

UNITED STATES OF AMERICA,
Plaintiff,

v.

BOSTON HOUSING AUTHORITY,
Defendant.

COMPLAINT

The United States of America alleges as follows for its Complaint in this matter:

I. INTRODUCTION

1. The United States alleges that the defendant, Boston Housing Authority, has violated the rights under the Fair Housing Act, as amended, 42 U.S.C. § 3601 et seq., of numerous tenants, and has engaged in a pattern or practice of discrimination by tolerating and failing to protect tenants from pervasive and violent racial harassment at housing developments that the defendant owns and operates. This harassment includes, but is not limited to, racially motivated acts of physical violence and the threat of physical violence, destruction of property, racist graffiti, and racist name-calling. The United States alleges that the defendant - despite its knowledge of pervasive racial harassment in its developments and, in some cases, of the identity of the harassers - failed to adequately document, investigate, or otherwise respond to or address the problem. Through its systemic failure to protect tenants from such harassment, the BHA has, because of race, color, or national origin, (a) made housing unavailable to those tenants; (b) discriminated against those tenants in the terms, conditions or privileges of rental; and (c) coerced, intimidated, threatened, or interfered with those tenants in the exercise or enjoyment of rights granted or protected by the Fair Housing Act. The United States seeks declaratory, injunctive, and monetary relief.

II. JURISDICTION AND VENUE

2. This action is brought by the United States to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 - 3619.
3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1345 and 42 U.S.C. §§ 3612(o) and 3614.
4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1395(a).

III. PARTIES

5. Jane Doe 1, Jane Doe 2, Jane Doe 4, Jane Doe 5, Jane Doe 6, Jane Doe 7, Jane Doe 8, Jane Doe 9, and Jane Doe 12 and their families (hereinafter referred to collectively as "complainants")⁽¹⁾ are black and Hispanic tenants who at all

relevant times resided in rental housing owned and operated by the defendant. Jane Doe 1 is black Haitian, Jane Doe 2 is Hispanic, Jane Doe 4 is black Trinidadian, Jane Doe 5 is black Nigerian, Jane Doe 6 is Hispanic, Jane Doe 7 is Hispanic, Jane Doe 8 is black St. Thomian, Jane Doe 9 is black African American, and Jane Doe 12 is black Haitian. Each timely filed complaints with the Department of Housing and Urban Development ("HUD") alleging that the BHA violated the Fair Housing Act; and each is an aggrieved person within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(i).

6. The defendant, Boston Housing Authority ("BHA"), is a public body politic and corporate, established under the Massachusetts General Laws. The BHA owns, manages, and operates the Old Colony housing development in South Boston and the Bunker Hill housing development in Charlestown, among others. Old Colony, Bunker Hill, and the other housing developments owned, managed or operated by the BHA are dwellings within the meaning of 42 U.S.C. § 3602(b).

IV. FACTS

A. Background: Racial Conflict at the Bunker Hill and Old Colony Housing Developments

7. The Old Colony housing development ("Old Colony"), which is owned and operated by the BHA, consists of approximately 850 public housing units. At all relevant times, Old Colony was occupied predominantly by white tenants. Jane Doe 1, Jane Doe 4, Jane Doe 5, Jane Doe 6, Jane Doe 7, Jane Doe 8, and Jane Doe 9 moved into Old Colony between 1990 and 1993.
8. The Bunker Hill housing development ("Bunker Hill"), also owned and operated by the BHA, consists of approximately 1100 public housing units. At all relevant times, Bunker Hill was occupied predominantly by white tenants. Jane Doe 2 and Jane Doe 12 moved into Bunker Hill in 1993 and 1990, respectively.
9. Prior to 1988, Old Colony and Bunker Hill were occupied almost exclusively by white residents. In 1988, the BHA entered into an agreement with HUD aimed in part at desegregating these developments. As desegregation efforts progressed, violent incidents that appeared to be racially motivated began increasing in number and frequency around 1992 at and around Old Colony and Bunker Hill. The defendant was aware of the racial violence occurring at these developments.
10. Most incidents of the racially motivated violence described above involved violence aimed at tenants of color by white individuals. The media reported many of these incidents.
11. Throughout the period between 1992 and 1996, tenants were subjected to widespread and conspicuous racially and ethnically invidious graffiti at the Old Colony and Bunker Hill developments. The defendant was aware of such graffiti.
12. During the period relevant to this case, numerous tenants, including the complainants, alleged racial harassment and filed housing discrimination complaints against the BHA. The BHA was aware of these complaints of racial harassment at Old Colony and Bunker Hill.
13. In May 1994, the Massachusetts Attorney General, based on testimony by minority tenants of the Old Colony development, obtained injunctions against 16

South Boston youths to restrain them from harassing minorities. Later in 1994, Asian and white youths clashed at Bunker Hill; South Boston community leaders held a meeting to criticize the BHA's desegregation efforts as "forced housing"; and hundreds of Old Colony residents upset by the integration of the project, many of whom were brandishing hockey sticks and baseball bats, staged a protest. Reports of racially-motivated violence appeared in the media and were reported directly to the defendant throughout 1995 and into 1996.

