.S.C. § 3602(i), and have suffered injuries as a result of Defendants’ discriminatory conduct.
36. The discriminatory actions of the Defendants were intentional, willful, and taken in disregard of the federally protected rights of Ms. Kelly and her minor daughter, B. K.

RELIEF REQUESTED

WHEREFORE, the United States of America requests that the Court enter an ORDER that:

1. Declares that Defendants’ discriminatory conduct, as alleged herein, violates the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.*;
2. Enjoins Defendants, their agents, employees, successors, and all other person in active concert or participation with any of them, from:
 - a. Discriminating against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of race and familial status;

b. Representing because of race and familial status that a dwelling is not available for rental when such dwelling is in fact so available, in violation of 42 U.S.C. § 3604(d).

c. Failing or refusing to take such affirmative 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 the Defendants' discriminatory conduct; and

d. 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, including implementing policies and procedures to ensure that no applicant to or resident of the Subject Property are discriminated against because of race and familial status.

3. An award of monetary damages to Ms. Kelly and her daughter pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

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

Dated: November 4, 2013.

Respectfully submitted,

ERIC H. HOLDER, Jr.
Attorney General

s/ Jocelyn Samuels
JOCELYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division

s/ Steven H. Rosenbaum
STEVEN H. ROSENBAUM
Chief, Housing and Civil
Enforcement Section
Civil Rights Division

s/ Jessica Clarke Crockett
TIMOTHY J. MORAN
Deputy Chief
JESSICA CLARKE CROCKETT
New York Bar No. 4694972
Trial Attorney
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Northwestern Building, 7th Floor
Washington, D.C. 20530
Phone: (202) 305-4013
Fax: (202) 514-1116
Jessica.Crockett@usdoj.gov