

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 THE POINTE APARTMENTS)
 OWNER, LP; THE POINTE)
 APARTMENTS GP, LLC;)
 LINCOLN APARTMENT)
 MANAGEMENT LIMITED)
 PARTNERSHIP, LP; and LINCOLN)
 BP MANAGEMENT, INC.)
)
 Defendants.)
 _____)

CASE NO. 2:20-cv-02275

CONSENT ORDER

The United States alleges as follows:

1. The United States initiated this lawsuit to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended (“the Fair Housing Act”), 42 U.S.C. § 3601 *et seq.* This action is brought pursuant to 42 U.S.C. §3612(o) on behalf of Complainant Shari Watkins.

2. Defendants The Pointe Apartments Owner, LP and The Pointe Apartments GP, LLC (“The Pointe Defendants”); and Lincoln Apartment Management Limited Partnership, LP and Lincoln BP Management, Inc. (“the Lincoln Defendants”) (collectively, “Defendants”) were owners, operators and/or third-party property managers of The Pointe at West Chester (“The Pointe”), a 230-unit apartment complex located at 890 South Matlack Street, West Chester, Pennsylvania, 19382, in the Eastern District of Pennsylvania.

3. The Pointe Defendants owned The Pointe at West Chester from October 16, 2013 until they sold it on November 1, 2017.

4. The Lincoln Defendants never owned The Pointe at West Chester, but served as third-party property manager at The Pointe at West Chester during the time that The Pointe Defendants owned the property. The Lincoln Defendants have not managed The Pointe at West Chester since it was sold in 2017.

5. The United States' complaint alleges that the Defendants violated the Fair Housing Act by discriminating on the basis of familial status by adopting and implementing policies and practices that unjustifiably prohibited children from using certain amenities at The Pointe at West Chester without adult supervision.

6. On May 26, 2015, Ms. Watkins timely filed a housing discrimination complaint with the Department of Housing and Urban Development ("HUD") on behalf of herself and her minor children, alleging that the Defendants discriminated against them on the basis of familial status in violation of the Fair Housing Act.

7. The Secretary of HUD ("the Secretary") completed an investigation of the complaint. Following the investigation, on July 19, 2018, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination, charging the Defendants with engaging in discriminatory practices on the basis of familial status in violation of the Fair Housing Act, specifically 42 U.S.C. §§ 3604(b) and (c). The Secretary concluded that there was no reasonable cause to believe that the Defendants had violated 42 U.S.C. §3604(a) of the Fair Housing Act.

8. On August 5, 2018, Ms. Watkins elected to have the Charge of Discrimination resolved in a civil action filed in federal district court. The Secretary therefore authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o) of the Fair

Housing Act.

9. On May 13, 2020, the United States filed this action to enforce the provisions of the Fair Housing Act.

10. The United States alleges that, through their conduct, the Defendants have:

- a. Discriminated in the terms, conditions, or privileges of sale or rental of a dwelling because of familial status, in violation of 42 U.S.C. § 3604(b); and
- b. Made, printed, or published, or caused to be made, printed, or published statements with respect to the rental of a dwelling that indicated a preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c).

11. Defendants deny all allegations in the complaint. However, in order to avoid costly and protracted litigation, the parties have chosen to resolve this matter through a negotiated settlement. This Consent Order (“Order”) resolves the United States’ claims in its complaint against the Defendants.

12. The Pointe Defendants represent through counsel that as of November 1, 2017, they no longer own, manage, or operate any residential rental properties. Should any of The Pointe Defendants re-enter the residential rental business in any capacity, by owning, operating or managing residential rental properties during the term of this Order, they must (1) notify counsel for the United States within 30 days of the date that they assume ownership and/or begin management of a residential rental property; and (2) comply with the full extent of the provisions set forth in Sections A-C and E of this Order.

Therefore, it is **ADJUDGED, ORDERED and DECREED** as follows:

A. General Injunction

13. Defendants, their employees, operators, managers, and agents whose duties, in whole or in part, involve the management, sale, or rental of dwellings, are hereby enjoined, with respect to the rental of dwellings,¹ from:

- a. Making unavailable or denying a dwelling to any person because of familial status;
- b. Discriminating against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, because of familial status; and
- c. Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination.

B. Specific Injunctive Relief and Nondiscrimination Policy

14. The Lincoln Defendants have adopted a nondiscrimination policy that complies with the Fair Housing Act. The Lincoln Defendants shall continue to implement this policy at all residential rental properties that they manage and/or own during the term of this Order.

15. The Lincoln Defendants shall post and prominently display in the rental/management office of all properties they manage and/or own a sign no smaller than 11 by

¹ The term "dwellings" has the meaning set out in the Fair Housing Act, 42 U.S.C. § 3602(b).

14 inches indicating that they comply with the nondiscrimination provisions of the Fair Housing Act. A poster that contains the same information as the poster available on HUD's website² will satisfy this requirement.

16. If any of The Pointe Defendants re-enter the residential rental business during the term of this Order, they shall adopt, implement and maintain a nondiscrimination policy which complies with the Fair Housing Act. Within 30 days of the date that they assume ownership and/or begin management of a residential rental property, they shall submit the Nondiscrimination Policy to the United States. The United States shall have 30 days to review and approve or object to the proposed Nondiscrimination Policy. The parties shall utilize the dispute resolution procedures set forth in Paragraph 26 to resolve any objections by the United States.

