

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GARY WALDEN; BRIAN CARL
WALDEN, as Conservator for GARY
WALDEN, protected person; BRIAN
CARL WALDEN, as Administrator CTA
of the Estate of deceased TINA
WALDEN; WALDEN HOMES, LLC
d/b/a WALDEN RENTALS; and 973
CHESTNUT RIDGE ROAD, INC.,

Defendants.

Civil No. 1:16-CV-42 (Keeley)
Electronically filed: 03/16/2016

COMPLAINT
JURY TRIAL DEMANDED

The United States of America (the “United States”) alleges:

NATURE OF THE ACTION

1. This action is brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968 (the “Fair Housing Act”), as amended, 42 U.S.C. § 3601, et seq. As set forth below, the United States alleges that Gary Walden, Tina Walden, Walden Homes, LLC d/b/a Walden Rentals, and 973 Chestnut Ridge Road, Inc. have engaged in unlawful discrimination on the basis of sex by subjecting female tenants at the rental properties they have owned and/or managed to severe, pervasive, and unwelcome sexual harassment in violation of the Fair Housing Act.

JURISDICTION AND VENUE

2. This court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 42 U.S.C. § 3614(a).

3. Venue is proper under 28 U.S.C. § 1391(b) because the actions giving rise to the United States' allegations occurred in the Northern District of West Virginia; the properties that the Defendants own and/or manage and where the alleged discriminatory conduct took place are located in the Northern District of West Virginia; and all of the Defendants resided and/or do or did business in the Northern District of West Virginia.

PARTIES

4. Gary Walden is a resident of Morgantown, West Virginia. He is currently incarcerated in the Huttonsville Correctional Center in Huttonsville, West Virginia. On September 24, 2015, Brian Carl Walden, Gary Walden's son, was appointed his Conservator by order of the Circuit Court of Monongalia County, West Virginia.

5. Tina Walden was a resident of Morgantown, West Virginia until her death on or around December 24, 2014. On information and belief, Brian Walden, Tina Walden's son, is the Administrator CTA of Tina Walden's estate.

6. During the period of time relevant to this action, Defendant Walden Homes, LLC, d/b/a Walden Rentals ("Walden Homes") was a West Virginia limited liability company with its principal place of business located at 973 Chestnut Ridge Road, Westover, West Virginia. On information and belief, Walden Homes provided property management services for residential rental properties. Gary Walden is listed as president and organizer of the company in corporate filings, and Tina Walden is listed as the registered agent.

7. During the period of time relevant to this action, Defendant 973 Chestnut Ridge Road, Inc. ("973") was incorporated under the laws of the state of West Virginia with its principal place of business located at 973 Chestnut Ridge Road, Westover, West Virginia. On information and belief, Defendant 973 is a corporate owner and/or management entity for

residential rental properties. Tina Walden is listed in corporate filings as the president and registered agent of the corporation.

FACTUAL ALLEGATIONS

8. During the period of time relevant to this action, Gary Walden and Tina Walden were the owners and/or managers of rental properties in the Morgantown, West Virginia area, including but not limited to the following residential rental properties (the “subject properties”):

42 Dunkard Street, Apartments 1 and 5, Westover, WV
27 A and B Monongalia Avenue, Westover, WV
406 Monongahela Avenue, Westover, WV
652 Ohio Avenue, Westover, WV
50 Dunkard Street, Westover, WV
916 West Park Avenue, Westover, WV
436 Dunkard Street, Apartment 2, Westover, WV
52 Dunkard Street, Apartment 5, Westover, WV
29 Eric Street, Westover, WV
9 West Wilson Street, Westover, WV.

9. The rental units at the subject properties are dwellings within the meaning of 42 U.S.C. § 3602(b).

10. At all times relevant to this action, Gary Walden owned and/or managed residential rental properties throughout the Morgantown, West Virginia area, including the subject properties.

11. At all times relevant to this action, until her death in December 2014, Tina Walden owned and/or managed residential rental properties throughout the Morgantown, West Virginia area, including the subject properties.

12. On information and belief, at all times relevant to this action, Walden Homes has managed rental properties in or around the Morgantown, West Virginia area, including some or all of the subject properties.

13. On information and belief, at all times relevant to this action, 973 has managed rental properties in or around the Morgantown, West Virginia area, including some or all of the subject properties.

14. At all times relevant to this action, Tina Walden, Walden Homes, and/or 973 engaged Gary Walden as their agent to manage the subject properties and provided him with the actual or apparent authority to receive applications for tenancy; to accept or reject prospective tenants; to use keys to access tenants' apartments; to collect rents and fees; to make repairs in tenants' apartments; to make adjustments to the amounts of rent, fees, or security deposits; and to evict tenants or otherwise enforce lease provisions for the subject properties.

15. At all times relevant to this action, Gary Walden, Walden Homes, and/or 973 engaged Tina Walden as their agent to manage the subject properties and provided her with the actual or apparent authority to receive applications for tenancy; to accept or reject prospective tenants; to bind tenants to landlord/tenant contracts by signing leases; to use keys to access tenants' apartments; to collect rents and fees; to make repairs in tenants' apartments; to make adjustments to the amounts of rent, fees, or security deposits; and to evict tenants or otherwise enforce lease provisions for the subject properties.

