

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. _____
)	
MA PARTNERS 2, BROCKBK JV LLC,)	COMPLAINT AND
DALLAS REDEVELOPMENT EQUITIES)	DEMAND FOR JURY TRIAL
LLC, ALDEN SHORT, INC., and SAM)	
MATALONE,)	
)	
Defendants.)	
_____)	

COMPLAINT

Plaintiff, the United States of America (the “United States”), alleges as follows:

I. INTRODUCTION

1. The United States brings this action to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, *et seq.* (the “Fair Housing Act”). This action is brought under 42 U.S.C. § 3612(o) on behalf of Andre Smith and Kandre Covington-Smith (“Complainants”), against MA Partners 2, Brockbk JV LLC, Dallas Redevelopment Equities LLC, Alden Short, Inc., and Sam Matalone for discriminating against Complainants because of their disability.

II. JURISDICTION AND VENUE

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

3. Venue is proper in this District under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the United States' claims occurred in this judicial district, and because Defendants and the subject property are located in this judicial district.

III. THE PARTIES AND THE SUBJECT PROPERTY

4. Plaintiff is the United States of America.
5. Defendant MA Partners 2 is a general partnership established under the laws of the State of Texas. Its principal office address is 1521 North Glenville Drive, Richardson, Texas 75081.
6. MA Partners 2 consists of two general partners, Defendant Brockbk JV LLC and Defendant Dallas Redevelopment Equities LLC.
7. Brockbk JV LLC is a limited liability company established under the laws of the State of Texas. Its principal office address is 1521 North Glenville Drive, Richardson, Texas 75081.
8. Dallas Redevelopment Equities LLC is a limited liability company established under the laws of the State of Texas. Its principal office address is 1215 Executive Drive West, Suite 101, Richardson, Texas 75081.
9. At all times relevant to this action, MA Partners 2 owned a single-family home located at 1733 Leicester Street, Garland, Texas 75044 (the "Subject Property").
10. The Subject Property is a "dwelling" within the meaning of 42 U.S.C. § 3602(b).
11. Defendant Alden Short, Inc. ("Alden Short") is a domestic corporation based in the State of Texas. Its principal office address is 1521 North Glenville Drive, Richardson, Texas 75081. At all times relevant to this action, Alden Short was in the business of managing

single-family and multi-family rental properties throughout the Dallas/Fort Worth area, including Garland, Texas.

12. By a management agreement dated April 25, 2012, MA Partners 2 engaged Alden Short to manage the rental of the Subject Property.

13. At all times relevant to this action, Alden Short managed the Subject Property. From at least 2014 to 2021, Alden Short employed Defendant Sam Matalone to oversee the management of their rental properties, including the Subject Property.

14. Complainant Kandre Covington-Smith is a person with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h).¹

15. At all times relevant to this action, Ms. Covington-Smith has had one or more physical or mental impairments that include Post Traumatic Stress Disorder (“PTSD”), high blood pressure, and/or impairments relating to her knees. At all times relevant to this action, her physical or mental impairments have substantially limited one or more of her major life activities, including learning, working, and walking. And at all times relevant to this action, Ms. Covington-Smith has had a record of having such impairments.

16. Complainant Andre Smith is a person with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h).

17. Since at least 2013, Mr. Smith has had one or more physical or mental impairments that include diabetes, renal failure, and high blood pressure. Since at least 2013, his physical or mental impairments have substantially limited one or more of his major life activities,

¹ Throughout this Complaint, the United States uses the term “disability” instead of “handicap.” For purposes of the Fair Housing Act, the terms have the same meaning. *See Helen L. v. DiDario*, 46 F.3d 325, 330 n.8 (3d Cir. 1995) (“The change in nomenclature from ‘handicap’ to ‘disability’ reflects Congress’ awareness that individuals with disabilities find the term ‘handicapped’ objectionable.”).

including working and walking. And since at least 2013, Mr. Smith has had a record of having such impairments.

