

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 6:08-CV-891-ORL-35-DAB
)	
FOUNTAIN VIEW APARTMENTS, INC.,)	
MILDRED CHASTAIN, AND JAMES)	
STEVENS)	
)	
Defendants.)	
_____)	

**FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL
INJUNCTIVE RELIEF SOUGHT**

The United States of America alleges as follows:

NATURE OF ACTION

1. This is a civil action brought by the United States to enforce the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.* It is brought on behalf of Lewarna Williams, pursuant to Section 812(o) of the Fair Housing Act, 42 U.S.C. § 3612(o), and pursuant to Section 814(a) of the Fair Housing Act, 42 U.S.C. § 3614(a).

JURISDICTION AND VENUE

2. This court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3612(o) and 3614.
3. Venue is proper under 28 U.S.C. § 1391(b), in that the events giving rise to this action occurred in this judicial district.

PARTIES

4. Defendant Fountain View Apartments, Inc. is a Florida corporation, whose principal place of business and mailing address is 910 South Volusia Avenue, Orange City, Florida, 32763-3589.
5. Fountain View Apartments, Inc. owns and manages Fountain View Apartments, which consists of rental units located at 910 South Volusia Avenue, Orange City, Florida, 32763-3589.
6. The units at Fountain View Apartments are dwellings within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
7. James W. Stevens is the sole Officer and Director of Fountain View Apartments, Inc. At all times relevant to this action, Defendant James Stevens served as an agent of Fountain View Apartments, Inc. and participated in the rental of units at Fountain View Apartments. Among other responsibilities, Mr. Stevens set the policies and practices for rental at Fountain View Apartments, served as the day-to-day decision-maker at Fountain View Apartments, made rental determinations, made repairs at Fountain View Apartments, and provided information to prospective tenants.
8. At all times relevant to this action, Defendant Mildred Chastain served as an agent of Fountain View Apartments, Inc. and participated in the rental of units at Fountain View Apartments. Among other responsibilities, Ms. Chastain provided information to prospective tenants, showed apartments, received rental applications, signed leases as “Landlord,” and handled rent payments.

FACTUAL ALLEGATIONS

9. Complainant Lewarna Williams is a fifty-five year old woman of African-American and American Indian descent.
10. On or about December 12, 2007, at approximately 4:00 p.m., Ms. Williams, along with her friend and grandson, visited the leasing office of Fountain View Apartments and inquired about apartment availability. Ms. Williams' friend is an adult African-American female. Ms. Williams' grandson is African-American and was eleven years old at the time.
11. Defendant Chastain was working at the Fountain View Apartments leasing office at 4:00 p.m. on December 12, 2007.
12. Ms. Williams inquired about available apartments, and Defendant Chastain informed her that there were no vacant units. Ms. Williams asked for an application. Defendant Chastain gave Ms. Williams an application, but refused to allow Ms. Williams to submit it, stating that it was unclear when an apartment would next become available.
13. The application contained the notation "ADULTS ONLY" in the space designated for number of children.
14. At all times relevant to this action, leases used at Fountain View Apartments stated: "No children, animals, or other pets are permitted."
15. Defendant Chastain told Ms. Williams that the cost to move in would be \$1,600-\$1,800.
16. At least one apartment was vacant and available on December 12, 2007. That apartment rented for \$600 per month. Along with an \$800 security deposit and a \$35 background check fee, the total cost to move in was \$1,435.

17. The Defendants regularly reduce or defer move-in payments such as security deposits.
18. On or about December 12, 2007, at approximately 4:38 p.m., Ms. Williams' friend called the Fountain View Apartments to request information about apartment availability. The female agent informed her that apartments were available. The agent also disclosed pricing information and set up an appointment to show the available unit(s).
19. On or about January 3, 2008, and January 31, 2008, a local television station conducted a series of tests to evaluate the Defendants' compliance with the Fair Housing Act. Testing is a simulation of a housing transaction that compares responses given by housing providers to different types of apartment-seekers to determine whether illegal discrimination is occurring. The testing undertaken by the television station revealed that the Defendants were engaging in housing practices that discriminate on the basis of race or color at Fountain View Apartments by:
 - a. Telling white persons that a selling point of the apartment complex is that they do not have any black residents;
 - b. Denying the availability of apartments to African-American persons while at the same time telling white persons about available apartments;
 - c. Refusing to show apartments to African-American persons while at the same time showing apartments to white persons; and
 - d. Discouraging African-American persons from applying for an apartment while encouraging white persons to apply.