B. The Experience of the Complainants

14. Beginning early in their tenancies at Old Colony and Bunker Hill, and continuing throughout their tenancies, the complainants were subjected to racial slurs by white tenants and others in and around the developments.
15. The racial epithets and expressions of racist antagonism were also communicated through graffiti on the premises of Old Colony and Bunker Hill. Each of the complainants witnessed such graffiti, which included such messages as "I hate niggers," "Fuck you niggers," "Puerto Ricans stink," "Go back to Roxbury," "a swastika, and the letters "KKK" next to a drawing of a hooded figure. Such graffiti appeared near the complainants' apartments, on their hallways, and on their doors.
16. Accompanying such racist graffiti and verbal harassment were numerous acts of physical violence. During the course of their tenancies, the families of most or all of the complainants were subjected to racially-motivated violence at the hands of white tenants and visitors to Old Colony and Bunker Hill. For example, the children of Jane Doe 1 were beaten by white youth; BB pellets were fired at and through the windows of Jane Doe 1, Jane Doe 6, and Jane Doe 8; rocks or urine were thrown through the windows of Jane Doe 6, Jane Doe 7, Jane Doe 8, and Jane Doe 9; and eggs were thrown at Jane Doe 7. Jane Doe 1, Jane Doe 9, and Jane Doe 12 moved out of their apartments or made efforts to stay away from their apartments as much as possible, to avoid such violence. Jane Doe 2, Jane Doe 4, and Jane Doe 6 stayed indoors and kept their children from going outside to play in order to avoid violence to themselves and their families.
17. In addition to acts of direct physical violence, the complainants and other members of their households were subjected to numerous other acts of physical intimidation on and near BHA property. For example, Jane Doe 6 received threatening notes and telephone calls, including one in which the caller identified himself as a member of the KKK and told the complainant to leave; Jane Doe 2 witnessed a cross burning and a racial melee on BHA property; a member of Jane Doe 2's household was chased by men with weapons; Jane Doe 2 and Jane Doe 12 had fires set in their doorways and near their apartments; Jane Doe 12 had urine and feces thrown near her apartment. In one incident in 1994, white youths spray-painted Jane Doe 1's peephole - making it impossible for her to see out of her apartment; they then pounded on her apartment door, screamed threats and ran away. When she tried to open the door, she discovered that they had tied a rope from her door knob to something else, making it impossible to open the door. Jane

- Doe 1 and her children were unable to get out of the apartment until the police came and freed them by cutting the rope.
18. In addition to acts of personal violence, the complainants were subjected to racially motivated crimes against their property. For example, Jane Doe 4, Jane Doe 7, and Jane Doe 9's apartments were burglarized; Jane Doe 1, Jane Doe 8, and Jane Doe 9's windows were broken; Jane Doe 5's car tires were slashed and car windows broken. In one instance, a car belonging to Jane Doe 4 was stolen and crashed into a building.
 19. The defendant was aware of numerous acts of racially motivated violence and harassment directed at the complainants and failed to take adequate action to prevent or ameliorate racial harassment and violence at Old Colony and Bunker Hill.
 20. Despite its awareness of racial tension and violence at Old Colony and Bunker Hill, the BHA failed to take effective steps to alert tenants that racial harassment would not be tolerated on BHA property or to inform tenants of the procedures for reporting racial harassment. Nor did the defendant properly train BHA employees to recognize or address civil rights violations.
 21. The defendant's employees, including police officers employed by the BHA, failed to conduct prompt, thorough investigations of violations of the civil rights of the complainants and other tenants of color in Old Colony and Bunker Hill.
 22. Despite broad authority under the lease between the BHA and its tenants to terminate the tenancy of any tenant who has engaged in conduct that threatened the health, safety, or peaceful enjoyment of another tenant - and despite its knowledge of the identity of certain tenants engaged in harassment of tenants of color - the BHA, during the relevant period, brought only one eviction action based on racial harassment or assault. As a general practice, the BHA failed to evict civil rights violators. For example, in 1994, the Massachusetts Attorney General obtained restraining orders against 14 individuals who had engaged in a pattern of race-motivated hate crimes against Old Colony tenants. Many of the defendants were Old Colony tenants, yet the BHA neither evicted nor took any disciplinary action against any of them.
 23. In addition to its power to seek to evict wrongdoing tenants, the BHA had the authority to issue no-trespass orders to non-tenant wrongdoers. A no-trespass order is a written warning to a non-tenant that he or she is barred from BHA property, and that if he or she comes onto BHA property, a criminal complaint will be issued. The BHA seldom issued such orders in response to civil rights violations. In those few cases where the BHA did issue no trespass orders in response to civil rights violations, it failed to enforce them.
 24. The BHA failed to remove racist graffiti promptly. As a result, such graffiti often remained visible as a constant source of harassment for many months. In several instances, complainants attempted to remove graffiti themselves. A BHA employee informed one complainant that the BHA was no longer removing graffiti.
 25. To escape the racial violence and hostility that permeated Old Colony and Bunker Hill, nearly every one of the complainants sought to be transferred to a different development under the BHA's transfer policy. Their requests for transfer informed