IV. ALLEGATIONS RELATING TO DEFENDANTS' DISCRIMINATORY HOUSING PRACTICES

18. Ms. Covington-Smith has received monthly Supplemental Security Income (“SSI”) payments from the United States Social Security Administration (“SSA”) since 2009. At all times relevant to this action, Ms. Covington-Smith has received these payments on or about the third of each month and has relied on these payments to make monthly rent payments to Defendants.
19. As explained on the SSA website, at <https://www.ssa.gov/ssi>, SSI is a Federal income supplement that provides cash assistance to persons with disabilities who otherwise have little or no income so they can meet their “basic needs for food, clothing, and shelter.”
20. Mr. Smith has received Social Security Disability Income (“SSDI”) payments from the SSA since 2015. Since he began receiving SSDI, Mr. Smith has received these payments on or about the third of each month and has relied on these payments to make monthly rent payments to Defendants.
21. As explained on the SSA website, at <https://www.ssa.gov/benefits/disability>, SSDI also provides supplemental income to persons with disabilities with limited income but, unlike SSI, it also requires that the person be “insured,” meaning that they “worked long enough – and recently enough – and paid Social Security Taxes on [their] earnings.”
22. On or about June 6, 2012, Complainants submitted an application to Defendants to rent the Subject Property.

23. At the time of application, Ms. Covington-Smith received SSI payments for herself and her minor child, as well as child support. Mr. Smith was unemployed and had no income.
24. On June 7, 2012, Ms. Covington-Smith signed a one-year lease for the Subject Property (the "Lease"). The occupants listed on the Lease included both Complainants as well as Ms. Covington-Smith's two minor children. The Lease expired on June 7, 2013 and automatically renewed on a month-to-month basis, allowing for termination with a thirty-day written notice.
25. The terms of the Lease required Complainants to make rental payments of \$1,095 each month "on or before the FIRST day of each month (the due date) without a grace period." If rent was not paid in full by the second of the month, the Lease required Complainants to "pay an initial late charge of \$50.00 plus a late charge of \$10 per day thereafter until paid in full." The Lease specified that rent payments must be either paid in person at Alden Short's office in Dallas, or sent by mail to that address.
26. In June 2012, Ms. Covington-Smith requested a reasonable accommodation from one of Defendants' former leasing agents, Rose Tabares, to allow Complainants to pay rent by the fifth of a month without a late fee due to Ms. Covington-Smith's reliance on SSI payments, which did not arrive until approximately the third of the month. Ms. Covington-Smith also requested to pay rent at a closer, alternative location given the difficulties of traveling to Dallas.
27. In June 2012, Defendants granted these requests and Ms. Tabares told Ms. Covington-Smith that Complainants' request had been granted.
28. From approximately June 2012 until the summer of 2019, Complainants paid their monthly rent to Defendants on approximately the fifth of every month. Consistent with

the reasonable accommodation granted to them in June 2012, Defendants accepted Complainants' rent when it was paid between the second of the month and by or around the fifth of the month, without charging the late fees specified in the Lease. Records that Defendants provided to the United States Department of Housing and Urban Development ("HUD") show that between 2015 and 2019, Complainants paid at least forty-five rent payments to Defendants after the second of the month without being charged any late fee. At least forty of those rent payments were paid on or after the fifth of the month.

29. In or around June 2019, Defendants instructed Complainants to begin making their rental payments through Defendant Alden Short's online tenant portal. Defendants did not inform Complainants that this change would affect their reasonable accommodation allowing them to pay their rent by the fifth of the month without incurring the late fees specified in the Lease.
30. On the morning of July 5, 2019, Ms. Covington-Smith attempted to pay rent through the online tenant portal. She noticed a \$1,095 rent balance due as well as a \$70 late payment fee due. Ms. Covington-Smith attempted to submit a payment just for the \$1,095 rent, consistent with the reasonable accommodation that had been in place since 2012 that allowed her to pay rent by the fifth of the month with incurring any late fee. However, the portal would not accept her payment unless she also included payment of the late fee.
31. At 11:51 AM on July 5, 2019, Ms. Covington-Smith sent a message to Defendants through the online tenant portal, stating:

I, Kandre Covington was attempting to submit our monthly rental payment of 1,095.00 and realized that a late fee of \$70 was applied to my account as of July 5th. I have paid on the 5th of every month for the past 7 years due to the fact that I receive supplemental income. This was known up front and has never

been an issue. This system will not allow me to submit my payment of \$1095.00 online. So, that I will not be late I will be dropping a money order off at the corporate office today (July 5th, 2019). Also, I have called and left a message at the office.

