

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:09-cv-174 LG RHW

**MISSISSIPPI REGIONAL HOUSING
AUTHORITY VIII, SBMC, INC. (d/b/a
Sun Belt Management), OAKRIDGE
PARK APARTMENTS, LTD. and BOBBY
G. MARCELLUS, GENERAL PARTNER,**

Defendants.

**CONSENT DECREE BETWEEN PLAINTIFF UNITED STATES OF AMERICA AND
DEFENDANTS SBMC, INC. (d/b/a Sun Belt Management), OAKRIDGE PARK
APARTMENTS, LTD. AND BOBBY G. MARCELLUS, GENERAL PARTNER**

I. INTRODUCTION

On February 17, 2009, the United States filed this action on behalf of Mary Waltman pursuant to 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"). According to the Complaint, Ms. Waltman is a person with disabilities within the meaning of 42 U.S.C. § 3602(h).

Defendant Oakridge Park Apartments, Ltd. owns Oakridge Park Apartments, phase I, located in Biloxi, Mississippi. Defendant Bobby G. Marcellus is the General Partner of Oakridge Park Apartments, Ltd. Defendant SBMC, Inc. (d/b/a Sun Belt Management) manages Oakridge Park Apartments, Phase I. Hereinafter these defendants will collectively be referred to as "Defendants."¹ Mary Waltman lived at Oakridge Park Apartments, Phase I. Phase I consists of approximately 40 apartment units in Biloxi, MS.

¹ The MS Regional Housing Authority is also a Defendant to this litigation. However, that agency is not a party to this Consent Decree.

The Complaint alleges that Defendants discriminated against Mary Waltman when they did not transfer Ms. Waltman to a first-floor apartment. Specifically, the Complaint alleges the following: that Defendants discriminated in the rental of, or otherwise made unavailable or denied, a dwelling to Ms. Waltman because of her disability in violation of 42 U.S.C. § 3604(f)(1); that Defendants discriminated against Ms. Waltman in the terms, conditions, or privileges of a rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of her disability, in violation of 42 U.S.C. § 3604(f)(2); and that Defendants refused to make reasonable accommodations in rules, policies, practices, or services when such accommodations may have been necessary to afford Ms. Waltman an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

On or about June 28, 2006, Ms. Waltman filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Defendants had denied her request for a reasonable accommodation when they refused to transfer her to an available first floor unit. Said Complaint was amended on November 3, 2008, to alter the list of respondents. HUD conducted an investigation of the complaint, determined that reasonable cause existed to believe that the alleged discriminatory housing practices had occurred, and issued a Charge of Discrimination to all defendants. After Defendant Mississippi Regional Housing Authority ("MRHA") elected to proceed in federal court, HUD authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).

Defendants filed timely Answers to the plaintiff's Complaint in this matter. In their Answers, Defendants denied all allegations of liability and wrongdoing. Defendants have asserted throughout this action that they did not discriminate against Ms. Waltman on any basis, including disability. Defendants have asserted that MRHA told SBMC that Ms. Waltman could not transfer to a first-floor apartment because she was required to reside in her unit for one year

before transferring to another unit, unless the unit was not livable. Additionally, Defendants have asserted that SBMC complied with the request for reasonable accommodation under the Fair Housing Act made by Ms. Waltman's attorney by letter dated January 30, 2006, requesting that Ms. Waltman be released from her obligations under her Lease with SBMC as a reasonable accommodation for Ms. Waltman's alleged disability

Defendants have entered into this Consent Decree for purposes of settlement only, and neither the entry of this Decree, nor any action taken under it, shall be construed as an admission by Defendants of any fault or wrongdoing, or as an admission of the validity of the United States' claims.

The parties agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).

The parties agree that, to avoid costly and protracted litigation, the claims against the Defendants should be resolved without further proceedings or an evidentiary hearing. Therefore, as indicated by the signatures below, the parties agree to the entry of this Consent Decree. This Consent Decree constitutes full resolution of the United States' claims that the Defendants discriminated against Mary Waltman on the basis of disability.

It is hereby **ORDERED, ADJUDGED, AND DECREED:**

II. DAMAGES FOR AGGRIEVED PERSON

1. Within fifteen (15) days of the entry of this Decree, Defendants shall pay Mary Waltman Ten Thousand dollars (\$10,000.00). Defendants shall pay said money by sending to the United States a check for Ten Thousand dollars (\$10,000.00) payable to Mary Waltman. Upon receipt of the check, the United States shall send to the Defendants an executed Release of all claims, legal or equitable, that Mary Waltman might have against the Defendants relating to

the claims asserted in this lawsuit and any other action pending with HUD stemming from the above allegations (Exhibit A).

