

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 08-0242-KD-C
)	
CITY OF SATSUMA, ALABAMA, and the SATSUMA BOARD OF ADJUSTMENT,)	SUBJECT TO PRIVACY ACT PROTECTIVE ORDER
)	
Defendants.)	
)	
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FIRST AMENDED COMPLAINT OF THE UNITED STATES

The United States of America alleges:

Jurisdiction

1. 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 (“Fair Housing Act”), 42 U.S.C. §§ 3601-3619.
2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. § 3614(a), and § 3614(b). The Court may grant declaratory and other relief pursuant to 28 U.S.C. §§ 2201 and 2202.
3. Venue is proper under 28 U.S.C. § 1391(b), because the claims alleged herein occurred in the Southern District of Alabama.

Parties

4. The City of Satsuma (the “City”) is a political subdivision of the State of Alabama within the Southern District of Alabama and is organized under the laws of the State of Alabama.

5. The Satsuma Board of Adjustment is a duly organized board of the City that, among other things, hears and decides variance requests from the terms of the Satsuma Zoning Ordinance.

Factual Allegations

6. At times relevant to this Complaint, Pamela Williams (“Ms. Williams”) owned a single-family residential home in the City at 250 Tajuacha Drive North (“the residence”) within the R-1 (Low-Density, Single-Family) zoning district established under the Satsuma Zoning Ordinance.

7. The Satsuma Zoning Ordinance, Article II, § 2.2, allows single-family use by right on Tajuacha Drive North, because it is situated in an R-1 zone. The Satsuma Zoning Ordinance, Article VIII, Section 8.2, permits up to five unrelated persons to reside together in a single-family home.

8. The Satsuma Zoning Ordinance does not include a policy or procedure concerning reasonable accommodations that may be necessary to afford persons with disabilities equal opportunities to use and enjoy dwellings.

9. On or about August 7, 2002, Ms. Williams allowed three adult women, Esther Buckalew, Willie Mae Frank, and Ramona Hubbard (“the group home residents”), each having a diagnosis of [REDACTED], to move into the residence.

10. The group home residents were referred to Ms. Williams by the Director of Placement of the Albert P. Brewer Developmental Center (“the Brewer Center”) in Daphne, Alabama, a home for mentally disabled adults. The Brewer Center closed in 2003 and all of the residents were relocated. Ms. Williams provided supportive services to the three women through Tajuacha, Inc., a for-profit corporation of which she is the owner. The services she provided were necessary for the women to be able to live in the single-family home.

11. The group home residents are disabled (or “handicapped”) within the meaning of 42 U.S.C. § 3602(h).

12. The residence on Tajuacha Drive North is a dwelling within the meaning of 42 U.S.C. § 3602(b).

13. In or about August 2002, Thomas Briand, the City’s Building Inspector and Zoning Officer, came to the residence on several occasions and asked Ms. Williams questions about the group home residents. Ms. Williams informed Mr. Briand that the group home residents were disabled and needed to live together with support from professional care givers. Mr. Briand informed Ms. Williams during these visits that the City would not allow Ms. Buckalew, Ms. Frank, and Ms. Hubbard to continue to live together in the residence.

14. In August 2002, Ms. Williams asked Mr. Briand on several occasions what she needed to do to enable the group home residents to remain in the residence. He responded that he could not grant her permission to continue running the group home. He further informed her that she would need the permission of the City Council (“Council”) to permit the group home residents to live at the residence. Mr. Briand advised Ms. Williams that the Council would have to approve a “re-zoning” of her property before such permission could be granted.

15. On or about August 20, 2002, Ms. Williams attended a meeting of the Council, as instructed by Mr. Briand. The Council members were aware during the August 20th meeting that the group home residents were disabled. During this meeting, Ms. Williams sought a reasonable accommodation from the Council to enable the group home residents to remain at the Tajuacha Drive North property. Without taking a formal vote, the Council denied Ms. Williams' request for permission to re-zone the residence or otherwise to maintain the residence as a group home. Council member Barlow ended the meeting by stating that "if a cease and desist order ha[s] not been issued, it should be."