32. Mr. Matalone responded at 12:01 PM, stating, “I pulled your lease and it does state late fees start on the 3rd. The late fees will stand please make arrangements to pay the balance. [F]inally, rent must be paid at our 8230 Moberly, Dallas[,] TX location.”
33. Ms. Covington-Smith replied at 12:05 PM, stating, “We were told that we had to the 5th of every month to make a payment due to I get disability. I have always paid on the 5th. If we have to take this to court we can.”
34. Ms. Covington-Smith sent an additional message at 12:07 PM, stating, “Monday, I will be contacting Fair Housing. I know what our lease state[s].” At 12:13 PM, she added, “The arrangement on the 5th of every month stands as approved in prior arrangements.”
35. Also on July 5, 2019, around the same time that Ms. Covington-Smith initiated the online tenant portal discussion described above, Mr. Smith went to Alden Short’s Dallas office to drop off the July rent in person and discuss the late fee. He spoke with an Alden Short employee, Mae Simmons; explained that they had always been allowed to pay on the fifth of the month because that is when he and his wife received their disability checks; and requested that the late fee be removed. Ms. Simmons accepted the check for \$1,095 but told Mr. Smith that Complainants would still have to pay the late fee. Mr. Smith then left the office.
36. Mr. Matalone overheard part of the discussion referenced above and heard Mr. Smith tell Ms. Simmons that he needed to pay rent on the fifth of the month without a late payment fee because that was when he received his check, or words to that effect. Mr. Matalone did not participate in this discussion.

37. At 12:04 PM on July 5, 2019, around the time Mr. Smith left, Mr. Matalone emailed Molly Kirby, another Alden Short employee, and directed her to issue a non-renewal of lease notice to Complainants. Mr. Matalone's email read: "This tenant is giving us problems again and being nasty. Let[']s get them a nonrenewal letter where the[y] move out 8/31. They have threaten[ed] us before and are coping an attitude [sic]."
38. At 3:14 PM on July 5, 2019, Jacquelyn Cardona, an Alden Short employee, sent a tenant portal message to Ms. Covington-Smith, responding to her 12:05 p.m. and 12:07 p.m. messages from earlier that day. Ms. Cardona's message stated: "On the first page of your lease agreement it states that after the 2nd, a late fee of 50 will be applied as well as each day its late a 10 fee."
39. On July 8, 2019, Defendants issued Ms. Covington-Smith a document titled "Advance Notice of Lease Termination at End of Lease Term or Renewal Period," which notified Ms. Covington-Smith and all other occupants of the Subject Property that their tenancy would be terminated on August 31, 2019.
40. On or about July 10, 2019, Ms. Covington-Smith contacted Alden Short and attempted to speak with Mr. Matalone about the lease termination.
41. On July 10, 2019, Alden Short employee Christian Croson sent Ms. Covington-Smith the following message via the tenant portal: "I told my manager that you wanted to meet with him. But at this time he is not able to meet with you and just wanted me to let you know that the decision that has been made regarding the property is final."
42. On or about July 10, 2019, Complainants filed a housing discrimination complaint with HUD. The complaint stated in relevant part:

Complainants state that they have resided at subject property for the past seven (7) years. Complainants state that they had requested and were approved by

previous leasing manager, Rose Garcia², to pay their rent on the fifth (5) of the month because they receive their disability check during that time.

Complainants state that they have paid their rent for the past seven (7) years on the fifth (5). However, on July 5, 2019, after complainant tried to make an online payment, the portal would not accept their rent unless they paid a late fee of \$70 in addition to the rent payment.

Complainants state that they went to the office to make the rent payment as the online customer service agent instructed them. Complainant Smith states that when he spoke to leasing agent, Mae Simmons he informed her of their longstanding agreement with the previous leasing manager (Rose Garcia) to be able to pay on the fifth due to their disability. However, Respondent denied Complainants the ability to keep their standing payment method and they were assessed a late fee of \$70 and an additional convenience fee of \$15 for making a payment at the office instead of online. Complainants believe that their reasonable accommodation request was denied and they have suffered additional injuries by being assessed additional fees.

Complainants are ready and able to continue their tenancy with Alden Short, Inc. Complainants believe that in a similar situation those who are not disabled are treated more favorably.

43. Pursuant to 42 U.S.C. § 3610(f)(1), the complaint was referred to the City of Garland, Texas Fair Housing Services (“the City”).

44. On or about July 15, 2019, the City served Defendants with a copy of the complaint.

45. On or about August 5, 2019, Complainants sent another request to Defendants asking that Defendants allow them to continue making rental payments on the fifth of each month.

