

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 24-cv-01563

UNITED STATES OF AMERICA,

Plaintiff,

v.

KATHRYN BUTTERS and
BUTTERS INVESTMENTS, LLC,

Defendants.

COMPLAINT

The United States of America brings this action to enforce Title VIII of the Civil Rights Act of 1968, as amended (“the Fair Housing Act” or “FHA”), 42 U.S.C. §§ 3601–3619, on behalf of Rosalia Burgess (“Rosie”), Sean Burgess, Minor Child 1, Minor Child 2, and Minor Child 3 (collectively, “Burgess Family”), pursuant to 42 U.S.C. § 3612(o), and alleges as follows:

JURISDICTION AND VENUE

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

2. Venue is proper under 28 U.S.C. § 1391(b) because Defendant Kathryn Butters (“K.B.”) resides in Colorado and Defendant Butters Investments, LLC (“Butters Investments”) is incorporated in Colorado and owned and rented real property in Colorado, including the Subject Property, at the time the events giving rise to the Complaint took place.

PARTIES AND SUBJECT PROPERTY

3. Plaintiff is the United States of America.

4. At all relevant times, Defendant K.B., who is female, was a resident of Colorado.

5. Defendant Butters Investments is a Colorado LLC that owned and rented the Subject Property at all times relevant to this Complaint and currently owns several other parcels of real property in Colorado. On information and belief, Jerome Butters, Defendant K.B.’s father, is an owner of Defendant Butters Investments. On information and belief, Defendant Butters Investments’ real property holdings are primarily used as rental properties that are made available for rent to the general public.

6. At all relevant times, the Subject Property was one of two residential units in a trailer and had the address 125 Capitol Street, Unit A, Eagle, Colorado 81631. The Subject Property is a “dwelling” as defined by the FHA, 42 U.S.C. § 3602(b).

7. The Burgess Family were tenants residing at the Subject Property from October 1, 2019, through August 8, 2020. Rosie (an adult female), Sean (an adult male), Minor Child 1 (a male who was 11 or 12 years old at the time of the events

described in the Complaint), Minor Child 2 (a male who was 10 years old at the time), and Minor Child 3 (a male born during the Burgess Family's tenancy at the Subject Property) are "aggrieved persons" within the meaning of the FHA, 42 U.S.C. § 3602(i).

8. At all relevant times, Defendant K.B. was the property manager of the Subject Property as well as other units rented out by Defendant Butters Investments. Defendant K.B. was employed by Defendant Butters Investments. Her duties included leasing rental properties, processing applications for rent, collecting rent, handling maintenance requests, and conducting other day-to-day property management activities. Defendant K.B. was involved in the rental of dwellings, and at all relevant times was an agent of Defendant Butters Investments. Defendant K.B. resided in a unit that was adjacent to the Subject Property, with only a fence separating her yard from that of the Subject Property.

ALLEGATIONS REGARDING DEFENDANTS' SEXUAL HARASSMENT OF THE BURGESS FAMILY

9. In September 2019, Rosie and Sean learned through mutual contacts that Defendant K.B. was renting out the Subject Property. Based on statements from Rosie, Sean, and a relative, Defendant K.B. knew Rosie and Sean were "desperate" to find housing and had nowhere else to go. Defendant K.B. came to Jerome Butters and asked if Defendant K.B. could rent to the Burgess Family; Jerome Butters let Defendant K.B. make the final decision as to whether to rent to them.

10. On September 24, 2019, Rosie and Sean signed a month-to-month lease for the Subject Property. The monthly rent was \$1,650. On the lease, the landlord was listed as “Butters Investments, LLC,” and Defendant K.B. signed the lease on behalf of Defendant Butters Investments.

11. On October 1, 2019, the Burgess Family moved into the Subject Property.

12. Defendant K.B. was entrusted by Defendant Butters Investments and Jerome Butters to perform, and in fact did perform, many typical property-management activities with respect to the Burgess Family’s tenancy at the Subject Property. Defendant K.B. collected rent that was paid to Butters Investments and reminded Rosie and Sean when the rent was due or when Rosie and Sean had overdue balances. Defendant K.B. responded to contacts from Rosie and Sean when maintenance issues arose at the Subject Property. For example, Rosie contacted Defendant K.B. when internet service at the Subject Property went down and when a light switch malfunctioned. Defendant K.B. made arrangements to have these issues fixed.

