

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

UNITED STATES OF AMERICA,

Civil No.:

Plaintiff,

v.

COMPLAINT

SAN FRANCISCO HOUSING
AUTHORITY;

Defendant.

The United States of America alleges:

1. Jurisdiction. The United States brings this action 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 ("Fair Housing Act"). This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345; 42 U.S.C. § 3612(o); and 42 U.S.C. § 3614(a).
2. Defendant San Francisco Housing Authority (SFHA) has violated the Fair Housing Act by failing to take reasonable steps to protect its residents from harassment on the basis of race, color, religion, and national origin.
3. Defendant SFHA is a corporate and politic public body, established under the laws of the State of California. It operates within the City and County of San Francisco with the purpose of providing decent, safe and sanitary dwellings to persons of low income.
4. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b). Defendant SFHA is located in the Northern District of California; the events or omissions giving rise to this claim occurred in the Northern District of California; and the property that is the subject of the action is situated in the Northern District of California.
5. Intradistrict Assignment: Assignment to the San Francisco/Oakland Division is proper pursuant to Civil L.R. 3-2(c) and (d). The events or omissions which give rise to this claim occurred in San Francisco County, and the property that is the subject of this action is situated in San Francisco County.
6. At all times relevant to this action, Defendant SFHA owned, operated, and managed various residential properties used as housing for persons of low income (the "subject properties") in the City and County of San Francisco.
7. The subject properties are dwellings within the meaning of 42 U.S.C. § 3602(b).

8. Roosevelt and Stella Scott at all relevant times have resided in a dwelling unit owned, operated, and managed by the SFHA. Their unit is located in an SFHA development known as "Potrero Annex," in the City and County of San Francisco, California.

9. Roosevelt and Stella Scott are a mixed race couple. Roosevelt Scott is black and Stella Scott is white.

10. Approximately 76% of the residents of Potrero Annex are black.

11. Since approximately 1994, Stella Scott has been the target of racial harassment by neighboring residents of Potrero Annex because she is white. The harassment has included verbal abuse, racial slurs, threats, assaults or attempted assaults of Mrs. Scott or her family, and vandalism of the Scotts' dwelling unit, car, and other property.

12. The harassment has, among other things, caused the Scotts to fear for Mrs. Scott's and their grandchildren's safety; to avoid going outside their unit as much as possible; to forego the use of outdoor space and common space in the Potrero Annex which they had formerly enjoyed; and to ensure that, whenever possible, Mrs. Scott is in the company of Mr. Scott when she is in or around their unit.

13. The SFHA knew or should have known of this harassment because the Scotts have complained repeatedly to the SFHA about it, both orally and in writing. In their complaints, the Scotts have identified the persons who have harassed them.

14. One of the persons who has harassed Mrs. Scott on the basis of race is Andrea Jones, a black neighbor of the Scotts who lives in the Potrero Annex. Around April 2000, Andrea Jones admitted to SFHA staff that she had used vulgar language and may also have used racial slurs when speaking to Mrs. Scott.

15. Although the harassment of the Scotts had been ongoing for six years, the SFHA took no action to address the harassment, other than to speak to Ms. Jones and the Scotts, until after the Scotts filed a housing discrimination complaint against the SFHA with HUD and wrote a letter to their Senator about the SFHA's inaction.

16. More than a year after the Scotts filed a complaint with HUD, the SFHA moved Ms. Jones to a new unit located about 70 yards from the Scotts' unit. The SFHA's measures were not effective in ending the harassment by Ms. Jones, which is still ongoing.

17. The SFHA is aware that its measures were not effective, and it knew or should have known at the time that moving Jones to a unit 70 yards away from the Scotts would not be effective in ending the harassment.

18. Other residents of the subject properties, including residents who are white, black, Iraqi, Asian, Hispanic, and residents of the Muslim faith, are and have been the victims of harassment on SFHA property, by other SFHA residents, by SFHA employees, and/or by SFHA contractors, on the basis of race, color, religion, or national origin. The harassment

has included but not been limited to verbal abuse, racial epithets, threats, assaults, interference with the enjoyment of residents' units and the public and common use areas of the subject properties in which they live, vandalism, and robbery.

19. The harassment of the residents of Iraqi descent and residents of the Muslim faith has increased following the terrorist attacks of September 11, 2001.

20. The harassment is severe and pervasive; it denies and makes housing unavailable; it discriminates in the terms, conditions, and privileges of the rental of dwellings and in the provision of services and facilities in connection therewith; it is taken in retaliation for the exercise of rights granted or protected by the Fair Housing Act; and it coerces, intimidates, threatens, and interferes with the exercise and enjoyment rights granted or protected by the Fair Housing Act.