The letter stated in relevant part:

Andre and Kandre Covington-Smith are requesting and submitting a written request for a reasonable accommodation as a result of our disabilities. Please understand that we once had a verbal agreement with the previous Management Team that allowed us to submit the rent payment no later than the 5th day of each month without late charges. We apologize on our end for any present-day confusion. First, we are once again asking that Alden Short allow us to make the required monthly rent payment on the 5th of each month. Since the inception of the residential lease, we informed the previous Management Team, at your

² Complainants were referring to Defendants’ employee, Rose Tabares.

previous east Dallas location about our inability to submit the monthly rent on the 1st of each month, due to how the Social Security Disability checks are distributed. We were instructed and cleared by Rose G. and Misty, at the signing of the residential lease to submit the rent payment by the 5th day of each month.

Our records revealed that Alden Short has received every rent payment in full for over the past 7 years. Our income is derived from our Federal Government Social Security Disability payments which is deposited in our bank accounts on the 3rd of each month. Second, we are of the belief that as tenants for over 7 years with a history of providing the required rent payments timely will show that our efforts have been consistent and without hardship to your company. We would like to continue residing as tenants and are open to revisiting the terms of the residential lease. Third, as a result of our disabilities and fixed income, we currently do not have additional income associated with the costs of renting a truck, security deposit, increased rental payments, securing help from individuals for moving items in our residence. Fourth, we believe that we can reach a mutual agreement without any further outside intervention. We are available to meet and discuss this matter respectfully and professionally.

46. On or about August 5, 2019, after receiving the request from Complainants referenced above, Defendants reversed the late fee in the online tenant portal. At no time, however, did Defendants ever communicate to Complainants any response to their August 5, 2019 letter.
47. From July 2019 through January 2020, the City communicated with Defendants and Complainants in an attempt to conciliate Complainant's fair housing complaint. During this same time period, Complainants continued to live in the Subject Property and pay rent on or about the fifth of the month, without incurring a late fee, just as they had since 2012.
48. At all times relevant to this complaint, Texas law has prohibited a landlord from terminating a tenant's lease within 6 months of that tenant filing a complaint alleging a violation of federal, state or local law or otherwise attempting to exercise their rights under such a law. *See* Texas Prop. Code § 92.331(a)(1), (b)(4).

49. On January 9, 2020, Mr. Matalone emailed the City investigator and stated that he intended to terminate Complainants' lease after the 6-month period specified under Texas law had expired. Mr. Matalone's email stated, in relevant part: "[I]n an abundance of caution we allowed this tenant to stay at this property for an additional 6 months, pursuant to Texas PC 92.331, landlord anti-retaliation clause," and that "the termination of this lease is due to the emotional and fiscal cost to service this account."
50. On January 10, 2020, Defendants issued Complainants a second "Advance Notice of Lease Termination at End of Lease Term or Renewal Period," requiring Complainants to vacate the Subject Property by February 29, 2020.
51. Complainants did not vacate the subject property by February 29, 2020.
52. On March 3, 2020, Alden Short sent Complainants a letter with the subject line "Notice to Vacate for Holding Over." The letter demanded Complainants vacate the Subject Property by March 9, 2020.
53. On March 11, 2020, Alden Short filed an "Original Petition for Forcible Detainer" with the local court seeking possession of the Subject Property.
54. Complainants vacated the Subject Property in April 2020.
55. On July 1, 2020, Mr. Matalone emailed HUD, stating that Complainants' "aggressive stances" and "ever increasing demands" during the fair housing conciliation process motivated Defendants' decision to terminate Complainants' lease.
56. Defendants terminated Complainants' lease because they had asked to continue to be allowed to pay their rent on the fifth of the month and because they had filed a complaint alleging violations of the Fair Housing Act and attempted to exercise their rights under that statute.

57. As a result of Defendants' conduct, Complainants suffered harm, including, but not limited to, moving expenses, increased housing costs, and emotional distress.
58. The actions of Defendant Alden Short's employees as described above, including the actions of Defendant Sam Matalone, Rose Tabares, Mae Simmons, Molly Kirby, Jacquelyn Cardona, and Christian Croson, were all within the scope of their employment with Defendant Alden Short.
59. The actions of Defendant Alden Short and its employees, as described above, were all within the scope of Alden Short's express and apparent authority to manage the subject authority on behalf of Defendants MA Partners 2, Brockbk JV LLC and Dallas Redevelopment Equities LLC.