13. Jerome Butters told Rosie and Sean that he was the owner of Defendant Butters Investments and the Subject Property, but Defendant K.B. handled all of the day-to-day property management activities described in the previous paragraph. When Rosie and Sean contacted Jerome Butters, he would tell them to deal with Defendant K.B. about issues relating to the rental and maintenance of the Subject Property.

14. As described in more detail below, almost immediately after the Burgess Family moved into the Subject Property, Defendant subjected Minor Child 1, Minor Child

2, Sean, and Rosie to repeated unwanted sexual statements and unwanted sexual contact.

A. Defendant K.B. made frequent unannounced visits to the Subject Property and made inappropriate sexual comments to the entire Burgess Family.

15. Defendant K.B. lived in close proximity to the Burgess Family. The door to Defendant K.B.'s residence was approximately 50 feet from the entrance to the Subject Property, and the backyards of the properties were separated only by a fence.

16. During the Burgess Family's tenancy at the Subject Property, Defendant K.B. showed up at the Subject Property unannounced and uninvited multiple times per week. When Defendant K.B. was at the Subject Property, she often made sexually explicit, unwanted comments to Minor Child 1, Minor Child 2, Sean, Rosie, and their relatives, including but not limited to the following:

- a. When Defendant K.B. visited the Subject Property, she showed unusual interest in Minor Child 1, who was 11 at the time, and Minor Child 2, who was 10 at the time, including asking their whereabouts if they were not present, and asking intrusive and personal questions, such as whether they had girlfriends;
- b. Defendant K.B. asked Minor Child 1 whether the "carpet matches the curtains," and other similar iterations of this statement, in reference to whether Minor Child 1's pubic hair was the same color as the hair on his head. These statements were made in the open; Rosie and Sean

heard Defendant K.B. make this statement or a similar iteration of it at least once;

- c. Defendant K.B. said to Minor Child 1, “If you have big feet, I bet you are big elsewhere,” referring to his genitals;
- d. Defendant K.B. talked about her own sexual experiences, including on one occasion talking in front of Sean, Rosie’s brother, and Minor Child 1 about having sex in public;
- e. Defendant K.B. told Rosie to “go rest” so that Defendant could “service” Sean, and she also told Rosie that she wanted to move Rosie into a vacant unit in Defendant K.B.’s house so that Defendant K.B. could “take care” of Rosie’s family with Sean; and
- f. Defendant K.B. would lick her lips and say, “Oooh yeah baby” and make other similar comments while looking at Sean and Rosie’s brother.

17. Defendant K.B. also appeared wearing little to no clothing outside of the Subject Property and in view of the Burgess Family and their relatives on numerous occasions. On one occasion, Rosie’s mother and brother saw Defendant K.B. in her undergarments at night in the backyard of the Subject Property, and when Defendant K.B. saw them, she ran into her portion of the backyard. Minor Child 1 also witnessed Defendant K.B. outside of the Subject Property naked on two separate occasions; one of those times, Defendant K.B. saw Minor Child 1 and waved to him.

B. Defendant K.B. made unwanted sexual contact with every member of the Burgess Family except Minor Child 3, who was born four months before the Burgess Family moved from the Subject Property.

18. As set forth below, during Defendant K.B.'s frequent unannounced and uninvited visits to the Subject Property, Defendant K.B. also made unwanted sexual contact with Minor Child 1, Minor Child 2, Sean, and Rosie.