16. Beginning in August 2002 and continuing at least until approximately August 2003, the City received complaints filed by neighbors who lived near the residence requesting that the City take action to force Ms. Williams to close the residence. The requests were made, at least in part, because of the residents' [REDACTED].

17. On June 23, 2003, a municipal court judge authorized a search of the residence indicating that "the grounds for search are that said property will be used to commit the felony of operating a business without a license and operating an assisted living facility in an area zoned for single-family residency only."

18. On June 25, 2003, Mr. Briand, accompanied by the Satsuma chief of police and two officers, executed the search warrant at the residence and seized eleven (11) items belonging to Ms. Williams.

19. On or about June 26, 2003, Mr. Briand filed a Uniform Non-traffic Citation and Complaint charging Ms. Williams with a violation of the Satsuma Zoning Ordinance, Section 303, "operating a business in a R-1 District."

20. Ms. Williams appeared as a criminal defendant in the City of Satsuma Municipal Court on or about August 14, 2003, to answer the charges listed in the Citation and Complaint by Mr. Briand, as described above.

21. In September 2003, in response to the City's ongoing efforts to force the group residents from their home, Ms. Williams moved Ms. Buckalew, Ms. Frank, and Ms. Hubbard out of the Satsuma residence to a different home in Mobile, Alabama.

22. On or about September 25, 2003, Ms. Williams paid a twenty-five dollar (\$25) fee to the City and filed an application for a variance with the City's Board of Adjustment requesting permission to establish a residence for three [REDACTED] women. The Board adjourned without deciding the matter that day.

23. On October 2, 2003, the Satsuma Board of Adjustment met and considered Ms. Williams' request for a variance. The Board members were aware during this meeting that the group home residents were disabled. Ms. Williams addressed the Board and asked for a reasonable accommodation in the form of a variance to enable the women to remain in their home.

24. On or about October 23, 2003, Ms. Williams appeared for her arraignment in the City Municipal Court in this matter and pleaded innocent. On or about October 23, 2003, the City dropped the criminal charges against Ms. Williams, but the city prosecutor publicly promised to re-file the case with more specific charges. Upon information and belief, the City did not file further charges.

25. On November 3, 2003, the Board of Adjustment issued a decision denying Ms. Williams' application for a variance stating that it was untimely because Ms. Williams filed it

more than thirty (30) days after the issuance of Mr. Briand's June 2003 Citation and Complaint.

26. On May 18, 2004, Ms. Buckalew, Frank, and Hubbard filed timely complaints with the United States Department of Housing and Urban Development ("HUD") pursuant to 42 U.S.C. § 3610(a) against the City, alleging discrimination in housing on the basis of disability. On June 15, 2004, Ms. Williams filed a HUD complaint alleging discrimination in housing on the basis of race and included the City Building Inspector as a respondent.

27. Pursuant to the requirements of 42 U.S.C. § 3610(a) and (b), the Secretary of HUD determined that the complaints involve the legality of state or local zoning or other land use laws or ordinances. Accordingly, pursuant to 42 U.S.C. § 3610(g), on or about September 30, 2004, the Secretary referred these matters to the Attorney General for appropriate action under 42 U.S.C. § 3614(b)(1).

COUNT I:

DISCRIMINATION ON THE BASIS OF DISABILITY IN VIOLATION OF 42 U.S.C. §§ 3604(f)(1) & (2)

28. Paragraphs 1 through 27 are hereby re-alleged and incorporated by reference.

29. The Defendants, through the actions described above, made the dwelling located at 250 Tajuacha Drive North unavailable to persons with disabilities in violation of 42 U.S.C. § 3604(f)(1), or discriminated in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, in violation of 42 U.S.C. § 3604(f)(2).