V. HUD COMPLAINT AND CHARGE OF DISCRIMINATION

60. On or about July 10, 2019, Complainants filed a timely complaint with HUD alleging that Defendants had engaged in one or more discriminatory housing practices. The complaint was amended on October 28, 2020, April 21, 2021, and November 8, 2021.
61. HUD referred the complaint to the City of Garland Fair Housing Services pursuant to 42 U.S.C. § 3610(f)(1). In March 2020, the City returned the complaint to HUD, pursuant to 42 U.S.C. § 3610(f)(2), because the City was no longer certified to handle such referrals.
62. Pursuant to 42 U.S.C. § 3610, the Secretary of HUD completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report.
63. Based upon the information gathered in the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that MA Partners 2, Brockbk JV LLC, Dallas Redevelopment Equities LLC, Alden Short, and

Sam Matalone engaged in one or more discriminatory housing practices, in violation of the Fair Housing Act.

64. On September 28, 2022, 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.
65. On October 3, 2022, Defendants timely elected to have the claims asserted in the HUD Charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a).
66. On October 6, 2022, the Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceedings.
67. Following this Notice of Election, the Secretary authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).
68. The United States and Defendants entered into an agreement tolling the expiration of the statute of limitations under 42 U.S.C. § 3612(o) through March 3, 2023.

VI. DEFENDANTS' FAIR HOUSING ACT VIOLATIONS

69. The United States incorporates the allegations as set forth above.
70. Through the conduct described above, Defendants have:
 - a. Discriminated in the rental, or otherwise made unavailable or denied, a dwelling to a renter on the basis of the disability of that renter, in violation of 42 U.S.C. § 3604(f)(1)(A);
 - b. Discriminated against a person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such

dwelling, because of the disability of that person, in violation of 42 U.S.C. § 3604(f)(2)(A);

- c. Refused to make reasonable accommodations in rules, policies, practices, or services, when such accommodations were necessary to afford Complainants an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C.

§ 3604(f)(3)(B); and

- d. Coerced, intimidated, threatened, or interfered with a person in the exercise or enjoyment of, or on account of her having exercised or enjoyed, or on account of her having aided or encouraged any other person in the exercise or enjoyment of, a right granted or protected by 42 U.S.C. § 3604, in violation of 42 U.S.C. § 3617.

71. Defendants' conduct, as described above, constitutes one or more "discriminatory housing practice[s]" within the meaning of 42 U.S.C. § 3602(f).

72. Ms. Covington-Smith and Mr. Smith are "[a]ggrieved person[s]" as defined by 42 U.S.C. § 3602(i) and have been injured by Defendants' conduct.

73. Defendants discriminatory conduct was intentional, willful, and/or taken in disregard of the rights of others.

VII. PRAYER FOR RELIEF

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

1. Declares Defendants' actions, policies, and practices, as alleged in this complaint, violate the Fair Housing Act;
2. Enjoins Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from:
 - a. Discriminating on the basis of disability, in violation of the Fair Housing Act;

- b. Discriminating in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of disability;
 - c. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Ms. Covington-Smith and Mr. Smith to the position they would have been in but for the discriminatory conduct; and
 - d. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future;
3. Awards monetary damages to Ms. Covington-Smith and Mr. Smith pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and
 4. Awards such additional relief as the interests of justice may require.

Dated: February 22, 2023

LEIGHA SIMONTON
United States Attorney
Northern District of Texas

/s/ Lisa R. Hasday
LISA R. HASDAY, Texas Bar No. 24075989
Assistant United States Attorney
United States Attorney's Office
Northern District of Texas
1100 Commerce Street, Third Floor
Dallas, TX 75242
Phone: (214) 659-8737
Fax: (214) 659-8807
Email: lisa.hasday@usdoj.gov

Respectfully submitted,

MERRICK B. GARLAND
Attorney General

KRISTEN CLARKE
Assistant Attorney General
Civil Rights Division

SAMEENA SHINA MAJEED
Chief

/s/ Alisha Jarwala
TIMOTHY J. MORAN
Deputy Chief
ALISHA JARWALA, DC Bar No. 1724840
Trial Attorney
Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
150 M Street NE
Washington, DC 20530

Phone: (202) 538-1028
Fax: (202) 514-1116
Email: alisha.jarwala@usdoj.gov

*Attorneys for Plaintiff
United States of America*