

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No 12-C-1155

DOMINIC AMBROSELLI,
AMBROSELLI PROPERTIES, L.L.C., and
STEVEN SZCZERBIAK,

Defendants.

COMPLAINT

The United States of America, by and through its counsel, James L. Santelle, United States Attorney for the Eastern District of Wisconsin, and Lennie A. Lehman, Assistant United States Attorney, for its Complaint alleges as follows:

JURISDICTION AND VENUE

1. The United States brings this action to enforce the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3631. It is brought on behalf of Rashaad and Juanita Washington, husband and wife, and their three minor children (collectively, "Complainants").

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o).

3. Venue is in the Eastern District of Wisconsin under 28 U.S.C. § 1391(b) and 42 U.S.C. § 3612(o), in that the events, acts or omissions giving rise to this action occurred in this district.

PARTIES

4. Plaintiff, the United States of America, brings this action on behalf of Complainant Juanita Washington (“Juanita”), who is of Cuban and Puerto Rican descent; her husband, Complainant Rashaad Washington (“Rashaad”), who is African-American, and their three minor children (ages 4 years, 3 years and 8 months at the time), who are of African-American, Cuban and Puerto Rican descent. The Washingtons are residents of the Eastern District of Wisconsin and are “aggrieved persons” as defined by the Fair Housing Act, 42 U.S.C. § 3602(i).

5. At all times relevant to the Complaint, Defendant Dominic Ambroselli (“Ambroselli”), was the owner of Rustic Timbers Apartments (“subject property”), a multifamily housing complex located in Kewauskum, Wisconsin, consisting of 127 dwelling units in nine buildings, as well as seven single family ranch homes. These units are “dwellings” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b). Ambroselli is Caucasian.

6. Defendant Ambroselli occasionally does business as Ambroselli Properties, L.L.C. (“A.P.”), a Wisconsin limited liability company formed on September 30, 2010.

7. Defendant Steven Szczerbiak (“Szczerbiak”) was, at all times relevant to this Complaint, employed at the subject property, screening prospective tenants, approving rental applications, preparing leases and assigning rental units to approved applicants. Szczerbiak is Caucasian.

FACTUAL ALLEGATIONS

8. In April 2010, defendant Ambroselli told Dale Adams (“Adams”), one of his rental agents, that he “didn’t want a lot of blacks around.” Approximately one month later, Ambroselli told Adams, “this is a small community, you have to be careful about renting to too many blacks.”

9. On June 4, 2010, Complainants visited the subject property to view an available apartment that had been advertised on the internet website *craigslist.com*.

10. When Complainants arrived at the subject property, defendant Szczerbiak directed them to meet with Adams, who showed them a number of apartments. Complainants chose a two-bedroom townhouse (“townhouse”) they liked. They completed an application to rent the townhouse and gave it to Adams.

11. The following morning, June 5, 2010, Adams called Complainants to tell them he had approved their rental application and scheduled an appointment for them to meet with defendant Szczerbiak that same day to sign the lease. Adams told Complainants to bring a security deposit.

12. Later in the morning of June 5, 2010, Adams called Szczerbiak to inform him that he had approved the Complainants’ application for the townhouse. A short time later, Szczerbiak falsely told Adams that he had already rented the townhouse.

13. When Complainants arrived at the subject property at approximately noon on June 5, 2010, they were met by Adams, who told them that the townhouse had been rented and was no longer available. Adams gave Complainants Ambroselli’s number to call to complain. Juanita Washington called and spoke to Ambroselli, who offered to have Szczerbiak show Complainants other available two-bedroom units.

14. On June 6, 2010, defendant Szczerbiak showed the Washingtons two other two-bedroom units, but the Washingtons found them to be less desirable than the townhouse they had agreed to rent. During the showing of the units, Juanita heard Szczerbiak say, “none of these will be available, so I don’t know why Mr. Ambroselli is having me show you them,” or words to that effect. During the showings, Szczerbiak asked Complainants how many children they had. When

they responded that they had three young children, Szczerbiak stated, “I can’t move you in by law because the law only allows 2 people per bedroom,” or words to that effect.