III. NONDISCRIMINATION AND COMPLAINT POLICIES

2. Defendants assert that they post and prominently display at Oakridge Park Apartments, phase I, a sign indicating that all dwellings are available for rental on a nondiscriminatory basis. Defendants agree that they will continue to post and display this sign throughout the term of this Decree.

3. Defendants assert that any advertising for Oakridge Park Apartments, phase I, in newspapers, telephone directories, radio, television, the internet, or other media, and any signs, pamphlets, brochures, or other promotional literature include a fair housing logo, the words "equal housing opportunity provider," and/or the following sentences:

We are an equal opportunity housing provider. We do not discriminate on the basis of race, color, national origin, religion, sex, familial status or disability.

The words or logo should be prominently placed and easily legible. Defendants agree that they will continue to include such words or logo in their advertising for Oakridge Park Apartments, Phase I, throughout the term of this Decree.

4. Defendants assert Oakridge Park Apartments, Phase I, has a policy of nondiscrimination. Defendants agree that they will continue to have a policy of nondiscrimination throughout the term of this Decree. The Defendants shall provide Oakridge Park Apartments, Phase I's policy of nondiscrimination to all prospective tenants at the time of application throughout the term of this Decree.

5. Defendants assert they have written complaint policies for Oakridge Park Apartments, phase I. The complaint policies inform prospective tenants and tenants of Oakridge Park Apartments, Phase I, how and where to file a complaint about the practices of Oakridge Park Apartments, Phase I, with the USDA's Office of Civil Rights or HUD. Said complaint

procedures are attached to this Consent Decree as Exhibit B. Defendants agree that they will continue to have such complaint policies at Oakridge Park Apartments, Phase I throughout the term of this Decree.

IV. TRAINING

6. Defendants assert they provide fair housing training for all agents or employees responsible for managing Oakridge Park Apartments, Phase I. Defendants agree that they will continue to provide such training at Oakridge Park Apartments, Phase I throughout the term of this Decree.

7. During the term of this Decree, each new employee or agent of Oakridge Park Apartments, Phase I whose duties, in whole or in part, involve the management or rental of Oakridge Park Apartments, Phase I shall be given a copy of this Decree and the nondiscrimination policy. Each such new employee or agent at Oakridge Park Apartments, Phase I shall sign a statement conforming to Exhibit C.

V. REPORTING AND RECORD-KEEPING REQUIREMENTS

8. Within ninety (90) days of the entry of this Decree, and thereafter on the anniversary of the entry of this Decree, the Defendants shall submit to the United States a compliance report, except that the final report shall be submitted sixty (60) days prior to the anniversary of this Decree. The compliance report shall be submitted via overnight mail to the following address: Mitzi Dease Paige, Assistant United States Attorney, Office of the U.S. Attorney for the Southern District of Mississippi, 188 E. Capitol Street, Suite 500, Jackson, Mississippi 39201-0101. The compliance report shall include: (a) the signed statement of each agent and employee referred to in paragraphs 6 and 7; (b) a copy of the nondiscrimination and complaint policies of Oakridge Park Apartments, Phase I; and (c) copies of any advertisements,

pamphlets, brochures or other promotional literature concerning Oakridge Park Apartments, Phase I.

9. Within ten (10) days after the training required by paragraphs 6 and 7, above, the Defendants shall provide to the United States (a) the name(s), address(es), and telephone number(s) of the trainer(s); (b) copies of the training outlines and any materials distributed by the trainers; and (c) the signed certifications confirming attendance.

10. For the duration of this Decree, the Defendants shall notify counsel for the United States, in writing, within fifteen (15) days of receipt of any complaint of discrimination against Oakridge Park Apartments, Phase I or any of its agents or employees. Such notification shall include the date of the complaint, a copy of any written complaint or a description of any verbal complaint, and contact information for the complaining party. Within fifteen (15) days of the resolution of any such complaint, the Defendant shall notify counsel for the United States, in writing, providing the details of the resolution.

11. For the duration of this Decree, the Defendants shall preserve all records related to this Decree, as well as any other documents related to Oakridge Park Apartments, Phase I's management or rental of public housing units. Such documents include, but are not limited to, applications, leases, resident assessment materials, tenant files, tenant transfer requests, policies, procedures, and tenant tracker and unit availability logs. Upon reasonable notice to the Defendants, representatives of the United States shall be permitted to inspect and copy any of Oakridge Park Apartments, Phase I's records or inspect the housing units at Oakridge Park Apartments, Phase I at any and all reasonable times so as to determine compliance with this Decree; provided, however, that the United States shall endeavor to minimize any inconvenience to the Defendants.