19. With respect to Minor Child 1:

- a. On November 5, 2019, Defendant K.B. entered the Subject Property unannounced and uninvited and immediately slapped Sean on the buttocks while he was washing dishes. Minor Child 1 had just come out of the shower and was wearing only a towel. Defendant K.B. made the comment described above about whether Minor Child 1's pubic hair was the same color as the hair on his head. Defendant K.B. then pulled at the towel as if to take it off and grabbed Minor Child 1's genitals over the towel in full view of Sean and Rosie. Sean told Defendant K.B. that she should not touch his son in that manner.
- b. On another occasion in November 2019, Defendant K.B. again entered the Subject Property unannounced and uninvited. This time she went into the bathroom where Minor Child 1 was taking a shower and Minor Child 2 was waiting to take a shower. Defendant K.B. looked behind the shower curtain at Minor Child 1 and said, "The girls are going to be happy with you." She then tried to kiss Minor Child 1 and Minor Child

2, and she also grabbed Minor Child 2's genitals. Defendant K.B. made a comment to Sean about Minor Child 1 "packing," referring to his genitals, and she then left the Subject Property.

- c. Defendant K.B. grabbed Minor Child 1's genitals on several other occasions, including once saying, "I bet there's not much shrinkage with a package like yours," after grabbing Minor Child 1 on the front porch.
- d. Another incident occurred right after Minor Child 1 returned from a bike ride, and his shorts were riding up. In the guise of adjusting his shorts, Defendant K.B. grabbed Minor Child 1's genitals, and Rosie's brother, who witnessed this, heard Minor Child 1 say, "Hey, that was my peepee." Rosie's brother confronted Defendant, who responded that she was just helping Minor Child 1 with his shorts.
- e. On another occasion, Defendant K.B. was wearing a see-through top and came into the Subject Property's yard and grabbed Minor Child 1's genitals.
- f. Defendant K.B. slapped Minor Child 1 on the buttocks on many occasions.
- g. Minor Child 1 did not ask for, invite, welcome, or imply that he wanted any of the physical contact or comments described in this paragraph.

20. With respect to Minor Child 2:

- a. In addition to the second incident in November 2019, described above in Paragraph 19(b), Defendant K.B. grabbed Minor Child 2's genitals on another occasion and told Minor Child 2 that Defendant K.B. could "hardly wait until that gets big."
- b. Defendant K.B. slapped Minor Child 2 on the buttocks on multiple occasions, similar to what she did to Minor Child 1.
- c. Minor Child 2 did not ask for, invite, welcome, or imply that he wanted any of the physical contact or comments described in this paragraph.

21. With respect to Sean:

- a. The incident on November 5, 2019, where Defendant K.B. slapped Sean on the buttocks, was just one in a series of incidents in which Defendant slapped Sean on the buttocks during her uninvited visits to the Subject Property.
- b. Defendant K.B. also sat in Sean's lap, without his consent, on numerous occasions.
- c. Sean did not ask for, invite, welcome, or imply that he wanted any of the physical contact described in this paragraph.

22. With respect to Rosie:

- a. Rosie was several months pregnant with Minor Child 3 when the Burgess Family moved to the Subject Property. She had a difficult, high-risk pregnancy. Rosie had weekly prenatal appointments for a

number of months. On one occasion when Sean and Rosie were getting in their car to go to a prenatal appointment, Defendant K.B. approached the car, slapped Sean's buttocks, then came around to the passenger side of the car and grabbed Rosie's genitals. Rosie told Defendant K.B., "don't," and then Defendant K.B. attempted to put lip gloss on Rosie, which Rosie refused. As Rosie and Sean were leaving in their car, Defendant K.B. approached the passenger side of the car and kissed the window, leaving lip-gloss prints on the car window.

- b. Defendant K.B. slapped Rosie's buttocks, including one time when Defendant K.B. also commented on how Rosie looked beautiful and her buttocks looked big. Minor Child 1 witnessed Defendant K.B. slapping Rosie on the buttocks on other occasions, as well as once also witnessing Defendant K.B. touching Rosie's genitals while they were sitting on the sofa.
- c. Rosie did not ask for, invite, welcome, or imply that she wanted any of the physical contact or comments described in this paragraph.

