

UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 BRISBEN CHIMNEY HILLS )  
 LIMITED PARTNERSHIP; )  
 MBS GP 5, LLC; JRK )  
 RESIDENTIAL AMERICA, )  
 LLC; CASEY MCGOWAN; )  
 LAURA BALL; and MEREDITH )  
 HINKLIN, )  
 )  
 Defendants. )  
 \_\_\_\_\_)

Civil Action No. \_\_\_\_\_

**COMPLAINT**

The United States alleges as follows:

1. This is a civil action brought by the United States 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.*, on behalf of Sheryl A. Ghilardi and her minor child (“Complainants”), pursuant to 42 U.S.C. § 3612(o). The United States also brings this action against the Defendants pursuant to 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(a).

3. Venue is proper under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the claims alleged herein occurred in this judicial district.

**PARTIES AND SUBJECT PROPERTY**

4. The Reserve is a 256-unit apartment complex located at 9101 Renner Boulevard, Lenexa, Kansas, 66219, in the District of Kansas. The apartments at the Reserve and the associated public and common use areas are “dwellings” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

5. Defendant Brisben Chimney Hills Limited Partnership (“Defendant Brisben”) owns the Reserve.

6. Defendant MBS GP 5, LLC (“Defendant MBS”) is the General Partner of Defendant Brisben.

7. Defendant JRK Residential America, LLC (“Defendant JRK Residential”) contracted with Defendant Brisben to manage the Reserve. Defendant JRK Residential managed the Reserve between 2008 and 2014. Including the Reserve, Defendant JRK Residential managed at least eight multifamily properties in Kansas and Missouri between 2009 and December 30, 2014.

8. Defendant Casey McGowan was employed by Defendant JRK Residential beginning on November 1, 2008. Defendant McGowan was the Assistant Manager of the Reserve during the events alleged in the Complaint. As the Assistant Manager, Defendant McGowan was responsible for management duties including leasing, handling tenant complaints, and working with Defendant Laura Ball, Property Manager of the Reserve during the events alleged in the Complaint.

9. Defendant Laura Ball was employed by Defendant JRK Residential as the Property Manager for the Reserve from approximately July 5, 2011 until May 10, 2013. Her duties as Property Manager included issuing lease violations.

10. Defendant Meredith Hinklin was employed by Defendant JRK Residential beginning in 2008 as a Regional Property Manager. During the events alleged in the complaint, she was responsible for managing at least eight JRK Residential properties in Kansas and Missouri, including the Reserve.

11. Complainants lived at the Reserve since on or about December 1, 2002, until on or before November 30, 2012. Complainants are “aggrieved persons” as defined in 42 U.S.C. § 3602(i).

### **FACTUAL ALLEGATIONS**

12. The Reserve contains several common areas, including a swimming pool and grassy areas.

13. Since at least 2009, Defendants instituted restrictive policies directed at children and families with children. Defendants issued at least six notices or documents containing these restrictive policies between 2009 and 2012 at the Reserve. The policies required adults to supervise and accompany children at all times on the property, inside and outside the unit; threatened that a failure to do so would result in “legal action,” lease violations, reporting to the housing voucher program, eviction, and/or calling 911 and Social and Rehabilitation Services; prohibited team sports for children; required supervision of any child under the age of sixteen at the pool; restricted to two the number of children any one adult could supervise at the pool; prohibited children from riding bicycles on the property; prohibited children from playing anywhere on the property except in a small, designated area; and banned skateboards and scooters from the property.

14. On May 14, 2012, Defendants issued one such notice (“the May 14, 2012 notice”) to all tenants at the Reserve. The May 14, 2012 notice required that adults physically accompany

children under the age of sixteen at all times and threatened that a lease violation would be issued if the policy were violated. The notice stated that two such lease violations would result in eviction and reporting to the housing choice voucher program.

Complainant Sheryl Ghilardi and her minor child

15. Complainant Ghilardi received the May 14, 2012 notice, *supra* ¶ 14, requiring children to be supervised and physically accompanied at all times and threatening families who did not follow these policies.

16. On May 16, 2012, Complainant Ghilardi went to the property management office to discuss the May 14, 2012 notice. Defendants McGowan, Ball, and Hinklin were present. Complainant Ghilardi stated that she believed that the notice was discriminatory and that it would negatively impact her and her thirteen-year-old son. Defendant Hinklin told Complainant Ghilardi that the notice was “not up for discussion.” Complainant Ghilardi feared retaliation from Defendants as a result of this meeting.

17. From on or around May 16, 2012 until on or around September 2012, Complainant Ghilardi did not allow her son to be present on the Reserve property unless she physically accompanied him. She describes this period as “lock down.” Complainant Ghilardi no longer allowed her son to go outside to pick up the mail or to take out the garbage. She began driving her son to the bus stop, taking him to other neighborhoods to play, and taking him to another pool. She purchased a fitness club membership for her son to train for sports. Following the May 14, 2012 notice, Complainant Ghilardi’s son stated that he felt as though he “had to hide” when he went outside of his apartment.

18. On November 1, 2012, Complainant Ghilardi was issued a non-renewal notice on her lease, signed by Defendant McGowan. Defendants did not provide a reason for issuing this

non-renewal notice. Before Complainant Ghilardi's complaint to management about the May 14, 2012 notice, her lease had been renewed annually for nine consecutive years. The 2012 non-renewal notice was issued because of Complainant Ghilardi's complaint about Defendants' policies.