15. Adams informed the Complainants that he had worked for the Defendants for five months renting units and had never been told of a two people per bedroom policy. Further, the local municipal code and Wisconsin law allow for a property of the size of the townhouse to house a family of five, such as the Washingtons.

16. On June 8, 2010, the successful renters of the townhouse paid their security deposit, and defendant Szczerbiak and one of the renters signed their lease. The successful renters were a married couple who were not African-American or Hispanic and had two children.

17. On or about July 6, 2010 Complainants filed a verified complaint of discrimination with the Department of Housing and Urban Development (“HUD”). The complaint was amended on October 12, 2011 and September 12, 2012. The complaint alleges that Defendants violated the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*, on the basis of race and familial status.

18. Pursuant to the requirements of 42 U.S.C. § 3610(a) and (b), the Secretary of HUD (“Secretary”) conducted an investigation of the complaint, attempted conciliation without success and prepared a final investigative report. Based on the information gathered in this investigation, the Secretary, pursuant to 42 U.S.C. § 3601(g)(1), determined that reasonable cause existed to believe that Defendants committed illegal discriminatory housing practices against the Washingtons. Therefore, on September 26, 2012, the Secretary issued a Determination of Reasonable Cause and Charge of Discrimination, pursuant to 42 U.S.C. § 3601(g)(2)(A), charging that Defendants had engaged in discriminatory practices, in violation of the Fair Housing Act.

19. On October 12, 2012, Complainants made a timely election to have the HUD charge resolved in a federal civil action, pursuant to 42 U.S.C. § 3612(a).

20. The Secretary subsequently authorized the United States Attorney General to file this action on behalf of the Complainants, pursuant to 42 U.S.C. § 3612(o).

FAIR HOUSING ACT VIOLATIONS

21. By the actions and statements set forth above, Defendants have:

a. Refused to negotiate for the rental of, or otherwise made unavailable or denied dwellings to persons because of race and/or familial status, in violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. § 3604(a);

b. Discriminated against persons in the terms, conditions or privileges of rental of a dwelling because of race and/or familial status, in violation of Section 804(b) of the Fair Housing Act, 42 U.S.C. § 3604(b);

c. Made statements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination based on race and/or familial status, or an intention to make any such preference, limitation, or discrimination, in violation of Section 804(c) of the Fair Housing Act, 42 U.S.C. § 3604(c); and

d. Represented to a person that a dwelling was not available for inspection or rental when such dwelling was so available, based on race and/or familial status, in violation of the Fair Housing Act, 42 U.S.C. § 3604(d).

22. As a result of the conduct or actions of Defendants, Complainants and their minor children have suffered damages and are aggrieved persons within the meaning of 42 U.S.C. § 3602(i).

23. Defendants' discriminatory actions and statements as set forth above were intentional, willful, and taken in disregard for the rights of the Complainants and their minor children.

PRAYER FOR RELIEF

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

A. Declares that Defendants' discriminatory practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*;

B. Enjoins the Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from:

1. Discriminating on the basis of race and/or familial status, in violation of the Fair Housing Act, pursuant to 42 U.S.C. § 3604(a), (b), (c) and (d);

2. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the Complainants and their children to the position they would have been in but for the discriminatory conduct; and

3. Failing or refusing to take such actions as may be necessary to prevent the recurrence of any such discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of Defendants' unlawful conduct;

C. Awards monetary damages to the Complainants, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

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

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Assistant Attorney General

STEVEN H. ROSENBAUM
Chief

ELIZABETH A. SINGER
Director, United States Attorneys' Fair Housing Program
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice

11/13/12

/s James L. Santelle

Date

JAMES L. SANTELLE
United States Attorney
Eastern District of Wisconsin

11/13/12

By: /s Lennie A. Lehman

Date

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