16. Since at least 2006 through July 2015, when he became incarcerated, Gary Walden subjected female tenants of the subject properties to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment. Such conduct has included, but is not limited to:

- a) engaging in unwanted and unwelcome sex acts with female tenants;
- b) engaging in unwanted sexual touching and groping, including grabbing female tenants' breasts and genitals;

- c) conditioning or offering tangible housing benefits to female tenants in exchange for performance of sex acts on him or with his maintenance workers;
- d) touching himself in a sexual manner in the presence of female tenants, including exposing his genitals to them;
- e) making unwanted, unwelcome sexual comments and verbal sexual advances;
- f) entering the apartments of female tenants without permission or notice to sexually harass them; and
- g) taking or threatening to take adverse action against female tenants when they refused or objected to his sexual advances or objected to continuing to grant sexual favors.

17. The discriminatory incidents described in Paragraph 16 occurred while Gary Walden was exercising his authority as rental manager at the subject properties, including but not limited to collecting rent from female tenants, making repairs to units, and/or enforcing lease provisions. Gary Walden initiated eviction proceedings against many of the female tenants in retaliation for reporting his discriminatory conduct.

18. In May 2015, Gary Walden was convicted of two counts of first degree sexual abuse, two counts of conspiracy, and burglary in the Circuit Court of Monongalia County, West Virginia. He is currently serving a sentence of 2-10 years at the Huttonsville Correctional Center, to be followed by a period of home confinement and probation. Some of the charges for which Gary Walden was convicted relate to conduct also at issue in this case.

19. Tina Walden subjected female tenants and prospective tenants of the subject properties to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment. Such conduct included, but was not limited to: receiving tenant complaints

about sexual harassment and failing to take appropriate steps to remedy the discrimination; and taking adverse housing actions, or threatening to take such actions, in retaliation for discrimination complaints.

20. The discriminatory incidents described in Paragraph 19 occurred while Tina Walden was exercising her authority as rental manager at the subject properties, including but not limited to collecting rent from female tenants, making repairs to units, and/or enforcing lease provisions.

21. The Estate of Tina Walden, Walden Homes, and 973 are liable for the actions of Gary Walden. Tina Walden, Walden Homes, and 973 engaged Gary Walden to serve as the property manager for the subject properties that they owned and/or operated. Walden Homes and 973, by and through the knowledge of their agents and/or officers, and Tina Walden knew or should have known of Gary Walden's discriminatory conduct, and had the authority to take preventive measures and corrective actions yet failed to do so.

22. Gary Walden, Walden Homes, and 973 are liable for the actions of Tina Walden. Gary Walden, Walden Homes, and 973 engaged Tina Walden to serve as the property manager for the subject properties that they owned and/or operated. Walden Homes and 973, by and through the knowledge of their agents and/or officers, and Gary Walden knew or should have known of Tina Walden's discriminatory conduct, and had the authority to take preventative measures and corrective actions yet failed to do so.

CAUSE OF ACTION

23. The conduct of Gary Walden, Tina Walden, Walden Homes, and 973, described above, constitutes:

- a. A denial of housing or making housing unavailable because of sex, in violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. § 3604(a);
- b. Discrimination in the terms, conditions, or privileges of the rental of dwellings, or in the provision of services or facilities in connection therewith, because of sex, in violation of Section 804(b) of the Fair Housing Act, 42 U.S.C. § 3604(b);
- c. The making of statements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination based on sex, in violation of Section 804(c) of the Fair Housing Act, 42 U.S.C. § 3604(c); and
- d. Coercion, intimidation, threats, or interference with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights under Section 804 of the Fair Housing Act, in violation of Section 818 of the Fair Housing Act, 42 U.S.C. § 3617.

24. The conduct of Gary Walden, Tina Walden, Walden Homes, and 973, described above, constitutes:

- a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq.; and

- b. A denial to a group of persons rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., which denial raises an issue of general public importance.

25. Female tenants, and persons associated with them, have been injured by the discriminatory conduct of Gary Walden, Tina Walden, Walden Homes, and 973. Such persons are “aggrieved persons” as defined in 42 U.S.C. § 3602(i), and have suffered damages as a result of Defendants’ conduct.

26. The conduct of Gary Walden, Tina Walden, Walden Homes, and 973 was intentional, willful, and/or taken in reckless disregard for the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court enter an ORDER that:

A. Declares that the discriminatory practices of Gary Walden, Tina Walden, Walden Homes, and 973, as alleged herein, violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq.;

B. Enjoins Gary Walden, Walden Homes, and 973, and their and Tina Walden’s agents, employees, and successors, and all other persons in active concert or participation with them, from:

- i. Discriminating on account of sex, including engaging in sexual harassment, against any person in any aspect of the rental 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 rights, or on account of having exercised or enjoyed rights, granted or protected by the Fair Housing Act, as amended;
- 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;

C. Awards monetary damages to each identifiable victim of these discriminatory housing practices for injuries caused by the discriminatory conduct described above, pursuant to 42 U.S.C. § 3614(d)(1)(B); and

D. Assesses civil penalties against Defendants in order to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C).

The United States further prays for 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.

Dated: March 16, 2016

Respectfully submitted,

LORETTA LYNCH
Attorney General

WILLIAM J. IHLENFELD, II
United States Attorney

VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division

SAMEENA S. MAJEED
Acting Chief
CATHERINE A. BENDOR
Deputy Chief

s/ HELEN ALTMAYER
HELEN ALTMAYER
Assistant United States Attorney
Office of the United States Attorney
For the Northern District of West Virginia
1125 Chapline Street, Suite 3000
Wheeling, WV 26003
Tel: (304) 234-0100
Fax: (304) 234-0112

CHARLA D. JACKSON
MEGAN K. WHYTE DE VASQUEZ
Trial Attorneys
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W. (NWB)
Suite 7121
Washington, D.C. 20530
Tel.: (202) 514-4713
Fax: (202) 514-1116
Email: charla.jackson@usdoj.gov