20. On or about February 8, 2008, Ms. Williams filed a timely complaint with the United States Department of Housing and Urban Development (“HUD”), pursuant to the Fair Housing Act, alleging discrimination on the basis of race, color, and familial status.
21. On or about February 22, 2008, Ms. Williams amended the complaint to include allegations of discriminatory advertising, statements, and notices.
22. 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 on 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 April 28, 2008, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. §§ 3610(g)(2)(A), charging the Defendants with engaging in discriminatory practices, in violation of the Fair Housing Act.
23. On or about May 5, 2008, Ms. Williams elected to have the claims asserted in the HUD’s Charge of Discrimination resolved in a civil action pursuant to 42 U.S.C. § 3612(a).
24. On or about May 8, 2008, the Chief Administrative Law Judge issued a Notice of Election and Judicial Determination and terminated the administrative proceeding on Ms. Williams’ complaint.
25. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

26. From at least 2000 through the present, Defendant James Stevens has been subjecting actual and prospective tenants at Fountain View Apartments to discrimination on the basis of race or color. Such conduct has included, but is not limited to:
- a. Directing Fountain View employees to tell black or African-American prospective tenants that there are no available apartments, regardless of availability;
 - b. Refusing to negotiate with black or African-American prospective tenants for rental;
 - c. Misrepresenting the availability of units to black or African-American potential tenants;
 - d. Threatening to evict one or more tenants who were known or believed to have black or African-American friends and associates;
 - e. Making statements with respect to the rental of apartments at Fountain View Apartments indicating a preference, a limitation, or discrimination based on race or color; and
 - f. Failing to offer black or African-American persons the same terms, conditions or privileges regularly offered to white persons.
27. From at least 2000 through the present, Defendant James Stevens has been subjecting actual and prospective tenants at Fountain View Apartments to discrimination on the basis of familial status. Such conduct has included, but is not limited to:

- a. Directing Fountain View employees not to rent to prospective tenants who have children under the age of 18;
- b. Refusing to negotiate with one or more prospective tenants who have children under the age of 18 for rental;
- c. Failing to offer one or more persons with children under 18 the same terms, conditions or privileges regularly offered to persons without children;
- d. Making statements with respect to the rental of apartments at Fountain View Apartments indicating a preference, a limitation, or discrimination based on familial status; and
- e. Wrongfully evicting one or more tenants who had children.

COUNT I

28. Defendants Fountain View Apartments, Inc. and Mildred Chastain, through the above-referenced actions, have:
- a. Discriminated against the Complainant by refusing to rent, negotiate for the rental of, or by otherwise making available or denying dwellings to her because of race or color in violation of 42 U.S.C. § 3604(a);
 - b. Discriminated against the Complainant in the terms, conditions, or privileges of rental, or in the provision of services or facilities in connection therewith, because of race or color in violation of 42 U.S.C. § 3604(b);
 - c. Discriminated against the Complainant by making, or causing to be made, statements with respect to the rental of a dwelling that indicate 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);
and

- d. Discriminated against the Complainant by representing to her because of race or color that dwellings are not available for rental when such dwellings are in fact so available, in violation of 42 U.S.C. § 3604(d).
29. Ms. Williams is an “aggrieved person” as defined in 42 U.S.C. § 3602(i), and suffered injuries as a result of the Defendants’ discriminatory conduct.
 30. Defendants Fountain View Apartments, Inc.’s and Mildred Chastain’s actions and statements described in the preceding paragraphs were intentional, willful, and taken in disregard for the rights of Ms. Williams.

COUNT II

31. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-30, above.
32. Defendants’ conduct constitutes discrimination on the basis of race or color in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a), (b), (c), and (d).
33. The Defendants’ discrimination on the basis of race or color, as 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 to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et. seq.*, which raises an issue of general public importance.

34. In addition to Ms. Williams, there are other identified and may be other unidentified victims of the Defendants' discriminatory actions and practices who are "aggrieved persons" as defined in 42 U.S.C. § 3602(i). These persons may have suffered damages as a result of the Defendants' discriminatory conduct.
35. The Defendants' actions and statements described above were intentional, willful, and taken in disregard for the rights of others.

COUNT III

36. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-30, above.
37. Defendants' conduct constitutes discrimination on the basis of familial status in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a), (b), and (c).
38. The Defendants' discrimination on the basis of familial status, as 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 to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et. seq.*, which raises an issue of general public importance.
39. There are other identified and may be other unidentified victims of the Defendants' discriminatory actions and practices who are "aggrieved persons" as defined in 42 U.S.C. § 3602(i). These persons may have suffered damages as a result of the Defendants' discriminatory conduct.

40. The Defendants' actions and statements described in the preceding paragraphs were intentional, willful, and taken in disregard for the rights of others.

PRAYER FOR RELIEF

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

1. Declares that the Defendants' discriminatory policies and practices as set forth above violate the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*;
2. Enjoins the Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from discriminating on the basis of race, color, or familial status, in violation of the Fair Housing Act;
3. Awards monetary damages to Ms. Williams and each person injured by the Defendants' conduct, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3614(d)(1)(B);
4. Assesses a civil penalty against the Defendants in the amount authorized by 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: August 11, 2009

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