the BHA that the bases for their requests were the racial violence and harassment to which they had been subjected. Several complainants submitted repeated transfer requests. In some cases, the BHA took no steps whatsoever to investigate the bases of these transfer requests. In others, the BHA failed to investigate with reasonable thoroughness. In every case, the BHA failed to transfer the complainants in a reasonable period of time. In several cases, the BHA waited several months to even begin to process transfer requests based on egregious civil rights violations.

26. An example of the BHA's failure to investigate or promptly process transfer requests is its handling of one of several such requests by Jane Doe 1. Having previously requested a transfer after someone fired a BB gun into the bedroom of her seven-year old son and having endured several months of harassment by white youths who congregated on Old Colony property, called her racially derogatory names, and picked fights with her children, Jane Doe 1 again asked the BHA for a transfer on September 14, 1990. As the reason for her request, Jane Doe 1 stated that "in this building they don't like me to stay over here, my kids are afraid to play out, some times they call them negro and monkey, they broke my windows, house on third floor, when I said hello to someone they don't answer." Although Jane Doe 1 submitted her request to the Old Colony management office on September 14, the BHA did not forward the request to its Occupancy Department, which is responsible for processing all transfer requests, until December 31, 1990, 108 days after it was submitted. During those 108 days, the BHA took no action whatsoever on the request. The Occupancy Department eventually referred the transfer request to the Civil Rights Department.

Upon information and belief, the BHA never contacted Jane Doe 1 with regard to the request or conducted any inquiry regarding her September 1990 transfer request. The BHA denied the request on January 18, 1991, stating that "other residents look[ing] at [Jane Doe 1] and her children in a 'funny way' . . . does not constitute civil rights violations or substantiate the need for an emergency transfer." The memorandum supporting the denial made no reference to Jane Doe 1's allegations that her children were subjected to racial name calling and were afraid to play outdoors or that her windows had been broken.

COUNT I - SECTION 3612(o)(1)

27. The United States repeats and incorporates by reference the allegations set forth in paragraphs 1-27 above.
28. In 1996, each of the Complainants filed timely complaints of housing discrimination with HUD against the Boston Housing Authority ("BHA") pursuant to 42 U.S.C. § 3610(a).
29. The complainants, as former residents of Old Colony and Bunker Hill, alleged that the BHA failed to adequately address and prevent severe and pervasive racially and ethnically motivated harassment directed at them by white tenants and others in violation of the Fair Housing Act.