21. The SFHA knew, should have known of, and/or was deliberately indifferent to the harassment.

22. The SFHA failed to take reasonable steps to protect residents from the harassment.

COUNT I - SECTION 3612(o)(1)

23. On or about March 8, 1999, Roosevelt and Stella Scott filed a timely complaint of housing discrimination with the United States Department of Housing and Urban Development ("HUD") against the SFHA pursuant to 42 U.S.C. § 3610(a). The complaint alleged that the SFHA failed to adequately investigate or respond to the Scotts' complaints of racial harassment directed at them by neighboring SFHA residents, in violation of the Fair Housing Act.

24. Pursuant to the requirements of 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD conducted an investigation of the complaint filed against the SFHA, 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 exists to believe that a discriminatory housing practice had occurred based on race. Accordingly, on or about September 27 and 28, 2001, HUD issued a Determination of Reasonable Cause and Charge of Discrimination under 42 U.S.C. § 3610(g)(2)(A), charging the SFHA with discriminating against the Scotts on the basis of race in violation of 42 U.S.C. §§ 3604(b) and 3617.

25. On or about October 11, 2001, Roosevelt and Stella Scott made a timely election to have the Charge resolved in a civil action filed in federal court, pursuant to 42 U.S.C. § 3612(a), and the Secretary of HUD authorized the United States Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).

26. The parties subsequently agreed that the statutory deadline to file this action under 42 U.S.C. 3612(o) was extended until July 11, 2002. Accordingly, this action is timely.

27. By its actions and failure to act, the SFHA has:

a. discriminated against the Scotts in the terms, conditions and/or privileges of rental of a dwelling, and/or in the provision of services or facilities in connection therewith, because of race, in violation of 42 U.S.C. §3604(b); and

b. interfered with the Scotts in the exercise or enjoyment of, and/or on account of having exercised or enjoyed, and/or on account of having aided and/or encouraged any other person in the exercise and/or enjoyment of, any right granted or protected by 42 U.S.C. §§ 3604, in violation of 42 U.S.C. § 3617.

28. The SFHA's discriminatory actions and failure to act were intentional, willful and/or taken in disregard for, and/or with deliberate indifference to, the rights of the Scotts.

29. The Scotts 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 SFHA's conduct.

COUNT II - SECTION 3614(a)

30. Other residents of dwellings operated by the SFHA, including residents who are white, black, Iraqi, Asian, Hispanic, and residents of the Muslim faith, have been victims of harassment by SFHA tenants, employees and/or contractors based on their race, color, religion, and/or national origin.

31. Although the SFHA knew or should have known this harassment was occurring, the SFHA failed to take effective action to stop it.

32. The SFHA's conduct constitutes:

a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, pursuant to 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, pursuant to 42 U.S.C. § 3614(a).

33. Specifically, by failing to take adequate action to resolve complaints of racial harassment and violence, to diminish such harassment and violence, and/or to protect the Scotts and other SFHA residents from harassment on the basis of race, color, religion, and/or national origin, the SFHA:

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

b. discriminated against persons in the terms, conditions and/or privileges of rental of a dwelling, and/or in the provision of services or facilities in connection therewith, because of race, color, religion, and/or national origin in violation of 42 U.S.C. § 3604(b); and

c. interfered with persons in the exercise and/or enjoyment of, and/or on account of having exercised or enjoyed, and/or on account of having aided and/or encouraged any other person in the exercise and/or enjoyment of, any rights granted or protected by 42 U.S.C. §§ 3604, in violation of 42 U.S.C. § 3617.

34. The SFHA's discriminatory actions and failures to act were intentional, willful and taken in disregard for, and/or with deliberate indifference to, the rights of persons who were subjected to the SFHA's discriminatory housing practices.

35. The persons who were subjected to the SFHA's discriminatory housing practices suffered actual injury and damages as a result of the SFHA's conduct.

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

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

(2) Enjoins the SFHA, its agents, employees and successors, and all other persons in active concert or participation with the SFHA, from:

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

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

c. 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.

(3) Requires such injunctive relief against the SFHA as is necessary to effectuate the purposes of the Fair Housing Act, 42 U.S.C. §§ 3601 et seq.;

(4) Awards such damages as will fully compensate the complainants and other persons for injuries caused by the discriminatory conduct of the SFHA pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and 3614(d)(1)(B);

(5) Awards punitive damages to the complainants and other persons harmed by the SFHA's discriminatory actions pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and 3614(d)(1)(B); and

(6) Awards civil penalties to the United States in an 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.

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