19. Complainant Ghilardi incurred moving expenses as a result of her lease non-renewal. She participates in the housing choice voucher program (a federal program that provides subsidies to assist low-income families in obtaining housing) and had difficulty finding another apartment complex to rent with her voucher. Her new apartment has fewer amenities, and she experiences problems with the plumbing and heating systems. Complainant Ghilardi's minor child felt "sad" and "fearful" about moving from the Reserve.

#### Tenants at the Reserve

20. Additional tenants at the Reserve were subject to Defendants' policies restricting children and their families.

21. Additional tenants at the Reserve were fearful of the consequences of violating Defendants' policies and did not allow their children to be outside alone.

22. Additional tenants at the Reserve were issued lease violations or lease non-renewal letters for violating Defendants' policies.

#### Tenants at properties managed by Defendant JRK Residential

23. Tenants at other rental properties managed by Defendant JRK Residential were subject to the same or similar policies restricting children and their families.

24. Tenants at other rental properties managed by Defendant JRK Residential were fearful of the consequences of violating these policies and did not allow their children to be outside alone.

25. Tenants at other rental properties managed by Defendant JRK Residential were issued lease violations or lease non-renewal letters for violating these policies.

HUD Administrative Process

26. On November 13, 2012, Complainant Ghilardi timely filed a housing discrimination complaint with HUD on behalf of herself and her minor child, pursuant to the Fair Housing Act, 42 U.S.C. §3610(a), alleging that Defendants Brisben, Ball, and McGowan discriminated against her and her minor child on the basis of familial status in violation of section 804(b) of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-19.

27. On June 6, 2013 and May 6, 2014, Complainant Ghilardi amended her complaint to allege violations of sections 804(c) and 818 of the Fair Housing Act, and to add Defendants MBS, JRK Residential, and Hinklin as Respondents.

56. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaints, attempted conciliation without success, and prepared final investigative reports. Based on the information gathered in the investigation, the Secretary determined, pursuant to 42 U.S.C. § 3610(g)(1), that reasonable cause existed to believe that illegal discriminatory housing practices had occurred, including violations of 42 U.S.C. §§ 3604(b), 3604(c), and 3617. Therefore, on September 19, 2013, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the Defendants with (1) 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); (2) coercing, intimidating, threatening, or interfering with a person in the exercise or enjoyment of rights protected by the Fair Housing Act, in violation of 42 U.S.C. § 3617; and (3) unlawful retaliation against a person for exercising or enjoying a right protected under the Fair Housing Act, in violation of § 3617.

57. On September 30, 2014, Complainant Ghilardi elected to have the claims asserted in HUD's Charge of Discrimination resolved in a civil action, pursuant to 42 U.S.C. § 3612(a).

58. On September 30, 2014, the Administrative Law Judge presiding over the administrative proceeding issued a Notice of Election to Proceed in United States District Court and terminated the administrative proceeding.

59. 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).

### **FIRST CLAIM FOR RELIEF**

60. Plaintiff re-alleges and incorporates by reference the allegations set forth in Paragraphs 1-59.

61. By their conduct described above, the Defendants have:

- a. Refused to sell or rent, or otherwise made unavailable or denied, a dwelling because of familial status, in violation of 42 U.S.C. § 3604(a);
- b. Imposed terms, conditions, or privileges of sale or rental of a dwelling because of familial status, in violation of 42 U.S.C. § 3604(b);
- c. Made and printed 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); and
- d. Coerced, intimidated, threatened, or interfered with persons exercising or enjoying their rights under the Fair Housing Act, or on account of persons exercising or enjoying rights protected under the Fair Housing Act, in violation of 42 U.S.C. § 3617.

62. Complainant Ghilardi and her minor child have suffered damages as a result of

Defendants' conduct.

63. The Defendants' conduct was intentional, willful, and taken in disregard for the rights of others.

**SECOND CLAIM FOR RELIEF**

64. Plaintiff re-alleges and incorporates by reference the allegations set forth in Paragraphs 1-63.

65. The Defendants' 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. §§ 3601-3631, in violation of 42 U.S.C. § 3614(a); or
- b. A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3631, which raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).

66. In addition to the Complainant and her minor children, there are other victims of the Defendants' discriminatory housing practices who are "aggrieved persons" as defined in 42 U.S.C. § 3602(i), and who may have suffered injuries as a result of the conduct described above.

**PRAYER FOR RELIEF**

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

1. Declares that Defendants' discriminatory policies and practices, as alleged above, violate the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*;
2. Declares that through their conduct, as alleged above, Defendants have engaged in a pattern or practice of discrimination in violation of the Fair Housing Act, or

have denied rights guaranteed under the Fair Housing Act to a group of persons, which denial raises an issue of general public importance;

3. Enjoins Defendants, their representatives, agents, employees, successors, and all others in active concert or participation with any of them from:
  - (a) Discriminating against any person on the basis of familial status in violation of the Fair Housing Act in any aspect of the rental of a dwelling;
  - (b) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the Defendants' 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, to the extent practicable, the effects of the Defendants' unlawful practices;
4. Awards such monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and 3614(d)(1)(B), as would fully compensate each identifiable victim harmed by Defendants' discriminatory practices; and
5. Assesses civil penalties against Defendants 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.

Dated: March 24, 2015.

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