30. Pursuant to the requirements of 42 U.S.C. §§ 3610(a) and (b), HUD conducted an investigation of the complaints, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered in that investigation, HUD, pursuant to 42 U.S.C. § 3610(g)(1), determined that there is reasonable cause to believe that the BHA violated the Fair Housing Act. On February 16, 1999, HUD issued a Determination of Reasonable Cause and Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the BHA with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a) and (b). A copy of HUD's Determination of Reasonable Cause and Charge of Discrimination is attached hereto.
31. On or about March 8, 1999, the complainants and the BHA elected to have the claims asserted in the charge resolved in a federal civil action pursuant to Section 812(a) of the Fair Housing Act, 42 U.S.C. § 3612(a), and the Secretary authorized the Attorney General to commence a civil action on behalf of the complainants, pursuant to Section 812(o) of the Fair Housing Act, 42 U.S.C. § 3612(o).
32. As a result of its investigation, HUD concluded that white BHA tenants and white visitors to BHA property subjected the complainants and their families to racially and ethnically motivated violence and severe racial and ethnic harassment during their tenancies at Old Colony and Bunker Hill. In addition to physical violence, the complainants were subjected frequently to racial slurs, racist graffiti, threats of physical violence, and crimes against their property, all because of race, color, and national origin. The result of this harassment and violence to which the complainants and their families were subjected was to create a hostile housing environment because of race, color, and national origin, thereby depriving these tenants of the quiet enjoyment of their homes. The BHA knew or should have known of this harassment and violence, but failed to take adequate action to resolve the complaints of harassment and violence, to diminish such harassment and violence, or to protect the complainants and other BHA tenants from such harassment and violence.
33. By its actions and failure to act, the BHA has made unavailable or denied dwellings to the complainants because of race, color, or national origin, in violation of 42 U.S.C. § 3604(a).
34. By its actions and failure to act, the BHA has discriminated against the complainants in the terms, conditions or privileges of rental of dwellings because of race, color, or national origin, in violation of 42 U.S.C. § 3604(b).
 - a. the BHA's discriminatory actions and failure to act were intentional, willful and taken in disregard for the rights of the complainants;
 - b. Alternatively, the BHA's discriminatory actions and failure to act were negligent with respect to complainants because the BHA knew or should have known about the harassment and failed to take adequate measures to stop, prevent or correct the harassment.
35. The complainants are aggrieved persons as defined in Section 802(i) of the Fair Housing Act, 42 U.S.C. § 3602(i), who suffered actual injury and damages as a result of the BHA's conduct as described herein.

COUNT II - SECTION 3614(a)

36. The United States repeats and incorporates by reference the allegations set forth in paragraphs 1-37 above.

37. The conduct of the BHA 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. § 3614(a); and

b. A denial to a group of persons of rights granted by the Fair Housing Act, which denial raises an issue of general public importance, 42 U.S.C. § 3614(a).

38. Specifically, by failing to take adequate action to resolve complaints of racial harassment and violence, to diminish such harassment and violence, or to protect the complainants and other BHA tenants from racially and ethnically motivated harassment and violence, the BHA:

. made unavailable or denied dwellings to the complainants and other persons because of race, color, or national origin, in violation of 42 U.S.C. § 3604(a);

a. discriminated against the complainants and other persons in the terms, conditions or privileges of rental of dwellings because of race, color, or national origin, in violation of 42 U.S.C. § 3604(b); and

b. coerced, intimidated, threatened, or interfered with persons, including the complainants, in the exercise or enjoyment of rights granted or protected by 42 U.S.C. §§ 3603, 3604, 3605, or 3606, in violation of 42 U.S.C. § 3617.

39.

. The discriminatory actions of the BHA were intentional, willful and taken in disregard for the rights of the complainants and other persons who were subjected to the BHA's discriminatory housing practices;

a. Alternatively, the BHA's discriminatory actions and failure to act were negligent with respect to complainants and other persons who were subjected to the BHA's discriminatory housing practices because the BHA knew or should have known about the harassment and violence and failed to take adequate measures to stop, prevent or correct the harassment and violence.

40. The complainants and other persons who were subjected to the BHA's discriminatory housing practices are aggrieved persons as defined in Section 802(i) of the Fair Housing Act, 42 U.S.C. § 3602(i), who suffered actual injury and damages as a result of the BHA's conduct as described herein.

WHEREFORE, the United States prays for an Order from this Court that:

41. Declares that the discriminatory housing practices of the BHA, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 - 3619;

42. Enjoins the BHA, its agents, employees and successors, and all other persons in active concert or participation with the BHA, from:

. refusing to negotiate for the rental of, or otherwise making unavailable or denying, a dwelling to any person because of race, color, or national origin;

a. discriminating against any person in the terms, conditions or privileges of rental of a dwelling because of race, color, or national origin; and

b. coercing, intimidating, threatening, or interfering with persons, including the complainants, in the exercise or enjoyment of any right granted or protected by 42 U.S.C. §§ 3603, 3604, 3605, or 3606.

43. Requires such injunctive relief against the BHA as is necessary to effectuate the purposes of the Fair Housing Act, 42 U.S.C. §§ 3601 et seq.;
44. Awards such damages as will fully compensate the complainants and other aggrieved persons for injuries caused by the discriminatory conduct of the BHA pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and 3614(d)(1)(B);
45. Awards punitive damages to the complainants and other aggrieved persons pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and 3614(d)(1)(B); and
46. Awards civil penalties to the United States in the amount authorized by 42 U.S.C. § 3614(d)(1)(C) in order to vindicate the public interest.

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

UNITED STATES OF AMERICA

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