VI. REASONABLE ACCOMMODATION POLICY

12. Defendants assert they have written guidelines for receiving and handling requests made by people with disabilities for reasonable accommodation at Oakridge Park Apartments, Phase I. Defendants agree that they will continue to maintain these guidelines at Oakridge Park Apartments, Phase I throughout the term of this Decree.

13. Defendants assert they post a sign regarding their reasonable accommodation policy for persons with disabilities in a conspicuous location within Oakridge Park Apartments, Phase I, that is accessible to, or frequented by, the public. Defendants agree that they will continue to have the reasonable accommodation sign posted at Oakridge Park Apartments, Phase I throughout the term of this Decree.

VII. DURATION OF DECREE AND TERMINATION OF LEGAL ACTION

14. The Court shall retain jurisdiction for two (2) years after the entry of this Decree to enforce the terms of the Decree, at which time the case shall be dismissed with prejudice.

15. The parties shall endeavor in good faith to resolve informally any differences regarding the interpretation of and compliance with this Decree prior to bringing such matters to the Court for a resolution.

VIII. TIME FOR PERFORMANCE

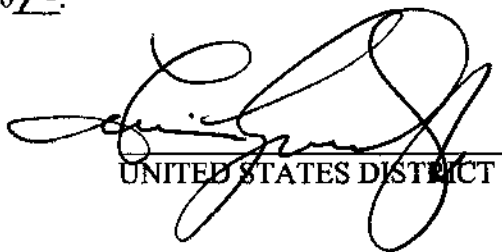
16. Any time limits for performance imposed by this Consent Decree may be extended by the mutual, written agreement of the United States and the Defendants.

IX. COSTS OF LITIGATION

17. Each party to this Consent Decree shall bear its own costs and attorney's fees associated with this litigation.

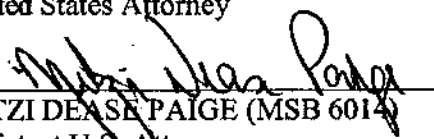
IT IS SO ORDERED:

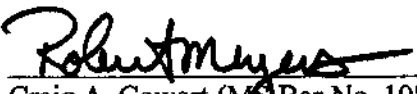
This 26th day of March, 2010.


UNITED STATES DISTRICT JUDGE

The undersigned apply for and consent to the entry of this Decree:

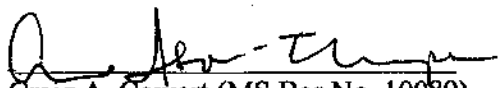
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*Application for Pro Hac Vice Admission
was granted on March 18, 2009.

Attorneys for Defendant SBMC, Inc. (d/b/a Sun Belt Management)


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*Application for Pro Hac Vice Admission
was granted on March 18, 2009.

*Attorneys for Defendant Oakridge Park Apartments, Ltd.
and Bobby G. Marcellus, General Partner*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

vs.

CIVIL ACTION NO. 1:09-cv-174 LG RHW

MISSISSIPPI REGIONAL HOUSING
AUTHORITY VIII, SBMC, INC. (d/b/a
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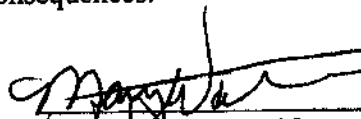
RELEASE OF CLAIMS BY MARY WALTMAN AS TO
SBMC, INC., OAKRIDGE PARK APARTMENTS, LTD. AND BOBBY G. MARCELLUS

In consideration of the parties' agreement to the terms of the Consent Decree entered by the Court in United States of America v. Mississippi Regional Housing Authority VIII, SBMC, Inc. (d/b/a Sun Belt Management), Oakridge Park Apartments, Ltd. and Bobby G. Marcellus, General Partner, Civil Action No. 1:09-cv-174 LG RHW (S.D. Miss.) and payment by Defendants SBMC, Inc., (d/b/a Sun Belt Management), Oakridge Park Apartments, Ltd. and Bobby G. Marcellus, General Partner, of the sum of ten thousand dollars (\$10,000), I, Mary Waltman, hereby release the Defendants named above, SBMC, Inc. (d/b/a Sun Belt Management), Oakridge Park Apartments, Ltd. and Bobby G. Marcellus, General Partner, as well as their employees, agents, ~~officers~~ and directors from any and all liability for any claims, legal or equitable, I may have against them arising out of the allegations raised or that could have been raised, in this action or any related action or complaint pending before HUD involving these named Defendants.

I hereby acknowledge that I have read and understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

Date:

3/18/2010



MARY WALTMAN
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