

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 HOUSING AUTHORITY OF )  
 THE CITY OF ANDERSON, INDIANA, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

CIVIL ACTION NO. 1:17-cv-3263

**COMPLAINT**

The United States of America alleges as follows:

**NATURE OF ACTION**

1. The United States brings this action 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.* (“Fair Housing Act” or “FHA”).

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3614(a).
3. Venue is proper in this District under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the United States’ claims occurred in the Southern District of Indiana, and Defendant resides and/or does business in the Southern District of Indiana.

THE PARTIES

4. Defendant Housing Authority of the City of Anderson (“AHA”) operates and manages the City of Anderson’s public housing program and administers the United States Department of Housing and Urban Development’s (“HUD”) Housing Choice Voucher Program in Anderson. The housing authority was created in 1975 pursuant to Indiana law for the purpose of providing “safe and sanitary dwelling accommodations for persons of low income.” Ind. Code § 36-7-18-2. AHA is located at 528 W. 11th Street, Anderson, IN 46016 in the Southern District of Indiana.
5. AHA owns and operates public housing properties in the City of Anderson: two multi-family apartment complexes, Lynwood Village and Westvale Manor, and approximately sixty scattered-site homes.

FACTUAL ALLEGATIONS

6. Defendant Housing Authority of the City of Anderson (“AHA”) owns and operates Westvale Manor and Lynwood Village.
7. At all times relevant to the complaint, Defendant AHA was responsible for the operation and management of Westvale Manor and Lynwood Village.
8. Westvale Manor is located at the 2200 block of Fulton Street, Anderson, IN 46016. It is a residential apartment complex consisting of sixty units across eight two-story buildings.
9. Lynwood Village is located at the 1500 block of Weatherly Way, Anderson, IN 46016. It consists of twenty-three two-story townhouses and one single-story unit.
10. The units at Westvale Manor and Lynwood Village are dwellings within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

11. At all times relevant to this action, AHA has employed Charles Weatherly. Weatherly is currently the Executive Director of AHA. Prior to November 2015, Charles Weatherly was the Deputy Director of AHA.
12. At all times relevant to this action, AHA employed Connie Klungness as manager of AHA's public housing units.
13. At all times relevant to this action, AHA has employed maintenance workers Bill Hofer and Brian White. AHA also employed a contract maintenance worker named Curtis Stowes.
14. AHA has an Admissions & Continued Occupancy Policy ("ACOP") that establishes guidelines for AHA employees to follow in determining eligibility for admission and continued occupancy in Anderson public housing.
15. The ACOP sets forth a procedure for the assignment of accessible units for persons with disabilities. As part of the ACOP, there are a number of units specifically identified as "accessible" within AHA's public housing program. Under the terms of the ACOP, preference for occupancy of these units is to be given to "families with disabled family members," and "[n]o non-mobility impaired families will be offered these units until all eligible mobility-impaired applicants have been considered."
16. At all times relevant to this action, AHA did not have a reasonable modification and/or accommodation policy in place that set forth any specific mechanism for public housing applicants or participants to request reasonable accommodations and/or modifications on account of their disability. AHA also did not provide any training or education to its employees about what to do in response to disability-related requests for accommodation and/or modification.

17. At all times relevant to this action, AHA did not and does not have a written policy regarding sexual harassment or other forms of discrimination.
18. Since at least 2009 through at least 2015, Defendant AHA regularly received disability-related requests for maintenance, accommodation, or modification from its tenants. Tenant requests were made orally, in person and over the phone to AHA staff, and in writing. Some tenant requests were also accompanied by a doctor's note.
19. AHA routinely denied or ignored these requests, sometimes for years at a time, including:
  - a. Tenants who specifically requested to be assigned to ground-floor units because of mobility impairments affecting their ability to use the stairs;
  - b. Tenants requesting a designated accessible parking spot because of their inability to walk a far distance from the parking lot to their unit;
  - c. Tenants with mobility impairments who requested that AHA staff install grab bars in their bathrooms so that they could safely enter and leave their bathtubs and showers; and
  - d. Tenants with mobility impairments who requested that AHA staff clear away snow and ice accumulation on the sidewalks and the premises so that they could safely and independently navigate the premises and use their mobility aids, including wheelchairs and canes.
20. AHA was given sufficient information that the tenants were persons with disabilities and that some accommodation and/or modification relating to their disabilities was necessary.
21. The tenants' requests for accommodation and/or modification were reasonable and necessary.

22. Since at least 2007 through at least 2013, Defendant AHA, through its employees, has subjected its female tenants 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. Making unwelcome sexual comments about female tenants' appearances and bodies;
  - b. Making unwelcome sexual advances to female tenants; and
  - c. Making unwelcome and unwanted solicitations for sex to female tenants.
23. Defendant AHA is liable for the actions of its agents, Charles Weatherly, Connie Klungness, Brian White, Bill Hofer, and Curtis Stowes. AHA knew or should have known of the discriminatory conduct of its agents, had the authority to take preventative and corrective action, yet failed to take reasonable preventive or corrective measures.

CAUSE OF ACTION

24. By the actions and statements described above, Defendant has:
  - a. 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 sex and disability, in violation of 42 U.S.C. § 3604(b) and 3604(f)(2); and
  - b. Refused to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).
25. Defendant's conduct 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.*, or

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

26. Tenants with disabilities, female tenants, and persons associated with them have been injured by the Defendant's discriminatory conduct.
27. The Defendant's conduct was intentional, willful, and/or taken in reckless disregard of the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States of America prays for relief as follows:

1. A declaration that the discriminatory conduct of Defendant as set forth above violates the Fair Housing Act;
2. An injunction against Defendant, its agents, employees, successors, and all other persons in active concert or participation with any of them from:
  - a. Discriminating on the basis of sex and disability, in violation of the Fair Housing Act;
  - b. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Defendant's past unlawful practices to the position they would have been in but for the discriminatory conduct; and
  - 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, as nearly as practicable, the effects of Defendant's unlawful practices.

3. An award of monetary damages to each person aggrieved by Defendant's discriminatory conduct, pursuant to 42 U.S.C. § 3614(d)(1)(C).
4. A civil penalty assessed against Defendant in order to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C) and 28 C.F.R. 85.3(b)(3).

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

Dated: September 14, 2017

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