23. Defendant K.B.'s conduct was particularly egregious because the Burgess Family was in a vulnerable position when they entered into the lease with Defendants. They were struggling financially, and Defendant K.B. knew they were desperate to find housing for their growing family. Affordable housing in small towns in the mountains of Colorado is extremely limited. Rosie and Sean felt powerless to complain about

Defendant K.B. because she was their property manager and she had the power to control their housing, including potentially evicting them. Rosie and Sean did not have anywhere else to live at the time. Furthermore, as described above, Rosie was having a difficult pregnancy. And after the onset of the COVID-19 pandemic in March 2020, it became even more difficult to move.

24. On August 8, 2020, the Burgess Family moved out of the Subject Property.

25. Defendant K.B.'s above-described conduct caused four members of the Burgess Family to suffer long-term psychological harm, fear, anxiety, and emotional distress. Each of the five members of the Burgess Family suffered economic damages and loss of a housing opportunity.

HUD ADMINISTRATIVE PROCESS

26. On November 4, 2020, Rosie and Sean timely filed a housing discrimination complaint ("HUD Complaint") with the Secretary of HUD. The HUD Complaint alleged, among other things, that Defendants Butters Investments, LLC, and Kathryn Butters discriminated on the basis of sex in violation of the Fair Housing Act, 42 U.S.C. §§ 3601–3619.

27. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the HUD Complaint, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered during 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(a)–(b) and 3617.

28. On January 25, 2024, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in discriminatory housing practices on the basis of sex in violation of Sections 804(a) and (b), and 818 of the Fair Housing Act, 42 U.S.C. §§ 3604(a)–(b) and 3617.

29. On February 1, 2024, Rosie and Sean 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).

30. Following the Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o). In a matter referred to the Attorney General through a Notice of Election, a court may grant a “permanent or temporary injunction, temporary restraining order, or other order” against the defendant, and is also authorized to award actual and punitive damages. 42 U.S.C. §§ 3612(o)(3); 3613(c)(1).

CLAIM FOR RELIEF: VIOLATION OF THE FAIR HOUSING ACT

31. The United States re-alleges and incorporates by reference the allegations set forth above.

32. By the conduct described above, Defendants:

- a. Denied housing or otherwise made housing unavailable because of sex, in violation of 42 U.S.C. § 3604(a);
- b. Discriminated 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 sex, in violation of 42 U.S.C. § 3604(b); and
- c. Coerced, intimidated, threatened, or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, rights granted or protected by 42 U.S.C. § 3604, in violation of 42 U.S.C. § 3617.

33. Defendant K.B.'s discriminatory conduct at the Subject Property occurred while she was an employee or agent of Defendant Butters Investments and was aided by the existence of that employment or agency relationship. Defendant Butters Investments is therefore vicariously liable for Defendant K.B.'s conduct.

34. The five members of the Burgess Family are "aggrieved persons," as defined in 42 U.S.C. § 3602(i), and have suffered damages as a result of Defendants' discriminatory conduct.

35. Defendants' discriminatory conduct was intentional, willful, and taken in reckless disregard of the rights of the Burgess Family.

PRAYER FOR RELIEF

WHEREFORE, the United States prays for relief as follows:

- a. Declare that Defendants Butters Investments and Kathryn Butters violated the Fair Housing Act, 42 U.S.C. §§ 3601–3619;
- b. Enjoin Defendants, including Defendant Butters Investments’ agents, employees, and successors, and all other persons in active concert or participation with Defendants, from:
 - i. Engaging in discrimination on the basis of sex in any aspect of the rental or lease of a dwelling;
 - ii. Engaging in discrimination on the basis of sex in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith;
 - iii. Coercing, intimidating, threatening, or interfering with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights granted or protected by 42 U.S.C. § 3604;
 - iv. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the Burgess Family to the position they would have been in but for the discriminatory conduct; and
 - v. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future;
- c. Permanently enjoin Defendant Kathryn Butters from engaging in any property-related activities that involve, or may involve, personal contact with tenants or prospective tenants at any residential rental property;

- d. Award monetary damages to each of the five members of the Burgess Family pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and
- e. Award any other legal and equitable relief that the Court finds to be just and proper.

Dated June 5, 2024.

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