17. If any of The Pointe Defendants re-enter the residential rental business during the term of this Order, within 10 days of the date that they assume ownership and/or begin management of a residential rental property, they shall post and prominently display in the rental/management office of that property a sign no smaller than 11 by 14 inches indicating that they comply with the nondiscrimination provisions of the Fair Housing Act. A poster that contains the same information as the poster available on HUD's website will satisfy this requirement.

C. Training

18. The Lincoln Defendants currently require that all managers, agents and employees at residential properties that they own, operate or manage undergo annual training on the Fair Housing Act, including the prohibition on familial status discrimination. The training

² https://www.hud.gov/program_offices/fair_housing_equal_opp/marketing

has been reviewed by the United States. During the term of this Order, the Lincoln Defendants shall continue to require such training. Any material changes to the current training must be approved in advance by the United States. The United States shall have 15 business days from the date on which the United States received notification of the proposed change to raise any objections to the proposed change or it is deemed approved.³

19. If any of The Pointe Defendants re-enter the residential rental business during the term of this Order, within 30 days of the date that they assume ownership and/or begin management of a residential rental property, all managers, agents and employees at the residential rental property shall undergo training on the Fair Housing Act. The training shall be approved in advance by the United States. Any expenses associated with this training shall be borne by The Pointe Defendants.

D. Compensation of Complainant

20. Within 15 days after the entry of this Order, the Lincoln Defendants shall pay damages of \$13,500.00 for the claims brought by the complainant, by sending to counsel for the United States a check payable to Shari Watkins. Counsel for the United States will distribute the check described in this paragraph once the payee has executed and returned to the United States a written release (in the form of **Appendix A**) of all claims, legal or equitable, that the payee might have against the Defendants. Thereafter, the United States shall deliver the original, executed release to counsel for the Defendants.

E. Reporting, Record Keeping and Monitoring

21. During the period in which this Order is in effect, the Defendants shall notify

³ For purposes of this Order, any change to the section of the training pertaining to familial status or restrictions on children is a "material change."

counsel for the United States in writing within 30 days of receipt of any written or oral complaint against any Defendant in this action, or any of the Defendants' agents or employees, regarding familial status discrimination in housing.⁴ If the complaint is written, the Defendants shall provide a copy of it with the notification. The Defendants shall also promptly provide to the United States all information it may request concerning any such complaint, including contact information for the person who made the complaint, and shall inform the United States within 30 days of any resolution of such complaint.

22. The United States may take steps to monitor the Defendants' compliance with this Order, including conducting fair housing testing at the rental housing owned, operated, and/or managed by the Defendants.

F. Scope, Duration, and Compliance with Consent Order

23. The provisions of this Order shall apply to all Defendants, their employees, agents, successors and/or assigns, and all persons acting in active concert or participation with them. The provisions of this Order shall apply to all residential rental properties which any of the Defendants own, operate or manage during the term of this Order.

24. This Order is effective immediately upon its entry by the Court and shall remain in effect for two years from the date of its entry. The United States may move the Court to extend the period in which this Order is in effect if the interests of justice so require to effectuate the rights and obligations arising from the Order. The Court shall retain jurisdiction for the duration of this Order to enforce the terms of the Order, after which time the case shall be

⁴ All documents or other communications required by this Order to be sent to counsel for the United States shall be sent via overnight mail addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, DJ 175-62-409, 4 Constitution Square, 150 M Street NE – Room 8.111, Washington, DC 20002, or as otherwise directed by counsel for the United States.

dismissed with prejudice.

G. Remedies for Non-Compliance, Time for Performance, and Modifications

25. Any time limits for performance imposed by this Order may be extended by mutual written agreement of the parties. The other provisions of this Order may be modified by written agreement of the parties or by motion to the Court. If the modification is by written agreement of the parties, then such modification will be effective upon filing of the written agreement with the Court and shall remain in effect for the duration of the Order or until such time as the Court indicates through written order that it has not approved the modification.

26. The parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. In the event the United States contends that there has been a failure by a Defendant to perform in a timely manner any act required by this Order or otherwise to comply with any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorneys' fees which may be occasioned by the violation or failure to perform.

H. Effect on Litigation Holds

27. The parties agree that, as of the date of entry of this Order, litigation is not reasonably foreseeable concerning the matters described herein. To the extent that any party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in this Order, the party is no longer required to maintain such a litigation hold.

I. **Costs of Litigation**

28. Each party to this litigation will bear its own costs and attorneys' fees associated with this litigation.

IT IS SO ORDERED, this 13th day of July 2020.



United States District Judge



Dated: July 13, 2020

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Civil Rights Division

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The Pointe Apartments Owner, LP

**Lincoln Apartment Management
Limited Partnership, LP**

The Pointe Apartments GP, LLC

Lincoln BP Management, Inc.

By: 

By: 

Name: Jason W. Geer

Name: **Kim McCormick**
Vice President

Title: Vice President and Secretary

Title: _____