30. The Defendants denied Ms. Williams' requests for permission to operate the residence because of the disabilities of the residents of the home.

COUNT II:

**DISCRIMINATION ON THE BASIS OF DISABILITY
IN VIOLATION OF 42 U.S.C. §§ 3604(f)(1)-(3)**

31. Paragraphs 1 through 27 are hereby re-alleged and incorporated by reference.

32. The Defendants, through the actions described above, failed or refused to make a reasonable accommodation in rules, policies, practices, or services, which may have been necessary to afford the group home residents an equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(1)-(3).

COUNT III:

**COERCION, INTIMIDATION, THREATS, AND
INTERFERENCE IN VIOLATION OF 42 U.S.C. § 3617**

33. Paragraphs 1 through 27 are hereby re-alleged and incorporated by reference.

34. The Defendants' actions taken against Ms. Williams and the group home residents as described herein constituted coercion, intimidation, threats, or interference in violation of 42 U.S.C. § 3617.

35. The Defendants' conduct as described in paragraphs 1-34, above, constitutes:

A. a denial of rights to a group of persons that raises an issue of general public importance in violation of the Fair Housing Act, 42 U.S.C. §§ 3614(a); or

B. a discriminatory housing practice under 42 U.S.C. § 3614(b)(1).

36. Ms. Williams, Ms. Buckalew, Ms. Frank, and Ms. Hubbard, and other persons who have been, or who may have been, the victims of the Defendants' discriminatory practices are aggrieved persons as defined in 42 U.S.C. § 3602(i). These persons have suffered damages as a

result of the Defendants' conduct.

37. The Defendants' actions described above were intentional, willful, and taken in disregard for the fair housing rights of others.

WHEREFORE, the United States prays that the Court enter an ORDER that:

1. Declares that the Defendants' actions described above constitute violations of the Fair Housing Act;

2. Enjoins the Defendants, their agents, employees, assigns, successors, and all other persons in active concert or participation with them, from violating any provision of the Fair Housing Act by discriminating on the basis of disability;

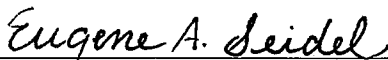
3. Requires the Defendants, their agents, employees, assigns, successors, and all other persons in active concert or participation with them, to make reasonable accommodations in their policies, practices, rules, or services as required by the Fair Housing Act, and to adopt procedures for considering requests for such accommodation, including accommodations that permit the establishment and operation of group residences for persons with disabilities;

4. Requires such action by the Defendants as may be necessary to restore all persons aggrieved by the their discriminatory housing practices to the position they would have occupied but for such discriminatory conduct;

5. Awards monetary damages pursuant to 42 U.S.C. § 3614(d)(1)(B) to fully compensate each person aggrieved by the Defendants' discriminatory housing practices for their injuries caused by such discriminatory conduct; and


6. Assesses a civil penalty against the Defendants in an amount authorized by 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest.

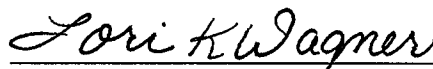
The United States further prays for such additional relief as the interests of justice may require.


EUGENE A. SEIDEL *by LKW with permission*
Acting United States Attorney
United States Attorney's Office
Southern District of Alabama
Riverview Plaza
63 S. Royal Street, Suite 600
Mobile, Alabama 36602
Tel.: 251-441-5845
Facsimile: 251-441-5051
E-mail: eugene.seidel@usdoj.gov

ERIC H. HOLDER, JR.
Attorney General


LORETTA KING
Acting Assistant Attorney General


DONNA M. MURPHY
Acting Chief


MICHAEL S. MAURER
Deputy Chief
LORI K. WAGNER
HOLLY C. LINCOLN
Attorneys
U.S. Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Avenue
The Northwestern Building
Washington, D.C. 20530
Tel.: 202-305-3107
Facsimile: 202-514-1116
E-mail: lori.wagner@usdoj.gov